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**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SANDOVAL COMMUNITY**

→ RETURN TO:
TARPON TITLE SERVICES LLC
9990 COCONUT RD., SUITE 101
BONITA SPRING, FL 34135

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

SANDOVAL

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this _____ day of _____, 2003, by Cape Coral Development Associates, LLC, a Florida limited liability company ("Declarant").

Article I Creation of the Community

1.1. Purpose and Intent.

The Declarant intends by the recording of this Declaration to create a general plan of development for the mixed-use community known as Sandoval. This Declaration provides a flexible and reasonable procedure for the future expansion of Sandoval to include additional real property, as Declarant deems appropriate, and provides for the overall development, administration, maintenance, and preservation of the real property now and hereafter comprising Sandoval. An integral part of the development plan is the creation of Sandoval Community Association, Inc., an association whose members are Owners of real property in Sandoval, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

This document does not and is not intended to create a condominium within the meaning of The Florida Condominium Act, *Florida Statutes* Section 718.101, *et seq.*

1.2. Binding Effect.

All property described on Exhibit "A," and any additional property which is made a part of Sandoval in the future by the filing of one or more Supplemental Declarations in the Public Records, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such Property. This Declaration is binding upon all Persons having any right, title, or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns.

This Declaration is enforceable by the Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date this Declaration is recorded in the Public Records. After such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by not less than 67% of the then Owners of Units has been recorded in the Public Records agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified in such instrument. Notwithstanding this, if any provision of this Declaration would be unlawful, void, or voidable by reason of applicability of the rule against perpetuities, such provision shall expire 90 years after the date this Declaration is

recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents create a general plan of development for, and operation of, Sandoval which may be supplemented by additional covenants, restrictions and easements. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, the Governing Documents control. Nothing in this Section precludes any Supplemental Declaration or other recorded covenants applicable to any portion of the Properties from containing additional restrictions, exceptions, modifications, or provisions which are more restrictive than the provisions of this Declaration.

All provisions of the Governing Documents apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests and invitees. A lessee and all occupants of a leased Unit are bound by the terms of the Governing Documents.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as set forth below.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Articles of Incorporation": The Articles of Incorporation of Sandoval Community Association, Inc., as filed with the Secretary of State of the State of Florida and as may be amended from time to time. The current version is attached hereto as Exhibit "C".

"Association": The Sandoval Community Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Florida corporate law.

"Builder": A Person engaged in the business of constructing homes for sale to third persons, provided that the Declarant has the right to approve each Builder in a written instrument.

"By-Laws": The By-Laws of the Sandoval Community Association, Inc., as may be amended from time to time. The current version is attached hereto as Exhibit "D".

"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The Conservation Areas and Surface Water Management System will become Common Areas if such are transferred to the Association.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall be established initially by the Declarant and may be more specifically defined in the Design Guidelines, the Use Restrictions, and Rules and Regulations adopted by the Board.

"Conservation Areas": Interests in real Property and any improvements thereon which are dedicated or conveyed to the Association, the South Florida Water Management District, any governmental entity, or a non-profit organization, and which are now or are hereinafter made a part of the Properties and designated as Conservation Areas on the recorded plats or other instruments recorded in the Public Records. The Conservation Areas may be described as a conservation easement, wetland conservation easement or upland conservation easement on the recorded plats or other instruments recorded in the Public Records. The Conservation Areas are part of the Area of Common Responsibility.

"Covenant to Share Costs": A Declaration of Easements and Covenant to Share Costs, filed in the Public Records, which creates certain easements for the benefit of the Association and the present and future owners of the subject property. It obligates the Association and such owners to share the costs of maintaining property described in the Covenant to Share Costs.

"Declarant": Cape Coral Development Associates, LLC, a Florida limited liability company, or any successor or assign who takes title to any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant. The Declarant is the "developer" of Sandoval as defined in Chapter 720.301, et seq., Florida Statutes (2003).

"Declarant Control Period": The period during which the Declarant is entitled to appoint a majority of the Board of Directors of the Association.

"Design Guidelines": The architectural, design and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

"Dwelling": A residence designed for use by one family or housekeeping unit, and ancillary structures such as garages, decks, swimming pools, screen enclosures and outbuildings.

"Development Order": The PDP Development Order issued by the City of Cape Coral Florida, as amended from time to time.

"Environmental Permits": Those permits and other forms of approval granted by local, state or federal governmental entities for activities on or benefiting Sandoval (and/or others who may or may not be Members), and identified as such by the Declarant, and which may include, but shall not be limited to the following:

- (a) permits issued by the State of Florida, Department of Environmental Protection,
- (b) plans approved by the Florida Fish and Wildlife Conservation Commission,
- (c) permits issued by the South Florida Water Management District, and
- (d) Plans approved by the U.S. Fish and Wildlife Service.

"Exclusive Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods, as more particularly described in Section 13.1.

"Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the Articles, the By-Laws, the Design Guidelines, the Use Restrictions, and the Rules and Regulations, as they may be amended.

"Master Plan": The land use plan for the development of Sandoval approved by the City of Cape Coral, Florida, as it may be amended, which includes all of the Property described on Exhibit "A" and all or a portion of the property described on Exhibit "B". Inclusion of property on the Master Plan does not obligate Declarant to subject such property to this Declaration, nor does the omission of property from the Master Plan bar its later submission to this Declaration as provided in Article IX.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" is the beneficiary or holder of a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood and which may (i) have a Supplemental Declaration applicable to such Units, (ii) share Exclusive Common Area, (iii) receive other benefits or services from the Association not provided to all Units within Sandoval, (iv) have enhanced improvements on a portion of the Common Area, and/or (v) pay a Special Assessment for such Exclusive Common Area, benefits or services, or enhanced improvements.

"Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund the expenses described in Section 8.4.

"Neighborhood Association": A condominium association or homeowners association having concurrent jurisdiction with the Association over any Neighborhood.

"Neighborhood Common Area": All real and personal property, including easements, owned, leased or otherwise possessed by a Neighborhood Association for the common use and enjoyment of the Owners within such Neighborhood. Neighborhood Common Area may include Conservation Areas or components of the Surface Water Management System if assigned by the Declarant as provided herein.

"Neighborhood Representative": The representative selected by the Class "A" members within each Neighborhood pursuant to Section 6.4(b) to cast the Class "A" votes attributable to their Units on all matters requiring a vote of the membership (except as otherwise specifically provided in the Governing Documents). Where the context permits or requires, the term "Neighborhood Representative" shall also refer to alternate Neighborhood Representatives acting in the absence of the Neighborhood Representative and any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.4(b) or elsewhere in the Governing Documents.

"Neighborhood Special Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund the expenses described in Section 8.3.

"Owner": One or more Persons who hold the record title to any Unit, but excluding any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded agreement for deed, and the Agreement specifically so provides, the purchaser (rather than the fee Owner) is considered the Owner.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Properties" or "Property": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX. As used herein, the terms Property or Properties may mean all of the Property or a portion thereof, depending on the context of the sentence where such term is used.

"Public Records": The place designated as the official location for recording deeds, plats and similar documents affecting title to the Property including but not limited to the Public Records of Lee County, Florida.

"Rules and Regulations": Board-adopted Rules and Regulations which establish administrative procedures for internal Association governance and operating procedures for use of the Common Area and Property included within the Area of Common Responsibility.

"Sandoval": The master planned community known as Sandoval as shown on the Master Plan and approved by the city of Cape Coral, Florida, as it may be amended from time to time.

"South Florida Water Management District Environmental Resource Permit": The South Florida Water Management District Environmental Resource Permit for construction and development of the Properties is attached hereto as Exhibit "E". The South Florida Water Management District has the right pursuant to this permit and other state law and regulations to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the Storm Water Management System facilities or in mitigation or conservation areas under the responsibility or control of the Association.

"Special Assessment": Assessments levied in accordance with Section 8.6.

"Specific Assessment": Assessments levied in accordance with Section 8.7.

"Supplemental Declaration": An instrument filed in the Public Records pursuant to Article IX which subjects additional property to this Declaration, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

"Surface Water Management System": Any portion of real property, improvement, work or feature such as swales, ditches, canals, impoundments, berms, ponds, lakes, retention/detention areas, conservation areas, culverts and pumps required or described in any permits issued by the South Florida Water Management District and any other applicable governmental agency for the management and storage of surface waters, drainage and flood protection for Sandoval and adjacent areas. The South Florida Water Management District Environmental Resource Permit provides for the construction and maintenance of this system.

"Turnover": The transfer of control of the Association from the Declarant to the Members as provided in Section 6.2.

"Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and is intended for development and occupancy as a residence for a single family or housekeeping unit. The term refers to the land, if any, which is part of the Unit as well as any improvements thereon. In case of condominiums or other structures containing multiple dwelling units, each dwelling unit is a separate Unit. In the case of unimproved parcels of land or parcels on which improvements are being constructed, whether platted or unplatted, the parcel contains Units equal to the number of dwelling units which may be constructed on the parcel pursuant to the Master Plan or the number of Units assigned to the Parcel by the Declarant, whichever is less. Such assignment may be made in the contract between the Declarant and the Owner of the parcel, or the Deed from Declarant to the Owner, or on the plat.

"Use Restrictions": The initial Use Restrictions set forth on Exhibit "F," as they may be supplemented, modified and repealed pursuant to Article III.

Article III Use and Conduct

3.1. Framework for Regulation.

Declarant has established a general plan of development for the Properties as a planned community in order to enhance all Owners' quality of life and collective interests and the aesthetics and environment within Sandoval and the surrounding communities. To accomplish this objective, the Properties are subject to the Design Guidelines enacted in accordance with Article IV, other Rules and Regulations adopted by the Board, and individual restrictions on conduct and use of or actions upon the Properties promulgated pursuant to this Article which establish affirmative and negative covenants, easements, and restrictions on Properties. With respect to the Use Restrictions promulgated pursuant to this Article, the Board and the Members have the ability, in the manner set forth below, to respond to changes in circumstances and needs within Sandoval.

3.2. Authority to Enact Use Restrictions.

(a) Until Turnover occurs, the Declarant has the unilateral authority to modify, cancel, limit, create exceptions to, or expand the Use Restrictions, and the provisions of subparagraphs 3.2(b), and (c) do not apply.

(b) After Turnover and subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify the Use Restrictions in any manner not inconsistent with this Declaration, the Articles, or the By-Laws. The Board shall send notice by mail to all Owners or broadcast or publish via a medium readily available throughout the Properties concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Neighborhood Representatives have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. Such action shall become effective, after compliance with subsection (d) below, unless disapproved at an Association meeting in which more than 50% of the total votes in the Association are represented. The Board has no obligation to call a meeting of the Association to consider disapproval except upon receipt of a petition as required for special meetings in the By-Laws. If such petition is received prior to the effective date of any Board action under this Section 3.2(b), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(c) Alternatively, at an Association meeting duly called for such purpose, the Use Restrictions may be modified in any manner not inconsistent with this Declaration, the Articles, or the By-Laws by a vote of Neighborhood Representatives and Members eligible to vote representing more than 50% of the total votes in the Association.

(d) At least 30 days prior to the effective date of any action taken under subsections (b) or (c) of this Section, the Association shall publish, broadcast, or send a copy of the new Use Restriction or explanation of any changes to the Use Restrictions to each Owner, specifying the effective date. The Association shall provide, without cost, a copy of the Use Restrictions then in effect to any requesting Member or Mortgagee.

(e) This Section 3.2 does not apply to modifications to the Design Guidelines, which may only be modified as provided in Section 4.3. In the event of a conflict between the Design Guidelines and the Use Restrictions, the Design Guidelines control.

(f) This Section 3.2 does not apply to enactment and enforcement of Rules and Regulations unless the Board chooses in its discretion to submit to the procedures in this Section. Examples of such Rules and Regulations shall include, but not be limited to, administrative procedures, traffic regulations, and parking rules on the Common Area. The Board shall exercise business judgment in the enactment, amendment, and enforcement of such Rules and Regulations.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Use Restrictions as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Use Restrictions may change from time to time. All purchasers of Units are on notice that changes to the Use Restrictions may have been adopted as provided herein. Copies of the current Use Restrictions may be obtained from the Association.

3.4. Protection of Owners and Others.

No Use Restriction may be adopted in violation of the following provisions, except as may be specifically set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth on Exhibit "F":

(a) Equal Treatment. Similarly situated Owners shall be treated similarly.

(b) Displays. The rights of Owners to display religious and holiday symbols inside structures on their Units, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the Dwelling.

(c) Household Composition. No Use Restriction shall interfere with the freedom of Owners to determine the composition of their households, except that the Association has the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted on each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(d) Activities Within Dwellings. No Use Restriction shall interfere with the activities carried on within the confines of Dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that

create unsightly conditions visible outside the Dwelling, or that create an unreasonable source of annoyance.

(e) Alienation. No Use Restriction shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require a minimum lease term of up to 30 days and may limit the number of leases an Owner may enter into within a 12 month period. The Association may impose administrative fees on the lease of any Unit in such amount as may be reasonably determined by the Board and which may be graduated in rates based on length of the lease, type of occupancy, or other factors deemed appropriate by the Board. Additionally, the Association may require the prior payment of a lease deposit to ensure compliance with the Association's Use Restrictions and to constitute liquidated damages in the event of non-compliance or damage to the Common Area. Any Owner which leases his or her Unit shall be presumed to have delegated his or her easements and rights to use the Common Area to his or her tenant or occupant, and such Owner's easements and rights to use shall be suspended during the term of the lease. The use rights and privileges delegated to a guest or tenant may be limited to a greater extent than the use rights and privileges of an Owner occupying his or her Unit. Such limitations may be enacted at the sole discretion of the Board and may include, without limitation, imposing additional or higher fees and periods of use being reserved or restricted.

(f) Abridging Existing Rights. If any Use Restriction would otherwise require Owners to dispose of personal property which they maintained in or on the Unit prior to the effective date of such Use Restriction, or to vacate a Unit on which they resided prior to the effective date of such Use Restriction, and such property was maintained or such occupancy was in compliance with this Declaration and all Use Restrictions previously in force, such Use Restriction shall not apply to any such Owners without their written consent.

(g) Reasonable Rights to Develop. No Use Restriction or action by the Association or Board shall unreasonably impede the Declarant's right to develop the Properties.

The limitations in subsections (a) through (g) of this Section 3.4 only limit the promulgation of Use Restrictions under Section 3.2; they do not apply to amendments to this Declaration adopted in accordance with Article XIX.

Article IV Design and Landscaping

4.1. General.

No structure, improvement or other work, (including staking, clearing, excavation, and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall be erected or installed on the Properties except in compliance with this Article and the Design Guidelines.

No approval is required to repaint the exterior of a structure in accordance with the originally approved color scheme. Any Owner may remodel, paint or redecorate the interior of his or her Dwelling without approval. However, modifications to the interior of screened

porches, patios, and similar portions of a Dwelling visible from outside the structure must first be approved.

All Dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a Florida licensed architect unless otherwise approved by the Declarant or its designee in its sole discretion.

This Article does not apply to the activities of the Declarant, nor to activities of the Association during the Class "B" membership.

4.2 Design Review.

For purposes of this Article, the person or entity having authority to perform design review is called the "Design Reviewer".

(a) By Declarant. The rights reserved to Declarant under this Article shall continue until construction of a Dwelling on all Units subject to this Declaration has been completed in accordance with the Design Guidelines, unless earlier terminated in a written instrument executed by Declarant and recorded in the Public Records. Unless and until such time as Declarant's rights under this Article terminate, the Association has no jurisdiction over design or architectural matters.

Each Owner and Builder, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that the improvements within the Properties preserve its reputation and do not impair the Declarant's ability to market the Property. Therefore, each Owner and Builder covenants and agrees that no activity within the scope of this Article ("Work") shall be commenced on such Owner's Unit unless and until the Design Reviewer has given its prior written approval for such Work (except Work permitted under Section 4.1 which does not require approval), which approval may be granted or withheld in the Design Reviewer's sole discretion.

(b) By the Association. Upon delegation by Declarant or upon termination of the Declarant's rights under this Article, the Association's Board shall assume jurisdiction over design and architectural matters hereunder. The Board may appoint one or more persons to act as a committee on behalf of the Association. Such persons need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

(c) Fees; Assistance. The Design Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.3. Design Guidelines.

The Design Guidelines may contain general provisions applicable to all of the Properties and specific provisions that may vary from Neighborhood to Neighborhood. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern in considering applications thereunder. The Declarant has sole authority to create and amend the Design Guidelines as long as it owns any portion of the Properties or has a right to expand the Properties pursuant to Section 9.1. Upon termination or delegation of such authority, the Board shall have the authority to create and amend the Design Guidelines. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There is no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Design Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties. In the Design Reviewer's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may be amended from time to time, controls in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Design Reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Design Reviewer may authorize variances from compliance with any of the Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with, and by the procedures described, in the Design Guidelines. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Design Reviewer from denying a variance in other circumstances. For purposes of this Section, cost or the inability to obtain financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties but shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the Design Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design. Neither the Declarant, the Association, the Board, any committee, nor member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, nor for any defects in plans revised or approved hereunder, nor for any injury, damages, nor loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Design Reviewer shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Design Reviewer issue a certificate of design compliance certifying that on such Owner's Unit there are no known violations of this Article or the Design Guidelines. The Design Reviewer shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Design Reviewer from taking enforcement action with respect to any condition as to which the Design Reviewer had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner shall also be responsible for maintaining and irrigating the landscaping on the Common Area adjacent to the Unit or easements within the Unit to the edge of any (a) pavement of the adjacent paved roadway, (b) water's edge, or (c) Conservation Area, provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV. Provided, however, any portion of the Common Area adjacent to a Unit or any portion of easements within a Unit that lie between a paved roadway and a fence, buffer wall, or other type of permanent dividing structure, shall be maintained by the Association and is not the Owner's responsibility.

5.2. Maintenance of Neighborhood Common Area.

A Neighborhood Association shall maintain its Neighborhood Common Area and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

A Neighborhood Association shall also maintain and irrigate the landscaping on the Common Area adjacent to the Neighborhood Association to the edge of any pavement, water's edge, or Conservation Area; provided, there is no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV.

Upon resolution of the Board, the Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, gates, landscaping, entry features, lighting, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided.

5.3. Responsibility for Insurance Coverage.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on the Unit, less a reasonable deductible. In the event of damage to or destruction of structures on or comprising the Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. The Owner shall pay any costs which are not covered by insurance proceeds.

Article VI Membership and Voting

6.1. Membership.

Every Owner is a Member of the Association by virtue of ownership of a Unit. There is only one membership in the Association per Unit. If a Unit is owned by more than one Person, all co-Owners share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3 and in the By-Laws, and all such co-Owners

are jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, managing member, manager, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.2. Voting.

The Association has two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" members are all Owners except the Class "B" member, if any. Class "A" members have one equal vote for each Unit in which they hold the interest required for membership under Section 6.1, except that there is only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.12.

(b) Class "B". The sole Class "B" member is the Declarant. Until the Class "B" membership expires or is terminated, the Class "B" member may appoint all of the members of the Board of Directors as specified in the By-Laws. Additional rights of the Class "B" member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" membership terminates upon the earlier of:

(i) three months after 90% of the maximum number of Units which may be created and developed as part of the Properties under the Master Plan, as amended from time to time, have been conveyed to Class "A" members other than Builders. Currently, the maximum number of permitted Units is 1569, however, the maximum number of Units may increase if the Cape Coral City Council approves an increase in the number of Units that may be created and developed on the property described on Exhibits "A" and "B" or additional property other than the property described on Exhibits "A" and "B" is subjected to this Declaration as provided in Article IX; or

(ii) when, in its discretion, the Declarant so determines and declares in a written instrument recorded in the Public Records.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" member entitled to one Class "A" vote for each Unit which it owns.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" member shall be exercised by the Neighborhood Representative representing the Neighborhood, as provided in Section 6.3(b). The Neighborhood Representative may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person attempts to exercise it.

6.3. Neighborhoods and Neighborhood Representatives.

(a) Neighborhoods. Property that is submitted to this Declaration shall be assigned to a specific Neighborhood, which Neighborhood may be then existing or newly created, by recording in the Public Records a Supplemental Declaration which identifies the Neighborhood by name. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries for any purpose.

(b) Neighborhood Representatives. The Class "A" members in each Neighborhood shall be represented by a Neighborhood Representative who shall be responsible for casting all votes attributable to Units owned by Class "A" members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. The senior elected officer of each Neighborhood Association, or duly appointed chairperson of a Neighborhood Committee, which Committee is elected as provided in the By-Laws, shall serve as the Neighborhood Representative. The next highest officer within the Neighborhood shall serve as the alternate. For Neighborhoods which do not have a Neighborhood Association or which have not elected a Neighborhood Committee, the Board shall, by resolution, establish procedures for Neighborhoods to elect or appoint a Neighborhood Representative. Such procedures may allow for two or more Neighborhoods to be combined for purposes of electing or appointing a Neighborhood Representative and may allow for terms of office in excess of one year. The Neighborhood Representative shall cast all the votes of the Class "A" members in his or her Neighborhood as he or she deems appropriate in his or her discretion.

The Board shall call for the designation of a Neighborhood Representative for each Neighborhood not later than the date upon which the Owners, other than Declarant or Builders, hold record title to 75% of the Units in such Neighborhood. Until such time as Neighborhood Representatives are designated for the Neighborhood, the Owners within such Neighborhood are entitled to personally cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents and are therefore considered Members eligible to vote on Association matters. Unless otherwise provided in the documents governing a Neighborhood Association, each Class "A" member owning a Unit within the Neighborhood is entitled to cast one equal vote per Unit owned in Neighborhood elections, and the presence, in person or by proxy, of Class "A" members representing at least 30% of the total Class "A" votes attributable to Units in the Neighborhood constitutes a quorum at any Neighborhood meeting. Neighborhood Representatives and alternates shall serve a term of one year and until their successors are elected. Any Neighborhood Representative or alternate may be removed, with or without cause, upon the vote or written petition of a majority of the total number of Class "A" votes in the Neighborhood.

Article VII Association Powers and Responsibilities

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property.

(b) The Declarant and its designees may convey, lease, or grant other interests in real or personal property to the Association, whether improved or unimproved. Such property conveyed may be subject to governmental obligations and other encumbrances. The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request by Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

7.2. Maintenance of Area of Common Responsibility.

(a) The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which includes, but is not limited to:

(i) all portions of the Common Area not maintained by Owners pursuant to Section 5.1 and all structures situated upon the Common Area;

(ii) landscaping and buffers within rights-of-way within or abutting the Properties; except any landscaping located between rear Unit lines and rights of way and which is the responsibility of the abutting Unit Owner pursuant to Section 5.1;

(iii) the Conservation Areas and such portions of the Surface Water Management System which are designated to be maintained by the Association in the South Florida Water Management Permit; and

(iv) any property and facilities owned by the Declarant and made available on a temporary or permanent basis for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(b) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless at least 67% of the Class "A" votes in the Association and the Declarant, so long as Declarant owns any property described on Exhibit "A" or "B", agrees in writing to discontinue such operation.

(c) The Association may maintain other property which it does not own, including property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(d) The Association is not liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(e) The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility is a Common Expense; provided, the Association may seek reimbursement from the Owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the Owner(s) thereof.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect as a Common Expense of the Association the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering the full replacement cost under current building codes and ordinances of all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility for repair or replacement in the event of a casualty, regardless of ownership;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom

must be familiar with insurable replacement costs in the Lee County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association.

The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be a Common Expense as are the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

- (i) be written with a company authorized to do business in the State of Florida which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;
- (ii) be written in the name of the Association as trustee for the benefit of the Association and its Members;
- (iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (iv) contain an inflation guard endorsement;
- (v) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (vi) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;
- (vii) include an endorsement requiring at least 30 days' prior written notice to the Association of any non-renewal;
- (viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and
- (ix) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

- (i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
- (ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (iv) a cross liability provision; and
- (v) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of any property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless Members representing at least 67% of votes in the Association, and the Declarant until Turnover occurs, decide not to repair or reconstruct. No Mortgagee has the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and thereafter maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall.

7.4. Compliance and Enforcement.

The Board may impose sanctions for violation of the Governing Documents (including, without limitation, the Design Guidelines, Use Restrictions, and Rules and Regulations) after

notice and a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;
- (b) suspending any Person's right to use any portion of the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- (c) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;
- (d) exercising self-help to abate any violation of the Governing Documents in a non-emergency situation;
- (e) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article IV and to restore the Unit to its previous condition. Upon failure of the Owner to do so, the Board or its designee has the right to enter the Property, remove the structure or improvement that is in violation and restore the Property to substantially the same condition as previously existed and any such action shall not be deemed a trespass. The cost of such removal and restoration may be assessed against the Unit, and the Owner of such Unit, as a Specific Assessment;
- (f) precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in the Properties, without incurring liability to any Person therefor;
- (g) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents; and
- (h) taking the following enforcement sanctions to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws:
 - (i) exercising self-help to abate any violation of the Governing Documents in an emergency situation including, but not limited to, removing dangerous pets and towing of vehicles, which if exercised, any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass;
 - (ii) recording a Notice of Violation in the Public Records; and

(iii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in the Governing Documents are cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it is entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The decision to pursue enforcement action in any particular case is within the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case, (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) that although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources, or (iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action. Such a decision does not constitute a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6. Indemnification of Officers, Directors and Others.

The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding including settlement of any suit or proceeding, if approved by the then Board of Directors to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify is limited to those actions for which liability is limited under this Section and Florida law.

The officers, directors, and committee members are not liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the

Association except to the extent that such officers or directors may also be Members of the Association. The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification is not exclusive of any other rights to which any present or former officer, director, or committee member may be entitled.

In addition to any other rights:

(i) Volunteer officers or directors of the Association are not personally liable to any Person who suffers injury, including but not limited to, bodily injury, emotional distress, wrongful death, or property damage or loss as a result of his or her tortious act or omission as long as the following requirements are met by the volunteer officer, director and Association:

(A) the director's or officer's act or omission was performed within the scope of their duties;

(B) the director's or officer's act or omission was performed in good faith;

(C) the director's or officer's act or omission was not willful, wanton, or grossly negligent; and

(D) the Association maintained and had in effect, at the time the act or omission of the director or officer occurred and at the time a claim was made, one or more insurance policies which included coverage for general liability of the Association and individual liability of officers and directors for negligent acts or omissions in that capacity, both in the amount of at least \$1,000,000.00.

(ii) The payment for actual expenses incurred in the execution of his or her duties shall not affect the status of an officer or director as a volunteer.

7.7. Community Activities.

The Association may support certain activities within the Properties designed to make the Properties safer than they otherwise might be, but neither the Association nor the Declarant shall be considered insurers or guarantors of security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association and the Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Provision of Services.

The Association is authorized to enter into contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members of the Association and their guests, lessees, and invitees and to charge use and service fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television and communication service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities. The cost of such services and facilities may be included as a Common Expense if offered in bulk to all members or as a Specific Assessment if offered to specific individuals, as appropriate.

7.9. Relationships With Other Properties.

The Association may enter into contractual agreements or a Covenant to Share Costs with any neighboring property owner to contribute funds for and maintain, among other things, shared or mutually beneficial property or services and/or provide a higher level of maintenance within Sandoval.

Article VIII Association Finances

8.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.5. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years or sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.6.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget adopted by the Board shall automatically become effective except, after Turnover, the budget may be amended at a meeting by Members representing at least 67% of the total votes in the Association. There is no obligation to call a meeting for the purpose of considering the budget except after Turnover, a meeting may be called on petition of the Members as provided for special meetings in Article II, Section 2.4 of the By-Laws.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the assessments from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.2. Base Assessments.

The Association is authorized to levy Base Assessments against all Units subject to assessment under Section 8.10 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy, in addition to any amounts paid by Declarant under Section 8.10(b), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

8.3. Special Assessments to Pay for Enhanced Improvements Within Specific Neighborhoods.

A majority of Unit Owners within a Neighborhood may petition the Board to construct enhanced improvements on the Common Areas within such Neighborhood. Such improvements may include, but not necessarily be limited to, brick pavers on the street accessing the Neighborhood. If such improvements do not increase the Association's maintenance costs within the Neighborhood by more than 10%, then Base Assessments shall be used for the maintenance of such enhanced improvements. If such improvements increase the Association's maintenance costs within the Neighborhood by more than 10%, the increased maintenance costs shall be charged as a Neighborhood Assessment pursuant to Section 8.4 below. Within sixty (60) days after receiving such petition, the Board shall obtain estimates for the requested improvements and prepare a separate budget therefor. The Board shall then mail a notice of proposed Neighborhood Special Assessment to each Owner within the Neighborhood as to the amount of Neighborhood Special Assessment required to fund construction of the improvements, and calling for a vote of the Unit Owners impacted thereby. At the Board's discretion, the vote may be conducted by mail or at the next annual meeting of the Association. If a majority of Unit Owners within the Neighborhood approve the Neighborhood Special Assessment, it shall be levied against each Unit Owner within the Neighborhood. Notwithstanding the above, (a) the Declarant must approve the Neighborhood Special Assessment if it owns any Unit within the Neighborhood and (ii) if the Declarant owns all of the Units within a Neighborhood, the Declarant may construct the improvements without a vote and the Neighborhood Special Assessment needed to pay for constructing such improvement may be collected by the Declarant from the Owners who purchase Units within the Neighborhood. Enhanced improvements constructed within a particular Neighborhood shall be paid solely through Neighborhood Special Assessments and not be included within Base Assessments.

8.4. Neighborhood Assessments to Pay for Enhanced Services Within Specific Neighborhoods.

A majority of Unit Owners within a Neighborhood may petition the Board to provide a higher level of service than that which the Association generally provides to all Neighborhoods, or may request that the Association provide special services for the benefit of all Units in such Neighborhood. Within sixty (60) days after receiving such petition, the Board shall obtain estimates for the requested services and prepare a separate budget therefor. The Board shall then mail a notice of proposed Neighborhood Assessment to each Owner within the Neighborhood as to the amount of Neighborhood Assessment required to pay for such services, and calling for a vote of the Unit Owners impacted thereby. At the Board's discretion, the vote may be conducted by mail or at the next annual meeting of the Association. If a majority of Unit Owners within the Neighborhood approve the Neighborhood Assessment, it shall be levied against each Unit Owner within the Neighborhood. Notwithstanding the above, (a) the Declarant must approve the Neighborhood Assessment if it owns any Unit within the Neighborhood and (b) if the Declarant owns all of the Units within a Neighborhood, the Declarant may request the services without a vote and the Neighborhood Assessment needed to pay for such services may be passed on by the Declarant to the Owners who purchase Units within the Neighborhood. Enhanced services for a particular Neighborhood shall be paid solely through Neighborhood Assessments and not be included within Base Assessments.

8.5. Budgeting for Reserves.

The Board shall periodically prepare a reserve budget for the Area of Common Responsibility. The reserve budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. Funding for reserves shall be funded primarily through the reserve assessments specified in Section 8.8; provided, however, the Board may, but shall not be obligated to, include a capital contribution in the Common Expense budget adopted pursuant to Section 8.1 to fund reserves. Capital contributions may only be assessed against end users and may not be assessed against Units owned by Builders which are held for sale in the ordinary course of business.

8.6. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise specifically provided in this Declaration, after Turnover has occurred, any Special Assessment requires the affirmative vote or written consent of Neighborhood Representatives and Members eligible to vote representing more a majority of the total votes allocated to Units which will be subject to such Special Assessment. Special Assessments are payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.7. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association which might include, but not be limited to, the items identified in Section 7.8. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

8.8. Reserve Assessments.

Upon acquisition of record title to a Unit by the first Owner thereof other than a Builder or Declarant and upon each subsequent transfer or conveyance of any type whatsoever, a contribution shall be made by or on behalf of the purchaser to the reserves of the Association in an amount established by resolution of the Board of Directors (the "Reserve Assessment"). This amount is in addition to, not in lieu of, the annual Base Assessment and is not considered an advance payment of such assessment. This amount shall be paid to the Association by separate check upon the closing or other settlement of the transfer or conveyance of the Unit. Any unpaid Reserve Assessment constitutes a lien in favor of the Association against the Unit as provided in this Article.

Notwithstanding the foregoing, a Reserve Assessment shall not be levied in the following instances:

(a) Conveyance of a Unit by an Owner to a trust, partnership, corporation, or other entity so long as such entity is and remains wholly-owned by the Owner or by such Owner and the Owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Unit was exempted from payment of the Reserve Assessment pursuant to this subsection, then this subsection shall not apply and the Unit is subject to the Reserve Assessment;

(b) Conveyance of a Unit by an Owner or such Owner's estate to the Owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Unit was exempted from payment of the Reserve Assessment pursuant to this subsection, then this subsection shall not apply and the Unit is subject to the Reserve Assessment; and

(c) Conveyance of an undivided interest in a Unit by the Owner thereof to any then existing Co-Owner(s) of such Unit.

8.9. Time of Payment.

The obligation to pay Base Assessments and Special Assessments commences as to each Unit on the first day of the month following: (a) the month in which the Unit is conveyed by the Declarant or a Builder to an end user, (b), the month in which a Dwelling on the Unit is leased by the Declarant or a Builder to an end user, or (c) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first Base Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit. Notwithstanding anything in this Declaration to the contrary, the Declarant may, by contractual agreement with any Owner, require an Owner to pay Base Assessments and/or Special Assessments earlier than required by this section.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, assessments are due and payable in advance, in equal quarterly installments, on the first day of each calendar quarter. If any Owner is delinquent in paying any assessments or other charges levied on such Owner's Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.10. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest computed from its due date at the maximum rate allowed by law or such lower rate as the Board may establish, late charges as determined by Board resolution, costs, lien fees, and reasonable attorneys' fees, are the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee is jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice does not constitute a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of the Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer or its management agent setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment which may be relied upon by any Person other than the Owner of the Unit requesting such certificate. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Declarant Control Period, Declarant may satisfy its obligation for assessments on Units which it owns and are subject to assessment or for which it is contractually obligated to fund a Builder's assessment obligation either by: (i) paying such assessments in the same manner as any other Owner, or (ii) by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association (excluding any amounts in the budget of Common Expenses for capital and contingency reserves) during the fiscal year. Unless the Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of the Declarant's election, the Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Declarant Control Period, the Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.

8.11. Lien for Assessments.

The Association has a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges and costs of collection (including attorneys' fees). Such lien is superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value and recorded prior to the date the Association records a Claim of Lien. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under Florida law.

The Association may bid for the Unit at the foreclosure sale and acquire, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of a first Mortgage recorded prior to a Claim of Lien shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent

Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.9, including such acquirer, its successors and assigns.

8.12. Exempt Property.

The following Property is exempt from payment of Base Assessments, Neighborhood Assessments, Special Assessments and Reserve Assessments:

(a) All Common Area and such portions of the Property owned by the Declarant that are included in the Area of Common Responsibility pursuant to Section 7.2; and

(b) Any Property dedicated to and accepted by any governmental authority or private or public utility.

In addition, the Declarant and/or the Association has the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in said Section 501(c).

Article IX Expansion of the Community

9.1. Expansion by the Declarant.

Declarant, its successors or assigns, reserves the right to add the land described in Exhibit "B" to the Sandoval community and subject such land to all terms and conditions of the Declaration. Such addition of land shall be in the Declarant's sole and absolute discretion and shall not require the consent or joinder of the Association, Owners or any Mortgagee. The addition of land to Sandoval shall be evidenced by recording an Amendment to this Declaration or a Supplemental Declaration in the Public Records describing the additional Property to be subjected to the Declaration. Further, Declarant reserves the right to add land to or subtract land from Exhibit "B", thereby increasing or decreasing (as the case may be), the land which may become part of the Sandoval community and be made subject to this Declaration.

The Declarant's right to expand the community or to add land to or subtract land from Exhibit "B" pursuant to this Section shall expire at Turnover or 40 years after the recording of this Declaration in the Public Records, whichever is earlier. Until then, the Declarant may transfer or assign this right to any Person who is the Owner of Property being subjected to the Declaration. Any such transfer shall be memorialized in a written instrument executed by Declarant recorded in the Public Records.

Nothing in this Declaration shall be construed to require the Declarant or any successor to subject additional property to this Declaration or to develop all of the Property described in Exhibits "A" and "B" in any manner whatsoever.

9.2. Expansion by the Association.

After Turnover, the Association may subject additional property to the provisions of this Declaration by recording a Supplemental Declaration in the Public Records describing the additional property. Any such Supplemental Declaration requires the affirmative vote of Members representing more than 50% of the votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. The Supplemental Declaration shall be signed by the Association and by the owner of the property.

9.3. Additional Covenants and Easements.

The Declarant may subject any portion of the Properties to additional covenants and easements. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such Property to this Declaration or in a separate Supplemental Declaration referencing Property previously subjected to this Declaration. If the Property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject Property in order to reflect the different character and intended use of such Property.

9.4. Effect of Filing Supplemental Declaration.

Any Supplemental Declaration recorded pursuant to this Article is effective upon recording in the Public Records unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

The Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not unreasonably violate the overall scheme of development for the Properties. Such amendment does not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities.

The Declarant and Builders authorized by Declarant may without fee or charge maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model

Dwellings, and sales offices. Such activities may include, without limitation, holding special events and promotional activities on portions at the Common Area. The Declarant and authorized Builders shall have easements for access to and use of the Common Area for such purposes.

10.3. Right to Develop and Change Master Plan.

The Declarant and its employees, agents and designees have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Properties acknowledges that Sandoval is a master planned community, the development of which is likely to extend over many years, and agrees that so long as Declarant owns any Property subject to the Declaration, Declarant shall have the right to, and every Person agrees not to challenge or otherwise object to (a) changes in uses or density of the Property, except the Unit in which such Person holds an interest, or (b) changes in the Master Plan as it relates to the Property, except the Unit in which such Person holds an interest.

10.4. Right to Approve Additional Covenants.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

10.5. Right to Approve Changes in Community Standards.

No amendment to or modification of any Use Restrictions, Design Guidelines, or Rules and Regulations shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any Property subject to this Declaration.

10.6. Right to Transfer or Assign Declarant Rights.

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment is effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records. The foregoing sentence does not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it is not necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.7. Exclusive Rights to Use Name of Development.

No Person shall use the name "Sandoval," "Bonita Bay", or any derivative of such names in any printed or promotional material without the Declarant's prior written consent. However, Owners and Builders may use the name Sandoval in printed or promotional matter where such term is used solely to specify that particular Property is located within Sandoval, and the Association is entitled to use the words "Sandoval" in its name.

10.8. Termination of Rights.

The rights contained in this Article terminate on the earlier of (a) 40 years from the date this Declaration is recorded in the Public Records, or (b) when Declarant no longer owns any land within the Properties, except that the restriction in Section 10.7 on the use of the name "Bonita Bay", shall continue indefinitely.

Article XI Easements

11.1. Easements in Common Area.

The Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such Property to the Association;
- (c) The right of the Board to adopt Rules and Regulations governing the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational areas situated upon the Common Area;
- (e) The right of the Board to permit use of any recreational areas situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property, or pledge its stream of income, as security for money borrowed or debts; and
- (g) The right of the Board or its designee to establish Rules and Regulations for the use of any recreational areas.

11.2. Easements over Entrance Road and Linear Park.

The Declarant grants to the owner of the property described in Exhibit "G" an easement for ingress and egress over and across the property described in Exhibit "H". The property described in Exhibit "G" is subject to a Covenant to Share Costs between the Declarant and the owner of such property. The granting of the easement by this Section 11.2 shall not in any way be deemed to subject the property described in Exhibit "G" to this Declaration nor to change the terms of the Covenant to Share Costs, nor shall the granting of the easement by this Section 11.2 be deemed in any way to subject the property described in Exhibit "H" to this Declaration. Subjecting property to this Declaration may only occur pursuant to the procedure described in Sections 9.1 and 9.2 of this Declaration.

11.3. Easements for Utilities, Etc.

(a) The Declarant reserves, so long as the Declarant owns any of the Properties, the following easements throughout all of the Properties, on behalf of itself, and its nominees, successors and assigns:

(i) installing, operating, maintaining, repairing and replacing infrastructure to serve the Properties, including, without limitation, roads, walkways, pathways and trails, the Surface Water Management System, recreational facilities, areas to comply with Environmental Permit obligations, street lights, and signage; such easements shall be exclusive to the Declarant unless and until granted or conveyed to the Association or third party, which may be perpetual and irrevocable, at which point such easements or interests may be more particularly described in the instrument granting or conveying such easements or interests or on the recorded plats;

(ii) installing, operating, maintaining, repairing and replacing utilities to serve the Properties and each Unit, including, without limitation, gas, electricity, security and similar systems; such easements shall be exclusive to the Declarant unless and until granted or conveyed to a third party, which may be perpetual and irrevocable, at which point such easements or interests may be more particularly described in the instrument granting or conveying such easements or interests or on the recorded plats;

(iii) installing, operating, maintaining, repairing and replacing pipes and systems to transport and distribute potable water, irrigation water, and treated effluent, to serve the Properties and each Unit; such easements shall be exclusive to the Declarant until granted or conveyed to a third party, which may be exclusive, perpetual and irrevocable, at which point such easements or interests may be more particularly described in the instrument granting or conveying such easements or interests or on the recorded plats; and

(iv) installing, operating, maintaining, repairing and replacing telephone, cable television, telecommunications, and other systems for sending and receiving data and/or other electronic signals, to serve the Properties and each Unit; such easements shall be exclusive to the Declarant until granted or conveyed to a third party, which may be exclusive, perpetual and

irrevocable, at which point such easements or interests may be more particularly described in the instrument granting or conveying such easements or interests or on the recorded plats.

(b) Declarant also reserves for itself the exclusive right and power to enter into contracts for the construction, installation, and provision of any of the items addressed in Section 11.2(a) and to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any of the Properties. Any such contract, agreement, or easement may, in the Declarant's sole discretion, grant the exclusive right to access or use of such system, including the portions of the systems installed on or in the Units, dwellings, and other structures constructed on Units and Common Areas within the Properties.

(c) Any such contract, agreement, or easement entered into by Declarant may require that the Board enter into a bulk rate service agreement for the provision of services offered to all Units within the Properties. In such case, the cost shall be a Common Expense of the Association and shall be assessed as a part of the Base Assessment regardless of whether the Owner of a Unit desires or uses such service.

(d) All work associated with the exercise of the easements described in Section 11.2(a) shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not unreasonably interfere with the use of any Unit for the purpose of constructing and inhabiting a residential Dwelling in accordance with the Development Order and, except in an emergency, entry onto Unit shall be made only after reasonable notice to the Owner or occupant.

11.4. Easements for Maintenance, Emergency and Enforcement.

The Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2.

11.5. Easements of Encroachment.

The Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon, in accordance with the terms of these restrictions, to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

Article XII Environmental Areas and Issues

12.1. Surface Water Management System.

(a) No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of the Surface Water Management System reserved for, or intended by Declarant to be reserved for, drainage ways, sluiceways or for the accumulation of runoff waters, as reflected in any permits therefor, or plat or instrument of record, without the specific written permission of the Association and the Declarant.

(b) An Owner or Neighborhood Association may not deny or prevent ingress and egress by Declarant or the Association to the Surface Water Management System and drainage areas for maintenance or landscape purposes.

(c) No Unit shall be increased in size by filling in any water retention or drainage areas on which it abuts. Owners shall not fill, dike, rip-rap, block, divert or change the established Surface Water Management System without the prior written consent of the Association and the Declarant.

(d) Water management for any Unit shall be provided in accordance with the overall Surface Water Management System for the Properties. Surface water drainage and management including but not limited to, storm water treatment and storage capacity, shall conform to the overall Surface Water Management System requirements and permits for the Properties and meet with the approval of the Declarant.

(e) Lakes and spillways are part of a functioning water management system and any use by an Owner shall be on a non-interfering basis only. Additional on-site stormwater treatment areas may be required and constructed in the future.

(f) The use of any lake or wetland is managed by the Association. Owners shall cooperate in maintaining the same in a clean, attractive, pristine manner in order to be aesthetically pleasing.

(g) No boats or other watercraft powered by gasoline or diesel fuel shall be permitted on any body of water within the Properties except as may be allowed by the Association or the Declarant.

(h) The use of pesticides in any lake or wetland is prohibited, excepting only any such use by the Association and the Declarant.

(i) No wells may be installed within any Unit except by the Declarant or with the Declarant's written consent.

12.2. Conservation Areas.

Any portions of the Area of Common Responsibility designated as a Conservation Area shall be maintained, monitored, and preserved in accordance with the rules and regulations of the city of Cape Coral, Florida as well as the South Florida Water Management District, and any recorded Conservation Easement applicable to all or any portion of a Conservation Area. The Conservation Areas are dedicated as Common Areas, they shall be the perpetual responsibility of the Association and may in no way be altered from their natural or permitted state. Activities prohibited within the Conservation Areas include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation, with the exception of exotic/nuisance vegetation removal; excavation, dredging or removal of soil material; diking or fencing; any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

12.3. Open Space and Buffers.

Any property conveyed or dedicated to the Association, which is designated as open space, landscape buffer, or preserve area, on any plat, permit, or other document recorded in the Public Records, shall be owned and maintained by the Association. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffers, or preserve areas, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

12.4. Effluent Disposal and Water Supply; Irrigation Water Provider.

By the act of purchasing or occupying a Unit within the Properties, all Owners understand and irrevocably consent to the possibility of irrigation of their yards, the Common Area, and other areas within the Properties with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the State of Florida, Department of Environmental Protection, or other such agency with jurisdiction.

All Dwellings within the Properties shall be equipped with dual water lines, one of which shall be designated to utilize non-potable water. All underground irrigation systems must be connected to the non-potable water line and all spigots on the exterior portion of a structure shall be connected to the potable water line. Each Owner is required to connect the water lines on his Unit to the lines of the utility provider(s) providing service within the Properties. The Declarant, its designees, successors or assigns have the exclusive right to develop and utilize the ground and surface water resources of the Properties for any legal purpose, including the distribution and use of such water beyond the Properties. The conveyance of any Unit to an Owner or Builder by Declarant does not include the right to develop or utilize the ground or surface water resources within such Unit or parcel except as permitted by Declarant.

Article XIII Exclusive Common Areas and Party Structures

13.1. Designation and Use of Exclusive Common Area.

Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. Such areas may include, but not be limited to, entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Exclusive Common Areas are assigned.

The Declarant may assign use of Exclusive Common Area to Neighborhoods so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area and Exclusive Common Area may be reassigned upon approval of the Board and the vote of Neighborhood Representatives and Members entitled to vote representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as the Declarant owns any property subject to this Declaration or which may become subject to this Declaration for sale in the ordinary course of business, any such assignment or reassignment shall also require the Declarant's written consent.

13.2. Rules Regarding Party Structures.

Each wall, fence, driveway or similar structure built as a part of the original construction and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. If the governing documents for any Neighborhood Association include any provisions regarding party walls or structures which differ or supplement these provisions, the governing documents of the Neighborhood Association shall govern.

Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

Article XIV Dispute Resolution and Limitation on Litigation

14.1. Consensus for Association Litigation.

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of Members representing at least 75% of the votes in this Association. This Section may only be amended if the amendment is approved by

the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

14.2. Alternative Method for Resolving Disputes.

The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees to submit those claims, grievances or disputes described in Section 14.3 ("Claims") to the procedures set forth in Section 14.4 prior to filing suit in any court.

14.3. Claims.

Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents, the rights, obligations and duties of any Bound Party under the Governing Documents, or relating to the design or construction of improvements on the Properties are subject to the provisions of Section 14.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.4:

- (a) sanctions imposed by the Association pursuant to Section 7.4 as a result of violations of the Governing Documents;
- (b) proceedings involving challenges to ad valorem taxation;
- (c) counterclaims brought by the Association in proceedings instituted against it;
- (d) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);
- (e) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other equitable remedies as only a court may deem necessary in order to maintain the status quo and to preserve the Association's ability to enforce the provisions of Article III (Use and Conduct), Article IV (Architecture and Landscaping), and Article XII (Environmental Areas and Issues);
- (f) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents, or which is between Declarant and a Builder arising out of the purchase of and construction on one or more Units pursuant to a contractual agreement;
- (g) any suit in which any indispensable party is not a Bound Party;

(h) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.4(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and

(i) any suit that is exempt from this provision under Florida law.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.4.

14.4. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) Claimant's proposed remedy; and

(iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may, but is not obligated to, appoint a representative to assist the Parties in negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of a mediation agency retained by the Association to provide such services within the community, or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the Collier County area.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

14.5. Allocation of Costs of Resolving Claims.

Each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s).

14.6. Enforcement of Resolution.

If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 14.4 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 14.4. In such event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties joint and severally), all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

Article XV Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

15.1 Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the legal description and street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), is entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

15.2. No Priority.

No provision of this Declaration or the By-Laws gives any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

15.3. Notice to Association.

Upon request, each Owner is obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

15.4. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action is deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XVI Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Association at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Association, notwithstanding the transfer of title.

Article XVII Changes in Common Area

17.1. Condemnation.

If any part of the Common Area is taken (or conveyed in lieu of and under threat of condemnation by the Association) by any authority having the power of condemnation or eminent domain, each Owner is entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds paid to the Association shall be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking, the Declarant, so long as the Declarant owns any Property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Owners representing at least 67% of the votes of the Association, otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to the city of Cape Coral, Florida, or to any other local, state, or federal governmental or quasi-governmental entity.

Article XVIII Amendment of Declaration

18.1. By Declarant.

(a) During Class "B" Membership. In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose so long as such amendment does not substantially conflict with the Master Plan. However, any amendment which would affect the Conservation Areas or Surface Water Management System, including the rights and obligations of the Association to fulfill such rights and obligations, must have the prior approval of the South Florida Water Management District.

(b) After Termination of the Class "B" Membership. Following termination of the Class "B" membership, the Declarant may unilaterally amend this Declaration if such amendment is necessary to (i) bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) enable any institutional or governmental lender,

purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. Notwithstanding the foregoing, any amendment which would affect the Conservation Areas or Surface Water Management System, including the rights and obligations of the Association to fulfill such rights and obligations, must have the prior approval of the South Florida Water Management District.

18.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Neighborhood Representatives and Members eligible to vote representing 75% of the total Class "A" votes in the Association, and the consent of the Declarant, so long the Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

18.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of the Declarant, the Class "B" member, or a Builder without the written consent of the Declarant, the Class "B" member, or the Builder, respectively (or the assignee of such right or privilege).

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

Amendments become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment is presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.4. Exhibits.

Amendments to Exhibits "A" and "B" to this Declaration shall be governed by this Article XIX. Amendments to the Articles attached to this Declaration as Exhibit "C" shall be governed as provided therein. Amendments to the By-Laws attached to this Declaration as Exhibit "D" shall be governed as provided therein. Amendments to the Initial Use Restrictions attached to this Declaration as Exhibit "F" shall be governed by Article III.

IN WITNESS WHEREOF, the Declarant, CAPE CORAL DEVELOPMENT ASSOCIATES, LLC, a Florida limited liability company, through its undersigned manager, has duly executed this Declaration and affixed its corporate seal thereto as of this ____ day of _____, 20__.

(Signatures on following pages)

DECLARANT: CAPE CORAL
DEVELOPMENT ASSOCIATES, LLC, a
Florida limited liability company

By: Resource Conservation Properties, Inc.,
a Florida corporation, its managing member

Joanne Sages
Witness Joanne Sages

Gina Jordan
Witness Gina Jordan

By: *Katherine C. Green*

Print Name: Katherine C. Green

Its: Vice President

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 21st day of November, 2003, by Katherine C. Green, as Vice President of Resource Conservation Properties, Inc., a Florida corporation, on behalf of such entity. He/She is personally known to me or has produced _____ as identification and did (did not) take an oath.

Given under my hand and official seal this 21st day of November, 2003.

My term of office expires on 9-17-06.

Michael A. Jones
NOTARY PUBLIC



[SEAL]

EXHIBIT "A"

**Legal Description of the Property Initially Subjected
to the Declaration**

**THERE IS NO LAND BEING SUBJECTED TO THE DECLARATION AT THIS
RECORDING**

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 20 AND 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS AT THE NORTHEAST CORNER OF SAID SECTION 29 RUN S 00° 13' 25" W ALONG THE EAST LINE OF SAID SECTION FOR 2842.35 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 29; THENCE CONTINUE S 00° 13' 25" W ALONG SAID EAST LINE FOR 2718.13 FEET TO AN INTERSECTION WITH THE NORTH LINE OF BURNT STORE ROAD EXTENSION AS RECORDED IN OFFICIAL RECORD BOOK 2910 BEGINNING AT PAGE 2499 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S 89° 35' 38" W ALONG THE NORTH LINE OF SAID BURNT STORE ROAD EXTENSION FOR 2492.55 FEET TO A POINT OF CURVATURE; THENCE RUN WESTERLY AND NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT OF RADIUS 1565.02 FEET (CHORD BEARING N 87° 10' 59" W) (CHORD 175.99 FEET) (DELTA 06° 28' 47" S) 176.08 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 29; THENCE RUN N 00° 12' 40" E ALONG SAID WEST LINE FOR 5591.35 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 29; THENCE RUN N 01° 06' 44" W ALONG THE WEST LINE OF THE EAST HALF (E-1/2) OF SAID SECTION 20 FOR 5303.23 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PINE ISLAND ROAD (66 FEET WIDE); THENCE RUN S 83° 37' 42" E ALONG SAID SOUTH LINE FOR 836.18 FEET; THENCE RUN S 01° 06' 44" E FOR 1303.59 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH HALF (S-1/2) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 29' 26" E ALONG SAID NORTH LINE FOR 497.56 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER (SW-1/4) OF THE NORTHEAST QUARTER (NE-1/4) OF SAID SECTION 20; THENCE RUN S 00° 28' 44" E ALONG THE EAST LINE OF SAID FRACTION FOR 1337.80 FEET; THENCE RUN S 01° 27' 05" E ALONG THE EAST LINE OF THE NORTHWEST QUARTER (NW-1/4) OF THE SOUTHWEST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 1681.38 FEET TO A POINT ON SAID EAST LINE, BEING ALSO THE NORTHEAST CORNER OF A PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 1697 BEGINNING AT PAGE 3463 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N 89° 26' 26" W ALONG THE NORTH LINE OF SAID PARCEL FOR 890.05 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE RUN S 01° 27' 05" E ALONG THE WEST LINE OF SAID PARCEL FOR 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, BEING ALSO A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHWEST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID PARCEL AND SAID NORTHWEST QUARTER (NW-1/4) OF THE SOUTHWEST QUARTER (SE-1/4) OF SAID SECTION 20 FOR 890.05 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL AND SAID FRACTION; BEING ALSO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE-1/4) OF THE SOUTHWEST QUARTER (SE-1/4) OF SAID SECTION 20; THENCE RUN S 89° 26' 26" E ALONG THE SOUTH LINE OF SAID FRACTION FOR 1326.50 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID SECTION 20; THENCE RUN S 01° 47' 29" E ALONG SAID EAST LINE FOR 1329.58 FEET TO THE POINT OF BEGINNING.

SUBJECT TO: LEE COUNTY ELECTRIC COOPERATIVE TRANSMISSION LINE EASEMENT OVER AND ACROSS THE EAST 100 FEET OF THE SOUTHWEST QUARTER (SE-1/4) OF THE SOUTHWEST QUARTER (SE-1/4) OF SAID SECTION 20 AS RECORDED IN OFFICIAL RECORD BOOK 1473 BEGINNING AT PAGE 1799 OF SAID PUBLIC RECORDS.

DESCRIBED PARCEL CONTAINS 524.24 ACRES, MORE OR LESS.

LESS AND EXCEPT

A PARCEL OF LAND LYING IN THE SOUTHWEST QUARTER (SE 1/4) SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL LEE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SURFSIDE BOULEVARD AND THE NORTHERLY RIGHT-OF-WAY LINE OF VETERANS PARKWAY RUN ALONG SAID NORTHERLY RIGHT-OF-WAY LINE S 89° 35' 38" W, 1280.00 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE RUN N 00° 13' 25" E, 249.59 FEET TO A NON-TANGENT POINT OF CURVATURE OF A 50.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 11° 32' 13", A CHORD AND CHORD BEARING OF N 84° 27' 18" E, 10.05 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 10.07 FEET TO THE POINT OF TANGENCY; THENCE RUN S 89° 48' 35" E, 94.88 FEET TO THE POINT OF CURVATURE OF A 230.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 60° 00' 00", A CHORD AND CHORD BEARING OF N 45° 13' 28" E, 326.27 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 381.28 FEET TO THE POINT OF TANGENCY; THENCE RUN N 00° 13' 25" E, 183.79 FEET TO THE POINT OF CURVATURE OF A 140.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 89° 22' 13", A CHORD AND CHORD BEARING OF N 44° 54' 32" E, 186.90 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 218.37 FEET TO THE POINT OF TANGENCY; THENCE RUN N 89° 35' 38" E, 148.43 FEET TO THE POINT OF CURVATURE OF A 260.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 89° 47' 59", A CHORD AND CHORD BEARING OF N 54° 41' 38" E, 287.52 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 316.74 FEET TO A POINT OF REVERSE CURVATURE OF A 370.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 70° 43' 28", A CHORD AND CHORD BEARING OF N 55° 09' 23" E, 428.27, RUN ALONG THE ARC OF SAID CURVE FOR 458.72 FEET TO THE POINT OF TANGENCY; THENCE RUN S 89° 46' 35" E, 65.43 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SURFSIDE BOULEVARD; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE S 00° 13' 25" W, 1210.45 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1005314.28 SQ. FT. (23.08 ACRES), MORE OR LESS.

AND

LESS AND EXCEPT

A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER (NE 1/4) SECTION 20, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL LEE COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST QUARTER OF THE NORTHEAST CORNER OF SAID SECTION 20 RUN S 00° 22' 18" W, 32.38 FEET TO AN INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF PINE ISLAND ROAD (S.R. 78); THENCE RUN ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE S 89° 37' 42" E, 120.04 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN ALONG SAID SOUTH RIGHT-OF-WAY LINE S 89° 37' 42" E, 716.14 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE RUN S 01° 06' 44" E, 621.03 FEET; THENCE RUN S 88° 53' 16" W, 695.90 FEET TO THE POINT OF CURVATURE OF A 40.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 90° 00' 00", A CHORD AND CHORD BEARING OF N 46° 06' 44" W, 56.57 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 62.83 FEET; THENCE RUN N 01° 06' 44" W, 222.61 FEET TO THE POINT OF CURVATURE OF A 90.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 25° 50' 31", A CHORD AND CHORD BEARING OF N 11° 48' 31" E, 40.25 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 40.59 FEET TO THE POINT OF REVERSE CURVATURE OF A 110.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 25° 50' 31", A CHORD AND CHORD BEARING OF N 11° 48' 31" E, 49.19 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 49.61 FEET; THENCE RUN N 01° 06' 44" W, 289.79 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 458,988 sq. ft. (10.49 Acs.), MORE OR LESS.

AND

LESS AND EXCEPT

A TRACT OR PARCEL OF LAND LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 23 EAST, CITY OF CAPE CORAL, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SURFSIDE BOULEVARD AND THE NORTHERLY RIGHT-OF-WAY LINE OF VETERANS PARKWAY RUN ALONG SAID NORTHERLY RIGHT-OF-WAY LINE S 89° 35' 38" W, 1280.00 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE RUN N 00° 13' 25" E, 311.79 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN N 00° 13' 25" E, 73.48 FEET TO THE POINT OF CURVATURE OF A 1100.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 10° 07' 49", A CHORD AND CHORD BEARING OF N 04° 50' 29" W, 184.23 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 184.49 FEET; THENCE RUN N 89° 35' 38" E, 292.12 FEET; THENCE RUN S 00° 13' 25" W, 101.15 FEET TO THE POINT OF CURVATURE OF A 170.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A CENTRAL ANGLE OF 60° 00' 00", A CHORD AND CHORD BEARING OF S 45° 13' 28" W, 240.42 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 287.04 FEET; THENCE RUN N 89° 48' 35" W, 84.96 FEET TO THE POINT OF CURVATURE OF A 60.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A CENTRAL ANGLE OF 11° 32' 13", A CHORD AND CHORD BEARING OF N 84° 00' 25" W, 10.05 FEET, RUN ALONG THE ARC OF SAID CURVE FOR 10.07 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 69,037 SQ. FT., 1.58 ACRES.

BEARINGS HEREINABOVE MENTIONED ARE PLANE COORDINATE FOR THE FLORIDA WEST ZONE (NAD 1983, 1990 ADJUSTMENT).

LEGAL DESCRIPTION TO ACCOMPANY SKETCH
COMMERCIAL PARCEL 1 &
TRACT C-101 & COMMERCIAL PARCEL 2
NOT A SURVEY
BALTIMORE PROPERTY

EXHIBIT B

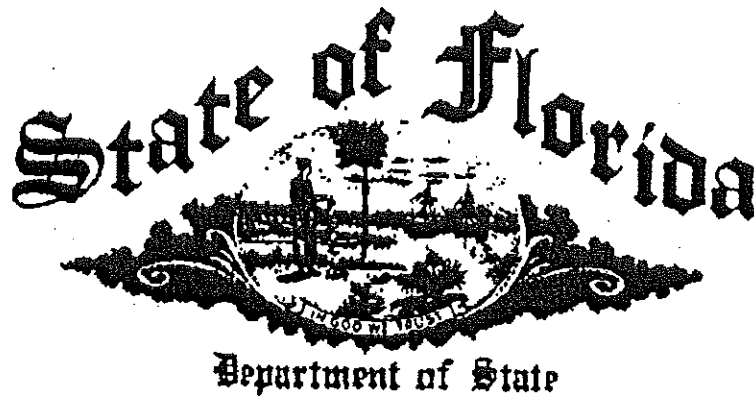
STOUTEN AND ASSOCIATES, INC.

SURVEYING AND MAPPING CONSULTANTS

4423 S.E. 16th PLACE, NO. 18
CAPE CORAL, FL. 33904
TELEPHONE (941) 542-7499



DONALD D. STOUTEN, P.S.M.
CERTIFICATE # 5416



I certify the attached is a true and correct copy of the Articles of Incorporation of SANDOVAL COMMUNITY ASSOCIATION, INC., a Florida corporation, filed on December 1, 2003, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H03000326710. 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 N03000010403.

Authentication Code: 503A00064818-120303-N03000010403-1/1



Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Third day of December, 2003

Glenda E. Hood
Glenda E. Hood
Secretary of State

State of Florida



Department of State

I certify from the records of this office that SANDOVAL COMMUNITY ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on December 1, 2003.

The document number of this corporation is N03000010403.

I further certify that said corporation has paid all fees due this office through December 31, 2003, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 503A00064818-120303-N03000010403-1/1, noted below.

Authentication Code: 503A00064818-120303-N03000010403-1/1

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
Third day of December, 2003



Glenda E. Hood
Glenda E. Hood
Secretary of State

**ARTICLES OF INCORPORATION FOR
SANDOVAL
COMMUNITY ASSOCIATION, INC.
(A Florida Not For Profit Corporation)**

The undersigned, by these Articles, associate themselves for the purpose of forming a not for profit corporation under Chapter 617, Florida Statutes, and certify as follows:

Article 1. Name. The name of the Corporation is Sandoval Community Association, Inc. For convenience, the Corporation shall be referred to in this instrument as the "Association."

Article 2. Address. The address of the initial principal office of the Association and the initial mailing address of the Association is 9990 Coconut Road, Suite 200, Bonita Springs, Florida 34135.

Article 3. Definitions. All capitalized terms used herein which are not defined shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Sandoval recorded or to be recorded by Cape Coral Development Associates, LLC, in the Official Records of Lee County, Florida, as the same may be amended from time to time ("Declaration").

Article 4. Purposes. The purposes for which the Association is organized are:

A. To be the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the By-Laws of the Association ("By-Laws"), and as provided by law; and

B. To provide an entity for the furtherance of the interests of the owners of real property subject to the Declaration.

Article 5. Powers. The powers of the Association include and the Association is governed by the following provisions:

A. The Association has all of the powers conferred upon a not for profit corporation under Florida statutory and common law and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, and the Declaration, including, without limitation, the power:

(i) to fix and to collect assessments and other charges to be levied against the Units;

(ii) to manage, control, operate, maintain, repair, and improve property subject to the Declaration or any other property for which the Association, pursuant to the Declaration, other covenants, easements or contracts, has a right or duty to provide such services including without limitation, the Surface Water Management System;

(iii) to make rules and regulations and to enforce covenants, conditions, or restrictions affecting the Properties to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all owners of real property subject to the Declaration;

(v) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association, subject to such limitations as may be set forth in the Declaration or By-Laws;

(vi) to borrow money for any purpose, subject to such limitations as may be contained in the Declaration and By-Laws;

(vii) to enter into, perform, or enforce contracts of every kind and description, and to do all other acts necessary or advisable in carrying out any purpose of the Association, with or in conjunction with any other association, corporation, or other entity or agency, public or private;

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals;

(ix) to adopt, amend and repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration;

(x) to provide any and all supplemental municipal services to the real property subject to the Declaration as the Board may determine necessary or proper; and

(xi) to sue and be sued.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other rights and powers which may now or hereafter be permitted by law; the powers specified in each of the paragraphs of this Article 5 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph of this Article 5.

B. The Association shall not distribute income to its members, directors, or officers.

Article 6. Members.

A. The Owner of each Unit is a member of the Association and is entitled to vote in accordance with and subject to the restrictions set forth in the Declaration, except there is no vote for any Unit owned by the Association. The manner of exercising voting rights is set forth in the Declaration and in the By-Laws.

B. Change of membership in the Association shall be established by recording in the Official Records of Lee County, Florida, a deed or other instrument establishing record title to a Unit subject to the Declaration. Upon such recordation, the Owner designated by such instrument becomes a member of the Association and the membership of the prior Owner terminates.

C. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to the Unit.

Article 7. Term. The Association shall have perpetual duration.

Article 8. Directors.

A. The Board of Directors shall conduct and manage the affairs of the Association. The initial Board of Directors consists of three directors. The number of directors may be increased in accordance with the By-Laws.

B. The names and addresses of the members of the initial Board of Directors, who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

Katherine C. Green
9990 Coconut Road
Suite 200
Bonita Springs, Florida 34135

David H. Graham
9990 Coconut Road
Suite 200
Bonita Springs, Florida 34135

Harvey R. Schestag
9990 Coconut Road
Suite 200
Bonita Springs, Florida 34135

C. The method of election, removal, and filling of vacancies on the Board and the term of office of directors shall be as set forth in the By-Laws.

D. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, determines.

Article 9. By-Laws. The By-Laws shall be adopted by the Board and may be altered, amended, or rescinded in the manner provided in the By-Laws.

Article 10. Liability of Directors. To the fullest extent permitted by the Florida Not For Profit Corporation Act, as it exists on the date hereof or as it may hereafter be amended, no director of the Association shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a director. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

Article 11. Amendments. Until termination of the Class "B" membership, Declarant may unilaterally amend these Articles for any purposes. Thereafter, amendments to these Articles of Incorporation may be proposed and adopted as provided in Chapter 617, Florida Statutes; provided, no amendment may be in conflict with the Declaration.

Article 12. Dissolution. In the event the Association is dissolved for any reason, any remaining property, shall be granted, conveyed and assigned to a not-for-profit corporation, association, trust, or other responsible entity devoted to similar purposes.

Article 13. Incorporator. The name of the incorporator of the Association is Katherine C. Green and such incorporator's address is 9990 Coconut Road, Suite 200, Bonita Springs, Florida 34135.

Article 14. Registered Agent and Office. The initial registered office of the Corporation is 9990 Coconut Road, Suite 200, Bonita Springs, Florida 34135, and the initial registered agent at such address is Harvey R. Schestag.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation this 20 day of November, 2003.


Katherine C. Green, Incorporator

**CERTIFICATE OF DESIGNATION
REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of Sections 607.0501 or 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent, in the State of Florida.

1. The name of the corporation is:

Sandoval Community Association, Inc.

2. The name and address of the registered agent and office is:

Harvey R. Sohestag
9990 Coconut Road, Suite 200
Bonita Springs, Florida 34135

HAVING BEEN NAMED AS REGISTERED AGENT AND TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATING TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

Signature


Harvey R. Sohestag

Date

11/24/03