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DECLARATION  
FOR  
CHARLESTON COMMONS

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DECLARATION  
FOR  
CHARLESTON COMMONS

THIS DECLARATION FOR CHARLESTON COMMONS (this "Declaration") is made by Lennar Homes, LLC, a Florida limited liability company ("Lennar") and joined in by Charleston Commons Community Association, Inc., a Florida not-for-profit corporation ("Association").

R E C I T A L S

A. Lennar is or will be the owner of the real property in Palm Beach County, Florida ("County") more particularly described in Exhibit 1 attached hereto and made a part hereof ("Charleston Commons").

B. Lennar desires to subject Charleston Commons to the covenants, conditions and restrictions contained in this Declaration.

C. This Declaration is a covenant running with all of the land comprising Charleston Commons, and each present and future owner of interests therein and their heirs, devisees, personal representatives, successors and assigns are hereby subject to this Declaration;

NOW THEREFORE, in consideration of the promises and mutual covenants contained in this Declaration, Lennar hereby declares that every portion of Charleston Commons is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.

2. Definitions. In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"ACC" shall mean the Architectural Control Committee established pursuant to Section 21 hereof.

"Access Control System" shall mean any system intended to control vehicular access to and/or from Charleston Commons.

"Articles" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as Exhibit 2 and made a part hereof, as amended from time to time.

"Assessments" shall mean any assessments made in accordance with this Declaration and as further defined in Section 19.1 hereof.

"Association" shall mean Charleston Commons Community Association, Inc., its successors and assigns.

"Association Documents" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards, as amended from time to time.

"Board" shall mean the Board of Directors of Association.

"Builder" shall mean any Owner who is designated in writing as a Builder by Developer. All Owners that are designated as Builders shall be entitled to the rights of Builders contained in this Declaration.

"By-Laws" shall mean the By-Laws of Association in the form attached hereto as Exhibit 3 and made a part hereof, as amended from time to time.

"Cable Services" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Homes including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, multipoint distribution systems, video dialtone, open video system or any combination thereof.

"Common Areas" shall mean any area dedicated to or reserved for the Association on any recorded Plat or replat of Charleston Commons and all real property interests and personalty within Charleston Commons designated as Common Areas from time to time by recorded amendment to this Declaration and/or provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Charleston Commons. The Common Areas may include, without limitation, open space areas, the surface water management system, internal buffers, perimeter buffers, perimeter walls and fences, landscaping, improvements, easement areas owned by others, public rights of way, additions, irrigation pumps, irrigation lines, parks, a garbage facility, a trash compactor, a pool, a cabana, a tot lot, driveways, sidewalks, streets/roads, street lights, service roads, walls, commonly used utility

facilities, project signage, parking areas, other lighting, entranceways and/or entrance features, and electronic gates. The Common Areas do not include any portion of a Home. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. Further, and without limiting the foregoing, it is possible that certain areas that would otherwise be Common Areas shall, in the sole discretion of the Developer, be conveyed to a special taxing district.

"Community Completion Date" shall mean the date upon which all Homes in Charleston Commons, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder to Owners.

"Community Standards" shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 21.5 hereof.

"Contractors" shall have the meaning set forth in Section 21.12.2 hereof.

"County" shall have the meaning set forth in the recitals hereof.

"Data Transmission Services" shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

"Declaration" shall mean this Declaration, together with all amendments and modifications thereof.

"Developer" shall mean Lennar and any of its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Developer shall have the right to assign all or a portion of any rights granted to the Developer in this Declaration. Developer shall also have the right to assign all or a portion of any obligations of the Developer in this Declaration. Such assignment need not be recorded in the Public Records in order to be effective. In the event of a partial assignment of some, but not all, Developer rights and/or obligations, the assignee shall not be deemed Developer, but may exercise those rights or shall be responsible for those obligations of Developer assigned to it. Additionally any partial assignee that does not assume all of the obligations of Developer shall not be deemed the Developer. Any such assignment may be made on a non-exclusive basis. All assignments of Developer rights and/or obligations (whether full and/or partial) must be in writing.

"Front Yard" shall mean the yard of every Home between the front of the Home and the road providing access to such Home. In the event there is any questions about what portion of a Home is part of the Front Yard, Association's determination shall be final.

"Home" shall mean a residential home and appurtenances thereto constructed on a Lot or Parcel within Charleston Commons. A Home shall include, without limitation, a coach home, villa, townhome, estate home, single family home and zero lot line home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to the Lot upon which the Home is constructed. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"Improvement" shall have the meaning set forth in Section 22.1 hereof.

"Individual Assessments" shall have the meaning set forth in Section 19.2.5 hereof.

"Installment Assessments" shall have the meaning set forth in Section 19.2.1 hereof.

"Lawn Maintenance Standards" shall have the meaning set forth in Section 13.1.

"Lender" shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Parcel or Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

"Lessee" shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Charleston Commons.

"Lot" shall mean any platted residential lot shown on a Plat. Once a Home has been constructed on a Lot, the term "Lot" shall be deemed to include all improvements thereon including, without limitation, a Home.

"Master Plan" shall mean collectively any full or partial concept plan for the development of Charleston Commons, as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Master Plan is subject to change as set forth herein. The Master

Plan is not a representation by Developer as to the development of Charleston Commons or its amenities, as Developer reserves the right to amend all or part of the Master Plan from time to time.

**"Member"** shall have the meaning set forth in Section 7.3 hereof.

**"NFIP"** shall have the meaning set forth in Section 17.1.1 hereof.

**"Non-Conforming Pavers"** shall have the meaning set forth in Section 9.14.

**"Operating Costs"** shall mean all costs and expenses of Association and the Common Areas. Operating Costs may include, without limitation, all costs of ownership; operation; administration; all amounts payable by Association; all amounts required to remove canvas canopies located within the Common Areas as required herein, all amounts required to maintain the Surface Water Management System; all community lighting including, without limitation, lighting provided pursuant to agreements between Association and private utility providers, up-lighting and entrance lighting (if not the obligation of the a special taxing district), all amounts payable in connection with any private street lighting agreements, if any; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners, if any; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance; and any and all costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration.

**"Owner"** shall mean the record owner (whether one or more persons or entities) of fee simple title to any Lot. The term "Owner" shall not include Developer or Builder (once so designated in writing by Developer) until the Turnover Date, or a Lender.

**"Parcel"** shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

**"Party Roof"** shall mean any roof built as part of the construction of two or more Homes, which Homes are connected by one or more Party Walls.

**"Party Wall"** shall mean any fence or wall built as part of the original construction of two or more Homes which is placed on the dividing line or platted lot line between such Homes.

**"Permit"** shall mean the permit issued by SFWMD relating to Charleston Commons, a copy of which is attached hereto as Exhibit 4.

**"Plot"** shall mean any plat of any portion of Charleston Commons filed in the Public Records, as the same may be amended by Developer from time to time.

**"Public Records"** shall mean the Public Records of County.

**"Reserves"** shall have the meaning set forth in Section 19.2.4 hereof.

**"Rules and Regulations"** shall mean the Rules and Regulations governing Charleston Commons as adopted by the Board from time to time.

**"SFWMD"** shall mean the South Florida Water Management District

**"Special Assessments"** shall mean those Assessments more particularly described as Special Assessments in Section 19.2.2 hereof.

**"Surface Water Management System"** shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, Wetland Conservation Areas, mitigation areas, retention areas, lift station, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements, those works defined in Section 373.403(1)-(5) of the Florida Statutes, and those works authorized by SFWMD pursuant to the Permit.

**"Telecommunications Provider"** shall mean any party contracting with Association to provide Owners with one or more Telecommunications Services. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

**"Telecommunications Services"** shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing (which may be provided by Telecommunications Providers pursuant to agreements with the Association), advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.



"**Telecommunications Systems**" shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to Charleston Commons. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennae, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

"**Telephony Services**" shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

"**Title Documents**" shall have the meaning set forth in Section 27.11 hereof.

"**Toll Calls**" shall have the meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

"**Townhome**" shall mean each Home within Charleston Commons that is part of a Townhome Building.

"**Townhome Building**" shall mean a single structure containing multiple Homes in which the Homes are separated by Party Walls.

"**Turnover Date**" shall mean the date on which transition of control of Association from Developer to Owners actually occurs. Turnover shall occur upon the earliest date required by the applicable Florida law in effect as of the date of recordation of this Declaration. Without limiting the foregoing, Developer shall never be obligated to turn over Association prior to date currently required by law.

"**Use Fees**" shall have the meaning set forth in Section 19.2.3 hereof.

"**Charleston Commons**" shall have the meaning set forth in the Recitals hereof subject to additions and deletions thereto as permitted pursuant to the terms of this Declaration. Developer may, when amending or modifying the description of real property which is subject to the operation of this Declaration, also amend or modify the definition of Charleston Commons.

### 3. Plan of Development.

3.1 **Generally.** The planning process for Charleston Commons is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer's buyers. Subject to the Title Documents, Developer may wish and has the right to develop Charleston Commons and adjacent property owned by Developer into residences, comprised of homes, villas, Townhomes, zero lot line homes, patio homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guarantee or promise that such items will remain or form part of Charleston Commons as finally developed.

3.2 **Association's Obligation to Cooperate.** Association shall at all times cooperate with every entity comprising Developer. Without limiting the foregoing, Association shall provide Developer with such consents and approvals which Developer may reasonably require in connection with (i) the sale of Parcels and/or Lots to Builders, (ii) the development and conveyance of the Common Areas, and (iii) master land development requirements. Additionally, Association shall cooperate with Developer in connection with the turnover of Association control including, but not limited to, signing a turnover receipt in the form to be provided by Developer to Association on the Turnover Date.

### 4. Amendment.

4.1 **General Restrictions on Amendments.** Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer unless such amendment receives the prior written consent of Developer, as applicable, which consent may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 12.8.2 which benefits SFWMD. No amendment shall be effective until it is recorded in the Public Records.

4.2 **No Vested Rights.** Each Owner by acceptance of a deed to a Lot irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Association Documents. It is expressly intended that Developer and Association have the unfettered right to amend this Declaration and the other Association Documents except as expressly set forth herein.

4.3 **Amendments Prior to and Including the Turnover Date.** Prior to and including the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity. Such amendments may include, without limitation, the creation of easements for

Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Charleston Commons; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Lots, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Lots conveyed to Owners provided that such easements do not prohibit the use of such Lots as residential homes. In the event that Association shall desire to amend this Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records. Notwithstanding the foregoing, at all times after the Turnover Date, Developer shall have the right to amend Association Documents unilaterally to correct scrivener's errors.

4.4 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and two-thirds percent (66 $\frac{2}{3}$ %) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association in which there is a quorum.

5. Annexation and Withdrawal.

5.1 Annexation by Developer. Prior to and including the Turnover Date, additional lands may be made part of Charleston Commons by Developer, at Developer's sole discretion. Such additional lands to be annexed may or may not be adjacent to Charleston Commons. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any Parcel, Lot or Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of Charleston Commons. Such amendment may contain additions to, modifications of, or omissions from, the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to and including the Turnover Date, only Developer may add additional lands to Charleston Commons.

5.2 Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the Board; and (ii) seventy-five percent (75 %) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum.

5.3 Withdrawal. Prior to and including the Turnover Date, any portions of Charleston Commons (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of Charleston Commons shall not apply to any Lot which has been conveyed to an Owner unless that right is specifically reserved in the Instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of Charleston Commons shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any portion of Charleston Commons). Association shall have no right to withdraw land from Charleston Commons.

6. Dissolution.

6.1 Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the circuit court of the appropriate judicial circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event Association is dissolved, and any portion of the Surface Water Management System is part of the Common Areas, the Surface Water Management System shall be conveyed to an appropriate agency of local government and, if not accepted, then the Surface Water Management System shall be dedicated to a similar non-profit corporation.

6.2 Applicability of Declaration after Dissolution. In the event of dissolution of Association, Charleston Commons and each Lot therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association for Assessments to the extent that Assessments are required to enable the successors or assigns of Association to properly maintain, operate and preserve the Common Areas. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of Charleston Commons which had been Common Areas and continue to be so used for the common use and enjoyment of the Owners.

7. Binding Effect and Membership.

7.1 Term. This Declaration and all covenants, conditions and restrictions contained in this Declaration are equitable servitudes, perpetual and run with the land. Each Owner, by acceptance of a deed to a Home or Parcel, and any person claiming by, through or under such Owner (i) agrees to be subject to the provisions of this Declaration and (ii) irrevocably waives any right to deny, and any claim, that this Declaration and all covenants, conditions and restrictions contained in this Declaration are not enforceable under the Marketable Record

Titles to Real Property Act, Chapter 712 of the Florida Statutes. It is expressly intended that the Marketable Record Titles to Real Property Act will not operate to extinguish any encumbrance placed on Charleston Commons by this Declaration. It is further expressly intended that no re-filing or notice of preservation is necessary to continue the applicability of this Declaration and the applicability of all covenants, conditions, and restrictions contained in this Declaration. This provision is not subject to amendment except by Developer.

7.2 **Transfer.** The transfer of the fee simple title to a Lot, whether voluntary or by operation of law, terminating the Owner's title to that Lot shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Lot and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Lot. The Owner of each Lot is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Lot shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Lot, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Lot pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that upon the conveyance of a Lot an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Lot, the transferring Owner shall remain liable for Assessments accruing on the Lot from and after the date of conveyance.

7.3 **Membership.** Upon acceptance of title to a Lot, and as more fully provided in the Articles and By-Laws, each Owner (or his or her Lessee, if applicable) shall be a Member of Association. All Members shall be voting members in the Association and shall exercise their voting interests in accordance with the terms and provisions of the Articles and By-Laws. Membership rights are governed by the provisions of this Declaration, the deed to a Lot, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Lot. Developer rights with respect to Association are set forth in this Declaration, the Articles and the By-Laws.

7.4 **Ownership by Entity.** In the event that an Owner is other than a natural person, that Owner shall, immediately upon taking title, designate one or more persons who are to be the occupants of the Home and register such persons with Association. All provisions of this Declaration and the other Association Documents shall apply to both such Owner and the designated occupants.

7.5 **Voting Interests.** Voting interests in Association are governed by the provisions of the Articles and By-Laws.

7.6 **Document Recordation by Owners Prohibited.** Neither Association nor any Owner, nor group of Owners, may record any documents which, in any way, affect or restrict the rights of Developer or conflict with the provisions of this Declaration or the other Association Documents.

7.7 **Composition of the Board.** Developer reserves the right to change, from time to time prior to and including Turnover Date, the composition of Board. Without limiting the foregoing, Developer may change the number of Board members, the effect of a vote by a Board member, or how a Board member is elected or appointed prior to and including Turnover Date.

7.8 **Conflicts.** In the event of any conflict among this Declaration, the Articles, the By-Laws or any of the Association Documents, this Declaration shall control.

8. **Paramount Right of Developer.** Notwithstanding anything to the contrary herein, prior to the Community Completion Date Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Charleston Commons for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Charleston Commons part of the Common Areas, or to create and implement a special taxing district which may include all or any portion of Charleston Commons. In addition, the Common Areas of Charleston Commons may include decorative improvements, berms, and waterbodies. Notwithstanding anything to the contrary herein, the waterbodies may be dry during certain weather conditions or during certain times of the year. Developer may remove, modify, eliminate or replace these items from time to time in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.

9. **Operation of Common Areas.**

9.1 **Prior to Conveyance.** Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 9.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, and administered at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. During such period, Developer shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Parcel or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless

and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by Association. The current conceptual plans and/or representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein in its sole discretion and without notice.

**9.2 Construction of Common Areas Facilities.** Developer has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Developer determines in its sole discretion. Developer shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date Developer reserves the absolute right to construct additional Common Areas facilities and improvements within Charleston Commons, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Developer is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Developer is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (e.g., furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

**9.3 Use of Common Areas by Developer.** Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas, without charge, for any purpose deemed appropriate by Developer.

**9.4 Conveyance.**

**9.4.1 Generally.** Simultaneously with the Plat being recorded, or earlier as determined by the Developer in its sole discretion, or as may be required by law, all or portions of the Common Areas shall be dedicated by Plat(s), created in the form of easements and conveyed by written instrument or by Quitclaim Deed recorded in the Public Records, from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

**9.4.2 Form of Deed.** Each deed of the Common Areas shall be subject to the following provisions:

**9.4.2.1** a perpetual nonexclusive easement in favor of governmental agencies for the maintenance and repair of existing road, speed and directional signs, if any;

**9.4.2.2** matters reflected in the plat(s) of Charleston Commons;

**9.4.2.3** perpetual non-exclusive easements in favor of Developer, its successors, and assigns in, to, upon and over all of the Common Areas for the purpose of vehicular and pedestrian ingress and egress, installation of utilities, landscaping and/or drainage, without charge, including, without limitation, the right to use such roadways for construction vehicles and equipment. The easements reserved in the deed shall run in favor of Developer, and its employees, representatives, agents, licensees, guests, invitees, successors and/or assigns;

**9.4.2.4** all restrictions, easements, covenants and other matters of record;

**9.4.2.5** in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas conveyed herein are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and their agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy; and

9.4.2.6 a reservation of right in favor of Developer (so long as Developer owns any portion of Charleston Commons) to require that Association reconvey all or a portion of the Common Areas conveyed by quitclaim deed in favor of Developer in the event that such property is required to be owned by Developer for any purpose, including, without limitation, the reconfiguration of any adjacent property by replating or otherwise.

9.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Charleston Commons including, but not limited to, Association, Developer, Owners and any Lenders. Subject to Association's right to grant easements, and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to and including the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66 2/3%) of the Board; and (b) seventy-five percent (75%) of all of the votes in Association.

9.6 Paved Areas. The Common Areas may contain certain paved areas. Without limiting any other provision of this Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces, including but not limited to, roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas, if any. Although pavement appears to be a durable material, it requires maintenance. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work. From and after the Community Completion Date, Association should monitor the roads and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

9.7 Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Developer, its affiliates and/or subsidiaries shall have the right to manage Association. Owners and Association acknowledge that it is fair and reasonable to have Developer, its affiliates and/or subsidiaries manage Association. Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

9.8 Use.

9.8.1 Nonexclusive Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association has the right, at any and all times, and from time to time, to further provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

9.8.2 Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers, Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer. Thereafter, any such agreement shall require the approval of the majority of the Board of Directors.

9.8.3 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER, BUILDERS OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody within Charleston Commons. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Lot with the prior approval of the ACC. Swimming and boating will not be permitted in any waterbody within Charleston Commons. No private docks may be erected within any waterbody forming part of the Common Areas.

9.8.4 Obstruction of Common Areas. No portion of the Common Areas may be obstructed, encumbered, or used by Owners for any purpose other than as permitted by Association.

9.8.5 Assumption of Risk. Without limiting any other provision herein, each person within any portion of Charleston Commons accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupancy of any portion of Charleston Commons (e.g., the Common Areas) including, without limitation, (a) actions or inactions taken, or nuisances caused, by neighboring Owners (b) noise from maintenance equipment, (c) use of pesticides, herbicides and fertilizers, (d) view restrictions caused by

maturity of trees and shrubbery, (e) reduction in privacy caused by the removal or pruning of shrubbery or trees within Charleston Commons and (f) design of any portion of Charleston Commons. Each such person entering onto any portion of Charleston Commons also expressly indemnifies and agrees to hold harmless Developer, Association, Builders and their employees, directors, representatives, officers, agents, partners, affiliates and attorneys (collectively, "Indemnified Parties") from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including for attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Without limiting the foregoing, all persons using the Common Areas, including without limitation, all waterbodies, or pools do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, AND FOXES. DEVELOPER, BUILDERS, AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

9.8.6 Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless the Indemnified Parties against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Builders, Association, or of any of the Indemnified Parties. Should any Owner bring suit against Developer, Builders, Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals.

## 9.9 Rules and Regulations.

9.9.1 Generally. Prior to and including the Turnover Date, Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas and Charleston Commons. The Rules and Regulations need not be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

9.9.2 Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to Developer nor shall such Rules and Regulations apply to any property owned by Developer and the same shall not be applied in a manner which would prohibit or restrict the development or operation of Charleston Commons or adversely affect the interests of Developer. In addition to the foregoing, Developer shall have the right, but not the obligation, to exempt Builders from the Rules and Regulations pursuant to a written assignment (or partial assignment) of Developer rights which specifically exempts such Builder from such Rules and Regulations. Without limiting the foregoing, Developer shall have the right to: (i) develop and construct commercial, club uses and industrial uses, Homes, Common Areas and related improvements within Charleston Commons, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and/or Lots and (b) residences and properties located outside of Charleston Commons), general office and construction operations within Charleston Commons; (iii) place, erect or construct portable, temporary or accessory buildings or structure within Charleston Commons for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of Charleston Commons; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of Charleston Commons owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion Charleston Commons including, without limitation, Parcels and Homes; (vi) excavate fill from any lakes or waterways within and/or contiguous to Charleston Commons by dredge or dragline, store fill within Charleston Commons and remove and/or sell excess fill; (vii) grow or store plants and trees within, or contiguous to, Charleston Commons and use and/or sell excess plants and trees; and (viii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising Charleston Commons.

9.10 Public Facilities. Charleston Commons may include one or more facilities which may be open and available for the use of the general public. By way of example, there may be a public park, fire station, police station, lift station or other facility within the boundaries of Charleston Commons; provided, however, no such facility shall result in expense to the general taxpayers of the County or assumption by the County of any responsibility for maintenance of any portion thereof.

9.11 Water Mains. In the event that County or any of its subdivisions, agencies, and/or divisions must remove any portion of a driveway which is constructed of pavers within any portion of the Common Areas, for repair or replacement of water mains or the water distribution system, then Association will be responsible to replace or repair the driveway at Association's expense.

9.12 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

9.13 Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas of Association to special taxing districts including, but not limited to, the North Palm Beach Improvement District, or a public agency or authority under such terms as Developer deems appropriate in order to create or contract with special taxing districts and community development districts (or others) for lighting, perimeter walls, entrance features, roads, landscaping, irrigation areas, waterways, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer including, without limitation, the maintenance and/or operation of any of the foregoing; provided, however, that any such dedication or transfer shall not result in expense to the general taxpayers of the County or assumption by the County of any responsibility for maintenance of any portion of the Common Areas. As hereinafter provided, Developer may sign any taxing district petition as attorney-in-fact for each Owner and/or Builder. Each Builder and/or Owner's obligation to pay taxes associated with such district shall be in addition to such Builder and/or Owner's obligation to pay Assessments and/or other monetary obligations to the Association. Any special taxing district shall positively provide for the proper and continuous payment of taxes for Common Areas and maintenance thereof without expense to the general taxpayers of the County and shall be created pursuant to all applicable ordinances of County and all other applicable governing entities having jurisdiction with respect to the same.

9.14 Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to County, its successors and assigns, the non-exclusive right, privilege and easement to construct, reconstruct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within Charleston Commons (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to County regulations ("Non-Conforming Pavers") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Declaration. In the event County or any of its subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the County's use of its easement rights granted in this Section 9.14 then Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 9.14.

9.15 Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer its officers, directors, shareholders, representatives, agents, partners, affiliates and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

9.16 Site Plans and Plats. Charleston Commons may be subject to one or more plats (each individually, a "Plat"). The Plat may identify some of the Common Areas within Charleston Commons. The description of the Common Areas on a Plat is subject to change (contingent upon receipt of the appropriate plat approval(s)) and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

## 10. Party Walls.

10.1 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Section the general rule of law regarding Party Walls and liability for personal damage due to negligence of willful acts or omissions shall apply to all Party Walls within Charleston Commons, which are built by Developer as part of the original construction of the Townhomes and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer, including, without limitation, any Party Wall, shall protrude over an adjoining Townhome, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection or Party Wall. The foregoing shall also apply to any replacements of any Party Walls. The foregoing shall be perpetual in duration and shall not be subject to amendment of this Declaration.

### 10.2 Sharing of Repair, Replacement and Maintenance for Party Walls.

10.2.1 **Generally.** The cost of reasonable repair and/or maintenance of Party Walls (other than painting) shall be shared equally by the Owners of the Townhomes, sharing such improvements without prejudice, subject however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. The repair and/or replacement of Party Walls must be to original construction.

10.2.2 **Failure to Contribute.** In the event an Owner shall fail or refuse to pay his or her pro rata share of costs of repair, maintenance, or replacement of a Party Wall (whether or not through his or her own fault or the failure of his or her insurance company to pay any claim), then and in that event, the Owner advancing monies therefor and/or such Owner's Lender shall have the right to file a claim of lien for such monies advanced in the Public Records and shall have the right to foreclose such lien in accordance with the same procedural requirements as now provided for in Florida Statutes for foreclosure of a construction lien; provided, however, such claim of lien shall be filed within ninety (90) days from date repairs or replacements are made to the Party Wall and suit thereon shall be commenced one (1) year from date such lien is filed. Notwithstanding the foregoing, Association shall have the right, but not the obligation, to advance monies for the repair, replacement, and /or maintenance of Party Wall(s) and charge the responsible Owner(s) an Individual Assessment for such Owner's pro-rata share of the costs.

10.2.3 **Alterations.** The Owner of a Townhome sharing a Party Wall with an adjoining Townhome shall not cut windows or other openings in the Party Wall, nor make any alterations, additions or structural changes in the Party Wall.

10.2.4 **Weatherproofing.** Notwithstanding any other provisions of this Declaration, an Owner who by his or her negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

10.2.5 **Easements.** Each Owner sharing a Party Wall shall have all easement rights reasonably necessary to perform the obligation contained herein over the Townhomes sharing the Party Wall.

## 11. **Party Roofs.**

11.1 **General Rules of Law to Apply.** To the extent not inconsistent with the provisions of this Section the general rule of law regarding party roofs and liability for personal damage due to negligence of willful acts or omissions shall apply to all Party Roofs within Charleston Commons, which are built by Developer as part of the original construction of the Townhomes and any replacement thereof. In the event any portion of any structure or facility, as originally constructed by Developer, including, without limitation, any Party Roof, shall protrude over an adjoining Townhome, it shall be deemed that such Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the protrusion or Party Roof. The foregoing shall also apply to any replacements of any Party Roof. The foregoing shall be perpetual in duration and shall not be subject to amendment of this Declaration.

### 11.2 **Sharing of Repair, Replacement and Maintenance for Party Roofs.**

11.2.1 **Generally.** Association shall repair, maintain and/or replace the Party Roofs of Townhome Buildings within Charleston Commons, at such time as the Board deems any such repairs, maintenance and/or replacement necessary or desirable in its sole discretion, and the costs of the same shall be charged as an Individual Assessment to each Owner whose Party Roof is maintained, repaired and/or replaced in accordance with this Section. The cost of reasonable repair and maintenance of Party Roofs shall be shared equally by the Owners of the Townhomes sharing such improvements without prejudice, subject however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

11.2.2 **Failure to Contribute.** In the event an Owner shall fail or refuse to pay his or her pro rata share of costs to repair, maintain and/or replace his or her portion of the Party Roof (whether or not through his or her own fault or the failure of his or her insurance company to pay any claim), then and in that event, the Owner advancing monies therefor shall have the right to file a claim of lien in the Public Records for such monies advanced and shall have the right to foreclose such lien in accordance with the same procedural requirements as now provided for in Florida Statutes for foreclosure of a construction lien; provided, however, such claim of lien shall be filed within ninety (90) days from date repairs and/or replacements are made to the Party Roof and the suit thereon shall be commenced one (1) year from the date such lien is filed. Notwithstanding the foregoing, Association shall have the right, but not the obligation, to advance monies for the repair, replacement, and /or maintenance of Party Roof(s) and charge the responsible Owner(s) an Individual Assessment for such Owner's pro-rata share of the costs.

11.2.3 **Alterations.** Subject to applicable building codes, the Owner of a Townhome sharing a Party Roof with an adjoining Townhome shall not make any alterations, additions or structural changes in the Party Roof without the prior written consent of the ACC.

11.2.4 **Easements.** Each Owner and Association shall have all easement rights reasonably necessary to perform the obligations contained herein over the Townhomes sharing the Party Roof.

## 12. **Maintenance by Association.**

12.1 **Common Areas.** Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, and all improvements placed thereon including, without limitation, all Common Area landscaping and irrigation.



12.2 Lawn Maintenance. If so provided in Association's budget, Association shall maintain all trees and hedges in the Front Yard of each Lot and shall cut, edge and fertilize the lawn in the Front Yard and rear yard of each Home, unless the same is fenced in and/or inaccessible. Association may also weed the plant bed(s) in the Front Yard of each Lot, if any, provided that the Owner of such Lot has not modified the plant bed(s) from the original plant bed(s) installed by Developer. In the event an Owner modifies the plant bed(s) as initially installed by Developer, then such Owner shall be solely responsible for maintenance of such plant bed(s). Each Owner is responsible for replacing any trees, shrubs, grass or landscaping that require replacement. Each Owner is specifically responsible for maintaining all landscaping and improvements within any portions of the yard of a Home that are fenced, even if such landscaping and improvements are in the Front Yard. EACH OWNER ACKNOWLEDGES THAT SOME HOMES MAY NOT HAVE FRONT YARDS, AND OTHER HOMES MAY HAVE FRONT YARDS THAT ARE LARGER OR SMALLER THAN THE FRONT YARDS OF OTHER HOMES. NOTWITHSTANDING THE FOREGOING, ALL LAWN MAINTENANCE EXPENSES SHALL BE DEEMED PART OF THE OPERATING COSTS OF ASSOCIATION, AND EACH OWNER SHALL PAY AN EQUAL SHARE OF SUCH COSTS.

12.3 Irrigation and Sprinkler Systems. Association shall be responsible to maintain the irrigation and sprinkler system within the Common Areas and the yards of Lots. Association shall have an easement over, under, across and through all of Charleston Commons for the purpose of maintaining the irrigation and sprinkler system, and each Owner shall be responsible for making certain that the Association has access to all portions of the irrigation and sprinkler system, including fenced portions of a Home. Association shall be required to irrigate the grass and landscaping located on the Common Areas and Lot(s) in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods when the Owner is absent from the Lot. Notwithstanding the foregoing, in the event the irrigation system is temporarily unavailable (whether due to maintenance, breaks in the line or otherwise), upon request by the Association, Owners shall be responsible for irrigating their respective Lots (by hose or sprinklers connected to a hose or hoses) until otherwise notified by the Association. To the extent that Owners are instructed by the Board to irrigate their respective Lots, each Owner shall comply with all water use restrictions imposed by applicable governmental entities. To the extent an Owner fails to comply with any such water use restrictions and Association is subsequently fined due to such water use, Association may impose an Individual Assessment upon such Owner for the payment of any fine(s) imposed on Association. In addition to the foregoing, to the extent that the irrigation causes any damage to a Home including, but not limited to, water stains or rust, the Owner of such Home shall be responsible for any necessary maintenance and/or cleaning.

12.4 Painting. Association shall be responsible for repainting the exterior of each Townhome within Charleston Commons, at such time as Association deems such repainting necessary in its sole discretion, and the costs of the same shall be charged as an Individual Assessment to each Owner whose Townhome is repainted in accordance with this Section.

12.5 Perimeter Walls and Sign Walls. Association shall be responsible for maintaining any perimeter wall of Charleston Commons. Association shall be responsible for maintaining, if any, any sign wall located in the median of the entrance road. Notwithstanding the foregoing, each Owner shall be responsible for maintaining any other approved fencing within his or her Lot.

12.6 Private Roads. All roads which are privately owned, if any, shall be maintained by Association or an entity other than County.

12.7 Public Roads. It is possible that Association may maintain the rights-of-way, medians and swales of all public roads pursuant to an agreement with the appropriate governmental entities. The cost of such maintenance by Association shall be an Operating Cost.

12.8 Surface Water Management System.

12.8.1 Duty to Maintain. The Surface Water Management System within Charleston Commons will be owned, maintained and operated by Association as permitted by SFWMD. If owned by Association as Common Areas, the costs of the operation and maintenance of the Surface Water Management System shall be part of the Operating Costs of Association. Notwithstanding the foregoing, SFWMD has the right to take enforcement action, including a civil action for an injunction and penalties against Association to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of Association. Association shall accept any and all transfer of permits from Developer. Association shall cooperate with Developer with any applications, certifications, documents or consents required to effectuate any such transfer of permits to Association.

12.8.2 Amendments to Association Documents. Any proposed amendment to the Association Documents which will affect the Surface Water Management System, including any environmental conservation area and the water management portions of the Common Areas, must have the prior written approval of SFWMD. Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SFWMD permit actions shall be maintained by Association's registered agent for Association's benefit.

12.9 Adjoining Areas. Except as otherwise provided herein, Association shall also maintain those drainage areas, swales, driveways, and landscape areas that are within the Common Areas, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any areas within fences or walls that form a part of a Home.

12.10 **Negligence.** The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas, through or under an Owner shall be borne solely by such Owner and the Home, Lot and/or Parcel owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

12.11 **Right of Entry.** Developer and Association are granted a perpetual and irrevocable easement over, under and across Charleston Commons for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Charleston Commons if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency.

12.12 **Maintenance of Property Owned by Others.** Association shall, if designated by Developer (or by Association after the Community Completion Date) by amendment to this Declaration or any document of record including, without limitation declaration(s) of condominium, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or outside of Charleston Commons. Such areas may abut, or be proximate to, Charleston Commons, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity. These areas may include (for example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways. To the extent there is any agreement between Developer and Association for the maintenance of any areas outside Charleston Commons, Association shall maintain the same as part of the Common Areas.

13. **Maintenance by Owners.** All lawns, landscaping and sprinkler systems and any property, structures, improvements and appurtenances not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Charleston Commons by the Owner of each Home. To the extent not maintained by the Association, each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of their Lot in accordance with the standards set forth below.

13.1 **Lawn Maintenance Standards.** The following maintenance standards (the "**Lawn Maintenance Standards**") apply to landscaping maintained by Owners.

13.1.1 **Trees.** Trees are to be pruned as needed.

13.1.2 **Shrubs.** All shrubs are to be trimmed as needed.

13.1.3 **Grass.**

13.1.3.1 **Cutting Schedule.** Grass shall be maintained in a neat and appropriate manner. In no event shall an Owner's lawn get in excess of five inches (5") in height.

13.1.3.2 **Edging.** Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.

13.1.3.3 **Dead Grass.** Owner shall be responsible to replace dead grass. Neither Developer nor Association shall be responsible to replace dead grass.

13.1.4 **Mulch.** Mulch is to be turned four (4) times per year and shall be replenished as needed on a yearly basis.

13.1.5 **Insect Control and Disease.** Disease and insect control shall be performed on an as needed basis.

13.1.6 **Fertilization.** Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year during the following months: February, June and October.

13.1.7 **Post Lights.** Each Owner shall maintain all post lights (whether gas or electric) which are located within the boundaries of his or her Lot.

13.1.8 **Weeding.** All beds are to be weeded upon every cut. Weeds growing in joints in curbs, driveways, and expansion joints shall be removed as needed. Chemical treatment is permitted.

13.1.9 **Trash Removal.** Dirt, trash, plant and tree cuttings and debris resulting from all operations shall be removed and all areas left in clean condition before the end of the day.

13.1.10 Right of Association to Enforce. Each Owner grants Association an easement over his or her Home and/or Lot for the purpose of insuring compliance with the requirements of this provision and the Lawn Maintenance Standards. In the event an Owner does not comply with this Section, Association may perform the necessary maintenance to the lawn and charge the costs thereof to the non-complying Owner as an Individual Assessment. Association shall have the right to enforce the foregoing Lawn Maintenance Standards by all necessary legal action. In the event that Association is the prevailing party with respect to any litigation respecting the Lawn Maintenance Standards, it shall be entitled to recover all of its attorneys' fees and paraprofessional fees, and costs, pre-trial and at all levels of proceedings, including appeals.

13.1.11 Landscaping and Irrigation of Lots: Removal of Sod and Shrubbery: Additional Planting.

13.1.11.1 Without the prior consent of the ACC, no sod, topsoil, tree or shrubbery shall be removed from Charleston Commons, and there shall be no change in the plant landscaping, elevation, condition of the soil or the level of the land of such areas which results in any change in the flow and drainage of surface water which the ACC, in its sole discretion, considers detrimental or potentially detrimental to person or property. Notwithstanding the foregoing, Owners who install improvements to the Home (including, without limitation, concrete or brick pavers) which result in any change in the flow and/or drainage of surface water shall be responsible for all of the costs of drainage problems resulting from such improvement. Further, in the event that such Owner fails to pay for such required repairs, each Owner agrees to reimburse the Association for all expenses incurred in fixing such drainage problems including, without limitation, removing excess water and/or repairing the Surface Water Management System.

13.1.11.2 No landscape lighting shall be installed by an Owner without the prior written approval of the ACC.

13.1.11.3 No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Lot. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot.

13.1.11.4 Each Owner shall be responsible to timely repair, maintain and/or replace the driveway which comprises part of a Home and the sidewalk abutting the front Lot or side of the Home including, but not limited to, any damage caused by Developer, Association or by the holder of any easement over which such driveway or sidewalk is constructed. Each Owner, by acceptance of a deed to a Lot, shall be deemed to have agreed to indemnify, defend and hold harmless Association and the holder of any such easement including, without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway or sidewalk in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Lot and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway or sidewalk in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

13.1.11.5 No material alteration, addition or modification to a Parcel, Lot or Home, or material change in the appearance thereof, shall be made without the prior written approval of the ACC, as required by this Declaration.

13.1.11.6 No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home, Lot or Parcel, unless approved by the ACC.

14. Use Restrictions. Each Owner must comply with the following:

14.1 Animals. No animals of any kind shall be raised, bred or kept within Charleston Commons for commercial purposes. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County ordinances and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Lot, as approved by the ACC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Lot. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within Charleston Commons designated for such purpose, if provided by Association, or on that Owner's Lot. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

14.2 Cars and Trucks.

14.2.1 Parking. Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of Charleston Commons or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of

the Home and not in the roadway or swale. No vehicles used in business for the purpose of transporting goods, equipment and the like, or any trucks or vans which are larger than one (1) ton shall be parked in Charleston Commons except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks of one (1) ton capacity or smaller, and personal vehicles that can be appropriately parked within standard size parking stalls may be parked in Charleston Commons. Owners may not park in guest parking spaces located on the Common Areas.

**14.2.2 Repairs and Maintenance of Vehicles.** No vehicle which cannot operate on its own power shall remain within Charleston Commons for more than twenty-four (24) hours unless the same is stored in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within Charleston Commons. No vehicles shall be stored on blocks. Tarpaulin covers on vehicles shall not be permitted without ACC approval.

**14.2.3 Prohibited Vehicles.** No commercial vehicle, limousines, house trailers, and trailers of every other type, kind or description, or camper, may be kept within Charleston Commons except in the garage of a Home. No boats shall be stored within Charleston Commons. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (i.e., Broncos™, Blazers™, Explorers™, Navigators™, etc.) or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or Builder of Homes, Common Areas, or any other Charleston Commons facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on Charleston Commons. For any Owner who drives an automobile issued by the County or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently. No vehicle with expired registration or license plates may be kept within public view anywhere on Charleston Commons. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this Declaration or in the Rules and Regulations now or subsequently adopted may (without obligation) be towed by Association at the sole expense of the owner of such vehicle. Association shall not be liable to the owner of such vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of such towing. Notwithstanding the foregoing, each Owner acknowledges that such Owner and its family, guests, tenants, and invitees shall abide by all parking regulations issued by the local governing authority having jurisdiction.

**14.3 Casualty Destruction to Improvements.** In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as approved by the ACC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ACC.

**14.4 Commercial Activity.** Except for normal construction activity, sale, and re-sale of a Home or Lot, sale or re-sale of other property owned by Developer, administrative offices of Developer or Builders, no commercial or business activity shall be conducted in any Lot within Charleston Commons. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within Charleston Commons. No solicitors of a commercial nature shall be allowed within Charleston Commons, without the prior written consent of Association. No garage sales are permitted, except as permitted by Association. No day care center or facility may be operated out of a Home. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Developer.

**14.5 Completion and Sale of Homes or Units.** No person or entity shall interfere with the completion and sale of Homes or Lots within Charleston Commons. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET, NEGATIVE ADVERTISING, NEGATIVE INFORMATION PROVIDED OR POSTED AT PUBLIC GATHERINGS ARE STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE LOTS OR HOMES IN CHARLESTON COMMONS AND THE RESIDENTIAL ATMOSPHERE THEREOF.

**14.6 Control of Contractors.** Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

**14.7 Cooking.** No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association. The ACC shall have the right to prohibit or restrict the use of grills or barbeque facilities throughout Charleston Commons.

**14.8 Decorations.** No decorative objects including, but not limited to, birdbaths, windchimes, figurines, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of Charleston Commons without the prior written approval of the ACC. Notwithstanding the foregoing,

no statues, sculptures or birdbaths of any kind can be installed or placed within the Front Yard or visible from the street. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed not later than January 15th of the following year. The ACC may establish standards for holiday lights. The ACC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home or Lot).

**14.9 Disputes as to Use.** If there is any dispute as to whether the use of any portion of Charleston Commons complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

**14.10 Drainage System.** Drainage systems and drainage facilities may be part of the Common Areas and/or Lots/Homes. The maintenance of such systems and/or facilities within the Common Areas shall be the responsibility of the Association. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Lot shall be the responsibility of the Owner of the Lot which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers), or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Lot containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Lot plants a tree (pursuant to ACC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Lot, the Owner that plants the tree shall be solely responsible for the removal of the roots that adversely affect the adjacent Lot. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Lot, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

**14.11 Extended Vacation and Absences.** In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have any responsibility of any nature relating to any unoccupied Home.

**14.12 Fences and Walls.** No walls or fences shall be erected or installed without prior written consent of the ACC. All enclosures of balconies or patios, including, without limitation addition of vinyl windows, and decks shall require the prior written approval of the ACC. Fences on the sides of a Home shall be six (6) feet or less, wood (natural wood stain or other color approved by the ACC), shadowbox or stockade. No chain link fencing shall be permitted within Charleston Commons.

**14.13 Fuel Storage.** No fuel storage shall be permitted within Charleston Commons, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces, emergency generators or similar devices and as otherwise permitted by this Declaration.

**14.14 Garages.** Each Home may have its own garage. No garage shall be converted into a general living area. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

**14.15 Garbage.** Trash collection and disposal procedures established by Association shall be observed. If Association ever provides for garbage pick-up, the cost of the same shall be part of the Operating Costs. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Lot so as to be visible from outside the Home, Lot or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up and must be returned to the Lots so that they are not visible from outside the Lot on the day of pickup.

**14.16 General Use Restrictions.** Each Lot, the Common Areas and any portion of Charleston Commons shall not be used in any manner contrary to the Association Documents.

**14.17 Hurricane Shutters.** Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved in writing by the ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. An approval by the ACC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

**14.18 Irrigation.** The water used in the irrigation system is not suitable for drinking or water sports. Children and pets should not play in such water. Such water shall not be used by Owners to irrigate lawns. Due to water quality, irrigation systems may cause staining on Homes, other structures, paved areas, or vehicles. It is each Owner's responsibility to treat and remove any such staining. Association may require from time to time, that

Owners adopt systems to prevent stains (e.g., automatic deionization systems). The yard of each Lot may be equipped with irrigation lines, depending on the model of the Home. No Owner whose Lot adjoins a waterway or lake, if any, may utilize such waterway or lake to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Use of waterbody water, if any, by Owners is prohibited and is at the Owner's sole risk as chemicals may be used to control aquatic vegetation. Association may use waterways and to irrigate Common Areas, subject to applicable permitting and Developer shall not be liable for same. BY ACCEPTANCE OF A DEED TO A LOT, HOME OR PARCEL, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer and/or Association shall have the right to use one or more pumps to remove water from waterbodies for irrigation purposes at all times, subject to applicable permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Lots. Any computerized loop irrigation system that is not specifically the maintenance obligation of an Owner, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

14.19 **Laundry.** Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Parcel.

14.20 **Lawful Use.** No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of Charleston Commons. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Charleston Commons shall be the same as the responsibility for maintenance and repair of the property concerned.

14.21 **Leases.** Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home. To the extent that an Owner does not reside in his or her Home, but desires to permit family or friends to occupy such Home without a lease, all prospective occupants of the Home, prior to moving into the Home and irrespective of their relation to the Owner, must be registered with the Association and shall be subject to the Association's screening and approval process which is used for prospective tenants seeking to lease a Home within Charleston Commons. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes shall be provided to Association. All leases shall be on forms approved by Association and shall provide (or if not provided, shall be automatically deemed to provide) that Association shall have the unilateral right to terminate the lease upon default by the tenant in observing any of the provisions of the Association Documents or other applicable provisions of any agreement, document or instrument governing Charleston Commons or administered by Association. Each Owner hereby acknowledges and agrees that any and all leases entered into by such Owner in connection with his or her Home shall be deemed to incorporate by this reference a collateral assignment of rents and leases in favor of Association, which collateral assignment of rents and leases shall provide that in the event such Owner leasing his or her Home is past due in the payment of his or her Assessments, Association shall have the power and authority to take actions including, but not limited to: (i) collecting rents now due or that become due directly from such Owner's tenant(s) (or other party in possession of the Home); and/or (ii) pursuing any and all legal remedies available against such Owner and/or such Owner's tenant(s) including, but not limited to, actions for eviction of such Owner's tenant(s). Owners are responsible for providing their tenants with copies of all such Association Documents or Instruments at such Owner's sole cost and expense. Leasing of Homes shall also be subject to the prior written approval of Association, as more particularly explained in Section 26 hereof. No Home may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No lease term shall be less than six (6) months. No subleasing or assignment of lease rights by the tenant is permitted. No time-share or other similar arrangement is permitted. In no event shall occupancy of a leased Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Each Owner shall be jointly and severally liable with the tenant to Association for all costs incurred by Association for the repair of any damage to Common Areas or to pay any claim for injury or damage to property caused by tenants. Association shall repair any such damage and the cost of such repair shall be invoiced as an Individual Assessment to the Owner. Additionally, as a condition to the approval by Association of a proposed lease of a Home, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damages to the Common Areas or Association Property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred (\$100.00) dollars to offset the costs of a background check on tenant. Association and its directors or officers, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any party whatsoever, due to any mistakes in judgment, negligence, or any action or inaction of Association, its officers, or directors, in connection with the approval or disapproval of tenants. Each Owner agrees, individually and on behalf of its prospective tenants, current tenants, heirs, successors and assigns by acquiring title to a Lot, that he or she (or any other of the aforementioned parties) shall not bring any action or suit against Association or its directors or officers, or any of the Association's agents or other parties acting on Association's behalf, in order to recover any damages alleged or caused by the actions of Association, or its officers or directors in connection with the provisions of this Section. All leases shall also comply with and be subject to the provisions of Section 26 hereof. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

14.22 **Minor's Use of Facilities.** Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his or her Home. Developer and Association shall not be responsible for any use of the

facilities and Common Areas by anyone, including minors. Children under the age of sixteen (16) shall be accompanied by an adult at all times.

14.23 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Charleston Commons is permitted. The final determination of what constitutes a nuisance shall be made by the Board in its sole discretion. No firearms shall be discharged within Charleston Commons. Nuisances shall include, without limitation, the playing of loud music or the gathering in front of homes or Common Areas by any Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. Nothing shall be done or kept within the Common Areas, or any other portion of Charleston Commons, including a Home or Lot which will increase the rate of insurance to be paid by Association.

14.24 Oil and Mining Operations. No oil, drilling development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

14.25 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Parcel or Home, or any other portion of Charleston Commons, which is unsightly or which interferes with the comfort and convenience of others.

14.26 Pools. Pools shall not be permitted within Charleston Commons.

14.27 Removal of Soil and Additional Landscaping. Without the prior approval of the ACC, no Owner shall remove soil from any portion of Charleston Commons, change the level of the land within Charleston Commons, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Charleston Commons. Owners may place additional plants, shrubs, or trees within any portion of Charleston Commons with the prior approval of the ACC.

14.28 Roofs, Exterior Surfaces and Pressure Treatment. Roofs and/or exterior surfaces including, but not limited to, walkways, of each Home shall be pressure treated by the Owner of such Home within thirty (30) days of notice by the ACC. Each Owner shall be responsible to pressure clean between paintings. Notwithstanding the foregoing, in the event that any Owner fails to pressure treat their respective roof or exterior surfaces within thirty (30) days notice by the ACC, the Association may, but shall not be obligated to, pressure treatment any or all of such areas and may charge all of the costs relating to the same to the applicable Owner as an Individual Assessment.

14.29 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval of the ACC as required by this Declaration. The ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of satellite dishes, antennas and other equipment under this Section must be first approved by the ACC in order to address the welfare of the residents of Charleston Commons. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others and satellite dishes must be on the fascia board when possible with no exposed wires. All antennas not permitted by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

14.30 Signs and Flags. No sign (including brokerage or for sale/lease signs), flag, banner, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Charleston Commons that is visible from the outside without the prior written approval from the ACC as required by this Declaration; and without the prior written approval thereof by governmental agencies, if necessary (e.g., permit boards); provided, however, signs required by governmental agencies and approved by the ACC may be displayed. "For Sale" and "For Rent" signs must be approved by the ACC and shall be no larger than 12" x 12". Notwithstanding the foregoing, no broker, "For Sale" or "For Rent" signs shall be exhibited, displayed, inscribed, painted or affixed in or upon any part of Charleston Commons while the Developer still holds any Homes for sale in the ordinary course of business. No sign may be placed in the window of a Home. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within Charleston Commons, unless written approval of the ACC is obtained. Notwithstanding the foregoing, flags which are no larger than 24" x 36" attached to a Home and displayed for the purpose of a holiday, and United States of America flags shall be permitted without ACC approval.

14.31 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Charleston Commons without prior written approval of the ACC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval of the ACC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home. No tennis courts are permitted within Lots.

14.32 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the

requirements of this Declaration. Water softeners, trash containers, propane tanks and other similar devices shall be properly screened from the street in a manner approved by the ACC.

14.33 Subdivision and Regulation of Land. No portion of any Home, Lot or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Charleston Commons, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

14.34 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Charleston Commons or within any Lot, Home or Parcel, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ACC.

14.35 Swimming, Fishing, Boating, Docks and Wildlife. Swimming, fishing and feeding wildlife are prohibited within any of the waterbodies within or adjacent to Charleston Commons. Boating and personal watercraft (e.g., jet skis) are prohibited. No private docks may be erected within any waterbody, if any.

14.36 Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees. To the extent that an Owner does not reside in his or her Home, but desires to permit family or friends to occupy such Home without a lease, all prospective occupants of the Home, prior to moving into the Home and irrespective of their relation to the Owner, must be registered with the Association and shall be subject to the Association's screening and approval process which is used for prospective tenants seeking to lease a Home within Charleston Commons.

14.37 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ACC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

14.38 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Neither Developer nor Association shall have liability under such circumstances for any damage or loss that an Owner may incur.

14.39 Wells. Wells are not permitted.

14.40 Wetlands Areas. Charleston Commons may contain preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained in their natural state.

14.41 Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

14.42 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ACC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ACC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ACC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

14.43 Workers. Workers hired by any Owner for any purpose including, without limitation, maintenance, landscaping, and/or housekeeping may not congregate in or about the Common Areas or make any personal use of such Common Areas.

15. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home or the Common Areas by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home or the Common Areas. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and such other protrusions and to permit any natural water runoff from roof overhangs, eaves and other protrusions onto an adjacent Home. In the event that a Home protrudes into the Common Areas or is constructed on a property line separating the Home from the Common Areas, a two (2) foot easement along the property line is hereby created for the Owner of such Home for maintenance purposes.

16. Water Metering. It is anticipated, but not guaranteed, that the local government will not provide individual metering of the water usage for each Home. To the extent there is no such individual Home water metering, the Association shall be responsible for paying all amounts due in connection with water usage and charging the Owners for the same as part of the Association's Operating Costs. If water charges are included in the Association's



Operating Costs as set forth in this Section, each Owner shall be charged the same amount each month for water irrespective of such Owner's actual water usage and/or the type or size of such Owner's Home.

17. Requirement to Maintain Insurance.

17.1 Association. Association shall maintain the following insurance coverage:

17.1.1 Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

17.1.2 Liability Insurance. Commercial general liability insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), and Association.

17.1.3 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

17.1.4 Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

17.1.5 Developer. Prior to and including the Turnover Date, Developer shall have the right, at Association's expense, to provide any such insurance coverage it deems appropriate under its master insurance policy in lieu of any of the foregoing.

17.2 Homes.

17.2.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance of his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and related costs or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

17.2.2 Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("Required Repair"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ACC ("Required Demolition") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

17.2.3 Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Charleston Commons.

17.2.4 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

17.2.5 Rights of County. In the event that any Home is destroyed by fire or other casualty, County or other authorized governmental agency shall have the right, but not the obligation, to enter such Owner's

Lot and/or Home for the purpose of inspecting and assessing the damage to such Home. County shall further have the right to enforce any local laws and/or ordinances with regard to the Required Repair or the Required Demolition of the Home.

17.2.6 Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Lot or Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

17.3 Fidelity Bonds. If available, a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

17.3.1 The bonds shall name Association as an obligee.

17.3.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

17.3.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

17.3.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), and Association.

17.4 Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

17.5 Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Parcel, Lot or Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

17.6 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

17.7 Additional Insured. Developer and the respective Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

17.8 Cost of Insurance. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs. Notwithstanding the foregoing or any other provisions in this Declaration, expenses incurred during the guarantee period which result from a natural disaster or an act of God occurring during such guarantee period, which are not covered by proceeds from insurance maintained by Association (i.e., the costs of any deductible, the costs incurred which are in excess of the Association's coverage, etc.), shall not be Operating Costs (and as such, are not part of the Developer's deficit funding obligation under its guarantee, if any) and may be charged as a Special Assessment against all Owners of record as of the date that the Special Assessment is assessed.

## 18. Property Rights.

18.1 Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Charleston Commons shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

18.1.1 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

18.1.2 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

18.1.3 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305, Florida Statutes, as amended from time to time.

18.1.4 The right to suspend the right to use all (except vehicular and pedestrian ingress and egress and necessary utilities) or a portion of the Common Areas by an Owner, its immediate family, etc. for any period during which any Assessment against that Owner remains unpaid.

18.1.5 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer.

18.1.6 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

18.1.7 The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

18.1.8 The rights of Developer and/or Association regarding Charleston Commons as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

18.1.9 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a Lessee.

18.1.10 The right of Association to evict occupants, tenants, guests and invitees as provided in this Declaration.

18.2 Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and across sidewalks, paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

18.3 Development Easement. In addition to the rights reserved elsewhere herein, Developer reserves an easement for itself or its nominees over, upon, across, and under Charleston Commons as may be required in connection with the development of Charleston Commons and other lands designated by Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Parcels, Lots and/or Homes, or any portion of Charleston Commons, and other lands designated by Developer. Without limiting the foregoing, Developer specifically reserves the right to use all paved roads and rights of way within Charleston Commons for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications Systems provided by Developer. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer be obligated to pay any amount to Association on account of Developer's use of the Common Areas for construction purposes. Developer intends to use the Common Areas for sales of new and used Homes. Further, Developer may market other residences and commercial properties located outside of Charleston Commons from Developer's sales facilities located within Charleston Commons. Developer has the right to use all portions of the Common Areas in connection with its marketing activities including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer, shall be construed as broadly as possible and supplement the rights of Developer set forth in Section 23 of this Declaration. At no time shall Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Developer may non-exclusively assign its rights hereunder to each Builder.

18.4 Public Easements. Fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Charleston Commons.

18.5 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

18.6 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

18.7 Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association shall, in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Charleston Commons (including Lots, Parcels and/or Homes) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each

Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

18.8 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Charleston Commons (including Lots, Parcels, and Homes) for the reasonable and necessary maintenance of Common Areas, utilities, cables, wires and other similar facilities.

18.9 Drainage. A non-exclusive easement shall exist in favor of Developer, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Charleston Commons over, across and upon Charleston Commons for drainage, irrigation and water management purposes. A non-exclusive easement for ingress, egress and access exists as shown on the Plat for such parties to enter upon and over any portion of Charleston Commons (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Charleston Commons and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through Charleston Commons and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

18.10 Blanket Easement in Favor of Association. Association is hereby granted an easement over all of Charleston Commons, including all Homes and Lots, for the purposes of (a) constructing, maintaining, replacing and operating all Common Areas, including, but not limited to, perimeter walls and fences and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

18.11 Damage by Owner of Adjacent Home/Lot. In the event that a wall is damaged by the Owner of an adjacent Lot or Home, the Owner of the adjacent Lot or Home shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Owner causing the damage. In the event that an Owner shall fail to make the repairs as required herein, or if Association has the reasonable belief that such repairs will not be made in a timely manner, then Association shall have the right at reasonable times to enter the adjacent Lot or Home to effect such repair, and the cost thereof shall be charged to the adjacent Owner as an Individual Assessment.

18.12 Construction Easement. Developer reserves an easement over all Homes for all construction purposes. By way of example, Developer and Developer's construction crews may be required to enter onto a completed Home in order to complete construction of an adjacent Home. This easement shall permit all ingress and egress necessary to complete Homes adjacent to other Homes, and still be construed as broadly as possible.

18.13 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

## 19. Assessments.

19.1 Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners and Builders shall pay Assessments. Notwithstanding, so long as Developer deficit funds Association, neither Developer nor any Builder shall pay Assessments. Each Builder shall pay such portion of Operating Costs which benefits any Lot or Parcel owned by such Builder, as determined by Developer, in Developer's sole discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Lot or Parcel owned by a Builder which does not contain a Home. As vacant Lots or Parcels owned by Builders may not receive certain services (e.g., Telecommunications Services), Builders shall not be required to pay for the same. The statutory rights afforded to Association including, without limitation, the right of Association to file liens, bring actions for foreclosure and/or the right of Association to accelerate the amount of Assessments due upon non-payment of Assessments, shall also apply to Assessments (or portions of Operating Costs) owed by Builders with respect to Homes and/or Lots owned by such Builders. Additionally, all legal fees, late fees, interest and attorneys' fees and costs relating to the collection of Assessments from Builders shall be fully recoverable by Association against Builders.

19.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health and welfare of the residents of Charleston Commons, and in particular for the improvement and maintenance of the Common Areas and any easement in favor of Association, including, but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

19.2.1 Any monthly or quarterly assessment (as determined by the Board) or charge for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

19.2.2 Any special assessments for capital improvements, major repairs, emergencies the repair or replacement of the Common Areas, or nonrecurring expenses (hereinafter "Special Assessments");

19.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Lot/Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees"); and

19.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements comprising a portion of the Common Area (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason.

19.2.5 Assessments for which one or more Owners (but less than all Owners) within Charleston Commons is subject ("Individual Assessments") such as costs of special services provided to a Lot, Home or Owner (i.e., painting and/or pressure cleaning treatments of Townhomes) or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Owner or Home/Lot. By way of example, and not of limitation, all of the Owners within a Plat may be subject to Individual Assessments for maintenance, repair and/or replacement of facilities serving only the residents of such Plat. Further, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Cable Services and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. Further, in the event that Association decides it is in the best interest of Charleston Commons that Association perform any other obligation of an Owner under this Declaration, the cost of performing such obligation shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

19.3 Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

#### 19.4 Allocation of Operating Costs.

19.4.1 For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

19.4.2 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots in Charleston Commons conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole discretion may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Lots owned by Owners other than Developer.

19.4.3 In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment) except to the extent specifically provided herein.

19.4.4 Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

19.5 General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner.

19.6 Use fees and Individual Assessments. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

19.7 **Commencement of First Assessment.** Assessments shall commence as to each Owner on the day of the conveyance of title of a Lot to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of the conveyance of title of a Lot to the Builder.

19.8 **Deficit Funding, Shortfalls and Surpluses.** Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, the total number of Lots to be included in Charleston Commons, or upon the number of Lots conveyed to Owners on or prior to September 30 of the prior fiscal year (as determined in Developer's discretion), it is possible that Association may collect more or less than the amount budgeted for Operating Costs. At any time (and from time to time) prior to and including the Turnover Date, Developer shall have the option ("**Developer's Option**") to either (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of all Installment Assessments due from Owners and other income produced by Association pursuant to Section 19.8.1 of the Declaration or (ii) to pay Installment Assessments on Homes or Lots owned by Developer. In the event that Developer elects to fund all or a portion of the shortfall in Installment Assessments, as stated above, Developer shall have no obligation to fund bad debt expenses relating to the payment of Assessments including, without limitation, estimates for bad debt allowance and actual write-offs of Owner balances. If Developer has cumulatively overfunded Operating Costs and/or prepaid expenses of Association including, but not limited to, loaning Association uncollected Assessments due from Owners which are not timely paid, Association shall refund such amounts to Developer immediately upon such prepaid or loaned amounts being received by Association (through legal collection efforts or otherwise), but in no event later than the Turnover Date or as soon as possible thereafter (e.g. once the amount is finally determined), or, in Developer's sole and absolute discretion, pursuant to terms and conditions (e.g., payment plan) approved by Developer. Developer shall never be required to (i) pay Installment Assessments if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer, (ii) pay Special Assessments, management fees or Reserves, or (iii) pay amounts due from, but not paid by, Owners, as referenced above. Any surplus Assessments collected by Association may be (i) allocated towards the next year's Operating Costs, (ii) used to fund Reserves, whether or not budgeted, (iii) retained by Association, and/or (iv) used for any other purpose, in Association's sole and absolute discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

19.8.1 Without limiting Developer's Option under Section 19.8 of the Declaration, Developer shall be excused from the payment of its share of the Installment Assessments relating to Lots it is offering for sale, for a period beginning with the recording of this Declaration and ending the earlier of the Turnover Date or December 31 of the year in which the Declaration is recorded (the "**Guarantee Expiration Date**"), provided that the Installment Assessments for Operating Costs equally imposed on each Owner other than Developer shall not increase during such period over \$1,000.00 per month and provided further that Developer shall be obligated to pay any amount of Operating Costs actually incurred during such period and not produced by the Installment Assessments at the guaranteed level receivable from Owners and all other income. The period that Developer is excused from the payment of the share of Installment Assessments relating to Lots it is offering for sale may be unilaterally extended by Developer for one or more successive periods of three months each.

19.8.2 If an audit of the Association's financial records, performed for the period which includes the Guarantee Expiration Date (including any extensions thereof), reveals that Developer has funded a greater amount (e.g. including, without limitation, pre-paid amounts, deposits for utilities, Developer's funding of delinquent Installment Assessments, or portion thereof, not paid by Owners, etc.) than required under this Section, then any such excess shall be promptly refunded to the Developer by Association.

19.8.3 If Developer elects to loan funds to Association for any purpose including, but not limited to, covering uncollected Assessments due from Owners which are not timely paid, Developer may, but shall have no obligation to, require the Association to sign a promissory note. Notwithstanding the foregoing, irrespective of whether a promissory note exists with respect to any loan to Association by Developer, Association shall be liable to Developer for all amounts loaned.

19.9 **Budgets.** The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, annual budgets shall be prepared and adopted by Association. To the extent Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Lot is closed, the Operating Costs may vary in one or more respects from that set forth in the initial budget. A Builder shall pay Assessments as per the budget for each Lot owned by such Builder commencing from the date the Builder obtained title to such Lot. Developer shall fund entirely all Operating Costs not covered by Builders' Assessments until the month prior to the closing of the first Lot. Thereafter, Assessments shall be payable by each Owner and Builder as provided in this Declaration. **THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.**

19.10 **Establishment of Assessments.** Assessments shall be established in accordance with the following procedures:

19.10.1 Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association.

19.10.2 Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

19.10.3 Association may establish Use Fees, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

19.11 Initial Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Developer (or other party as directed by Developer from time to time) to the purchaser, shall pay to Developer an initial contribution in an amount of up to three (3) months Assessments (the "Initial Contribution"), as determined by Developer in its sole and absolute discretion. The funds derived from the Initial Contributions shall be used at the discretion of Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Developer may waive this requirement for some Lots, Homes and/or Parcels, if the first purchaser is a subsequent Developer, and the subsequent Developer becomes unconditionally obligated to collect and pay the Initial Contribution upon the subsequent sale of each Lot, Home or Parcel to an end purchaser.

19.12 Resale Contribution. Association may establish a resale contribution ("Resale Contribution"). There shall be collected upon every conveyance of ownership interest in a Lot by an Owner other than Developer or Builders an amount payable to Association. The Resale Contribution shall not be applicable to conveyances from Developer or Builder. After the Lot has been conveyed by Developer or a Builder there shall be a recurring assessment payable to Association upon all succeeding conveyances of a Lot. The amount of Resale Contribution and the manner of payment shall be determined by resolution of the Board from time to time; provided, however, all Lots shall be assessed a uniform amount.

19.13 Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Lot unless all sums due Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner waives its rights (if any) to an accounting related to Operating Costs or Assessments.

19.14 Payment of Home Real Estate Taxes. Each Owner shall pay all taxes and obligations relating to its Lot/Home which, if not paid, could become a lien against the Lot/Home which is superior to the lien for Assessments created by this Declaration.

19.15 Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Lot, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be a charge and continuing lien in favor of Association encumbering the Lot and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a claim of lien in the Public Records stating the legal description of the Lot, name of the Owner, and the amounts due as of that date, but shall relate back to the date that the Original Declaration of Covenants was recorded. The claim of lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

19.16 Subordination of Lien to Mortgages. The lien for Assessments shall be a lien superior to all other liens save and except tax liens, and except as set forth in this Section, mortgage liens, provided such mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness which is amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. An acquirer of title to a Lot, whether by foreclosure, deed in lieu of foreclosure, or otherwise, shall be liable for all unpaid Assessments, interest, late fees and reasonable attorney's fees and costs incurred by Association in the collection of unpaid amounts that became due prior to such acquirer's acquisition. Notwithstanding the foregoing, with respect to a Lender or its successor or assignees who acquire title to a Lot by foreclosure or by deed in lieu of foreclosure, unless a greater amount is provided for by Florida law, as amended from time to time, such Lender's liability respecting the unpaid Assessments (but not late fees, interest or reasonable attorney's fees or costs incurred by Association in the collection of unpaid amounts) that became due prior to the Lender's acquisition of title shall be limited to the lesser of: (i) the Lot's unpaid Assessments which accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not yet been received by Association; or (ii) one percent (1%) of the original mortgage debt. The limitations on Lender liability provided in this Section apply only if the Lender filed suit against the Owner and initially (and not through amendment or re-foreclosure) joined Association as a defendant in the Lender's foreclosure action when such action was first filed with a court. Joinder of Association is not required if, on the date the complaint is filed, Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the Lender. In addition to the foregoing, any acquirer of title to a Lot including, without limitation, a Lender or other third party,

shall be liable for all late fees and interest charged against the former Owner of the Lot and all reasonable attorney's fees and costs incurred by Association in collection efforts against the former Owner of the Lot. Unless specifically provided otherwise by Association in writing from time to time and in its sole and absolute discretion, late fees, interest and reasonable attorney's fees and costs shall not be considered Assessments as that term is used in this Section. The Lender or its successor or assignees acquiring title to a Lot shall pay all of the foregoing amounts owed including, but not limited to, Assessments (as the same may be limited above), late fees, interest, attorneys fees and costs owed to Association within thirty (30) days after transfer of title. Failure to pay the full amount due when due shall entitle Association to record a claim of lien against the Lot and proceed in the same manner as provided in this Declaration for the collection of unpaid Assessments and other amounts. The provisions of this Section shall not be available to shield a Lender from liability for Assessments and other amounts in any case where the unpaid Assessments and other amounts sought to be recovered by Association are secured by a lien recorded prior to the recording of the mortgage. Additionally, in order to be afforded the limitations of liability for Lenders included in this Section, a Lender must give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Association makes such payment on behalf of an Owner, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of Lender. All amounts advanced on behalf of an Owner pursuant to this Section shall be added to the Assessments payable by such Owner with appropriate interest. Any unpaid Assessments for which an acquirer of title is not liable (i.e., where a Lender takes title to a Lot, and where Florida law, as amended from time to time, does not provide for a greater amount, any past due Assessment amounts which exceed the lesser of 12 months of Assessments or one percent (1%) of the original mortgage debt) may be reallocated and assessed to all Owners (including such acquirer of title) as part of Operating Costs included within Assessments. Any sale or transfer pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise) shall not relieve the acquiring party from liability for, nor the Lot from the lien of any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than a foreclosure.

**19.17 Survival of the Association's Lien.** To the extent that the Association forecloses upon its lien, as permitted by Florida law and the Association Documents, and becomes the owner of record title to a Home or Lot, the Association's lien shall survive foreclosure, and all amounts due in connection with the Association's foreclosure including, but not limited to, past due Assessments, late fees, interest, attorneys fees and costs shall be the joint and several liability of the Owner that was foreclosed by the Association and the Owner that takes title to the Home or Lot after the Association, and the Association shall have no liability for the same.

**19.18 Acceleration.** In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

**19.19 Non-Payment of Assessments.** If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot/Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. To the extent permitted by Florida law, the lien granted to Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of such lien, Association shall be entitled to seek an order of court that it is entitled to (i) collect a reasonable rent from the Owner, if the Owner remains in possession of a Lot after a judgment of foreclosure is entered and (ii) obtain the appointment of a receiver for such Lot to collect the rent if the Lot is leased or rented during the pendency of the foreclosure action. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees, pre-trial and at all levels of proceedings, including appeals, collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas by abandonment of a Lot.

**19.20 Exemption.** Developer, at Developer's sole option, may pay Assessments on Lots owned by it, or fund the deficit, if any, as set forth in Section 19.8 herein. In addition, the Board shall have the right to exempt any portion of Charleston Commons subject to this Declaration from the Assessments, provided that such part of Charleston Commons exempted is used (and as long as it is used) for any of the following purposes:

19.20.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

19.20.2 Any real property interest held by a Telecommunications Provider;

19.20.3 Common Areas or property (other than a Lot);

19.20.4 Any of Charleston Commons exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration; and

19.20.5 Any Association Common Areas.

**19.21 Collection by Developer.** If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and



collect such Assessments by using the remedies available as set forth above, which remedies; including, but not limited to, recovery of attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals.

19.22 **Rights to Pay Assessments and Receive Reimbursement.** Association, Developer, and any Lender of a Lot shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Lot. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

19.23 **Mortgagee Right.** Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Lot subject to the Lender's mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

19.24 **Collection of Assessments.** Installment Assessments shall be paid by each Owner directly to Association. Any collection proceedings for an Owner's failure to pay Assessments shall be the sole responsibility of Association. Each Owner shall be responsible to pay all Assessments to Association on time and in full.

20. **Information to Lenders and Owners.**

20.1 **Availability.** There shall be available for inspection upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

20.2 **Copying.** Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

20.3 **Notice.** Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

20.3.1 Any condemnation loss or casualty loss which affects a material portion of a Lot to the extent Association is notified of the same;

20.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

20.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder;

20.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

21. **Architectural Control.**

21.1 **Architectural Control Committee.** The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to Charleston Commons. The ACC shall consist of a minimum of three (3) members who shall initially be named by Developer and who shall hold office at the pleasure of Developer. The ACC shall have the right to form subcommittees consisting of representatives from the Association or otherwise. The ACC shall oversee such subcommittees and shall take precedence over any decision made by such subcommittees. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ACC.

21.2 **Membership.** There is no requirement that any member of the ACC be an Owner or a member of Association.

21.3 **General Plan.** It is the intent of this Declaration to create a general plan and scheme of development of Charleston Commons. Accordingly, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within Charleston Commons by Owners and Builders other than Developer. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by the ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Developer, which may be granted or denied in its sole discretion.

21.4 Master Plan. Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan and/or any site plan for Charleston Commons at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER AND/OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING CHARLESTON COMMONS. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW CHARLESTON COMMONS WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

21.5 Community Standards. Each Builder, Owner and their respective contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed by Developer. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

21.6 Quorum. A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. In lieu of a meeting, the ACC may act in writing.

21.7 Power and Duties of the ACC. No improvements shall be constructed on a Parcel, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on a Parcel, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ACC.

21.8 Procedure. In order to obtain the consent of the ACC, each Owner and/or Builder shall observe the following:

21.8.1 Each applicant shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.

21.8.2 In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

21.8.3 No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within such thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

21.8.4 In the event that the ACC disapproves any plans and specifications, the applicant may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ACC fails to provide such written decision within such thirty (30) days, the plans and specifications shall be deemed disapproved.

21.8.5 Upon final disapproval, the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

21.8.6 **Construction of all improvements shall be completed within the time period set forth in the application approved by such the ACC.**

21.9 **Alterations.** Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

21.10 **Variances.** Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

21.11 **Permits.** The Owner and/or Builder is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

21.12 **Construction by Owners.** The following provisions govern construction activities by Builders and Owners after consent of the ACC has been obtained:

21.12.1 Each Builder or Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Builder or Owner. Each construction site in Charleston Commons shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Charleston Commons shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Charleston Commons and no construction materials shall be stored in Charleston Commons subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in Charleston Commons or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail in any regard to comply with the requirements of this Section, the ACC may require that such Owner or contractor post security with Association in such form and amount deemed appropriate by the ACC in its sole discretion.

21.12.2 There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "**Contractors**") and changes to the list as they occur relating to construction. Each Builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into Charleston Commons as are designated by the ACC for construction activities. The ACC shall have the right to require that each Builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

21.12.3 Each Builder and Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ACC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in Charleston Commons.

21.12.4 The ACC may, from time to time, adopt standards governing the performance or conduct of Builders, Owners, Contractors and their respective employees within Charleston Commons. Each Builder, Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Charleston Commons and each Owner shall include the same therein.

21.13 **Inspection.** There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Charleston Commons at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

21.14 **Violation.** Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which falls to conform with the approval granted, the Builder or Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Builder or Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association are specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

21.15 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

21.16 Certificate. In the event that any Builder or Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Lot stating that the improvements on the Lot fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

21.17 Certificate of Compliance. If requested by a Builder or Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Developer, or its designees, the Builder or Owner thereof shall obtain a Certificate of Compliance from the ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 21.13 herein.

21.18 Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer, including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards. In addition to the foregoing, Developer shall have the right, but not the obligation, to exempt other Builders from the provisions of the Community Standards and the ACC requirements contained herein pursuant to a written assignment (or partial assignment) of Developer rights which expressly exempts the Builder from such ACC requirements.

21.19 Exculation. Developer, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Developer, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Association, or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Developer, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

21.20 Governmental Approval. Each Builder and Owner acknowledges and agrees that ACC approval, as discussed herein, shall not be deemed to constitute an approval by any governmental authority, nor shall it relieve any Builder or Owner of the obligation to obtain necessary governmental approvals at such Builder or Owner's sole cost and expense. Additionally, in the event any governmental authority denies a Builder or Owner's application for a permit or otherwise in connection with planned alterations or improvements, such denial shall prohibit construction of such improvements (regardless of whether the ACC has previously approved the Builder or Owner's planned alterations or improvements by certificate or otherwise). Decisions of the ACC with respect to architectural control shall be based upon proposed improvements being consistent with the overall aesthetics and master plan of Charleston Commons and such decisions shall not be deemed a waiver of a Builder or Owner's obligation to comply with state and local codes and/or ordinances. In the event that any Builder or Owner, with or without ACC approval, constructs any improvements or makes any changes to his or her Home without the required governmental permits or approvals, such Builder or Owner shall be solely liable for all fines and/or citations imposed by any governmental authority and shall further bear all costs in connection with the removal, repair or reconstruction of improvements required by such governmental authority. In addition, to the extent a Builder or Owner fails to obtain governmental permits and/or approvals prior to constructing improvements which require the same, or if any governmental entity requires the repair, removal or reconstruction of any improvements, Association shall be permitted to cause such Builder or Owner to repair, remove or reconstruct any unapproved improvement at the Builder or Owner's sole and absolute cost, and in the event such Builder or Owner fails to remove the same within a reasonable time, Association may, but shall not be obligated to remove the improvement and charge all costs in connection with the same to the Builder or Owner as an Individual Assessment. Each Builder and Owner further agrees to remise, release, acquit, satisfy, and forever discharge Developer and Association of and from all, and all manner of, action and actions, cause and causes of action, suits, debts, sums of money, accounts, bills, covenants, controversies, agreements, promises, damages (including consequential, incidental, punitive, special or other), judgments, executions, claims, liabilities and demands, whatsoever, at law and in equity (including, but not limited to, claims founded on tort, contract, contribution, indemnity or any other theory whatsoever) in any way related to, any construction of any requested improvements due to any defects to the marketability, ability to obtain a loan, and/or insurability of a Home caused therefrom; any encroachment caused by requested improvements; and/or the repair, reconstruction or removal of the improvements as required by any governmental or court action.

22. Owners Liability.

22.1 Loop System Irrigation. Some or all Lots and Common Areas may receive irrigation pursuant to a loop system. If an Owner desires to make any alterations or improvements to a Lot that in any way affect the loop irrigation system, then the Owner shall be responsible for taking measures to "cap off" the main line of the loop irrigation system that leads to the Lot. In addition, the Owner shall be obligated to obtain the prior written approval of Association before taking any action that may adversely affect the loop irrigation system. Once the main line is "capped off," the Owner shall then be responsible for maintaining the irrigation system for his or her Lot. Any damages to the Lot resulting from an Owner's failure to comply with the terms set forth herein shall be the sole responsibility of such Owner and Developer shall not be liable for the same. Furthermore, each Owner understands that as provided in this Declaration, an Owner may be permitted to install, without limitation, a patio, and/or screened enclosure ("Improvement") on the Lot upon the prior written approval of the ACC as set forth in this Declaration and/or the Community Standards. If an Improvement is approved to be installed, then a five (5) foot gate must also be installed. Before the ACC approves the installation of an Improvement, the irrigation system that will be within the Improvement portion of that Lot must be re-routed, if necessary, by a professional irrigation company. In order for the ACC to approve the Improvement installation, a letter or other evidence by a professional irrigation company must be given to the ACC at least ten (10) days before the Improvement installation stating that the effectiveness of the Charleston Commons drainage system will not be affected by the re-routing of the irrigation system. Should an Owner install the Improvement without providing the necessary letter or other evidence from a professional irrigation company in advance as required herein, then Association may conduct the necessary inspection, repair any necessary drainage facilities and charge the work as an Individual Assessment to such Owner, all as further provided in this Declaration and/or Community Standards.

22.2 Right to Cure. Should any Owner do any of the following:

22.2.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration including, without limitation, any provision herein benefiting SFWMD; or

22.2.2 Cause any damage to any improvement or Common Areas; or

22.2.3 Impede Developer or Association from exercising its rights or performing its responsibilities hereunder; or

22.2.4 Undertake unauthorized improvements or modifications to a Lot and/or the Common Areas; or

22.2.5 Impede Developer from proceeding with or completing the development of Charleston Commons.

Then Developer and/or Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, entering upon the Lot causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, removing unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, incurred shall be assessed against the Owner as an Individual Assessment.

22.3 Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

22.3.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

22.3.2 Commence an action to recover damages; and/or

22.3.3 Take any and all action reasonably necessary to correct the violation or breach.

22.4 Expenses. All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

22.5 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

22.6 Rights Cumulative. All rights, remedies, and privileges granted to Developer, Association and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

22.7 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Owners and/or Association by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

22.8 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's tenants, guests and invitees, or both, or use the Common Areas and/or common services including, but not limited to, cable services, and/or other services which are paid through Common Expenses, and may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2) of the Florida Statutes, against an Owner, tenant, guest or invitee, for failure to comply with any provision of this Declaration including, without limitation, those provisions benefiting SFWMD.

22.8.1 A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

22.8.2 Unless otherwise permitted by Florida law, fines or suspensions may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of Association, or the spouse, parent, child, brother, sister of an officer, director or employee. If the Violations Committee does not by a majority vote approve a fine or suspension the same may not be imposed. The written notice of violation shall be in writing to the Owner, tenant, guest or invitee and detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee.

22.8.3 The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written decision of the Violations Committee shall be submitted to the Owner, tenant, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, tenant, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

22.8.4 The Violations Committee may impose Individual Assessments against the Owner in the amount of \$100 (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation and there is no cap on the aggregate amount the Violations Committee may fine an Owner, tenant, guest or invitee. Individual Assessment fines shall be paid not later than five (5) days after notice of the imposition of the Individual Assessment. All monies received from fines shall be allocated as directed by the Board of Directors.

22.9 Right of Association to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or any person present in any Lot or Home or any portion of Charleston Commons than an Owner and the members of his/her immediate family permanently residing with him/her in the Lot or Home, if such person shall violate any provision of the Association Documents or shall create a nuisance or an unreasonable and continuous source of annoyance to a resident of Charleston Commons in Association's sole discretion, or shall willfully damage or destroy any of the Common Areas or personal property of Association, then upon written notice by Association, such person shall be required to immediately leave Charleston Commons and if such person does not do so, Association shall be authorized to commence an action to evict such tenant or compel such person to leave Charleston Commons and, where necessary, to enjoin such person from returning. Any expense incurred by Association in connection with any such action including, without limitation, attorneys' fees, shall be charged by Association to the applicable Owner of such Lot/Home as an Individual Assessment.

## 23. Additional Rights of Developer.

23.1 Sales and Administrative Offices. Developer shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of Charleston Commons and sales and re-sales of Lots or Homes and/or other properties owned by Developer or others outside of Charleston Commons. This right shall include, but not be limited to, the right to maintain models, sales offices (including sales offices in model homes, the Common Areas and in the Cabana, as determined by Developer in its sole and absolute discretion) and parking associated therewith, have signs on any portion of Charleston Commons, including Common Areas, keep employees in the models and offices without the payment of rent or any other fee, maintain offices in models and use of the Common Areas to show Lots or Homes. Specifically, Developer may construct a sign on the Common Areas in order to advertise Lots or Homes within Charleston Commons and/or other communities or neighborhoods. The sales office and signs and all items pertaining to development and sales remain the property of Developer. Developer shall have all of the foregoing rights without charge or expense. The rights reserved hereunder shall extend beyond the Community Completion Date.

23.2 Modification. The development and marketing of Charleston Commons will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of Charleston Commons to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or

assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole discretion, to accomplish the same. Without limiting anything to the contrary in this Declaration, prior to and including the Turnover Date, all agreements and/or contracts which are entered into by Association shall require the prior written approval of Developer or may otherwise be voided by Developer in its sole and absolute discretion.

23.3 Promotional Events. Prior to the Community Completion Date, Developer and its successors and assigns shall have the right, at any time, to hold marketing, special and/or promotional events within Charleston Commons and/or on the Common Areas, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market Charleston Commons and Lots or Homes in advertisements and other media by making reference to Charleston Commons, including, but not limited to, pictures or drawings of Charleston Commons, Common Areas, Parcels and Homes constructed in Charleston Commons. All logos, trademarks, and designs used in connection with Charleston Commons are the property of Developer, and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

23.4 Use by Prospective Purchasers. Prior to the Community Completion Date, Developer shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Lots or Homes, or other properties owned by Developer outside of Charleston Commons.

23.5 Franchises. Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

23.6 Management. Developer may manage the Common Areas by contract with Association. Developer may also contract with a third party ("Manager") for management of Association and the Common Areas. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Manager in connection with the costs of services provided by such Manager. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

23.7 Easements. Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, under, upon and across Charleston Commons so long as any such easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action, or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Lot, or grant new easements over a Lot, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of a Parcel so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such Parcel. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

23.8 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so.

23.9 Additional Development. If Developer withdraws portions of Charleston Commons from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the Common Areas and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

23.10 Representations. Developer makes no representations concerning development both within and outside the boundaries of Charleston Commons including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Parcels, Lots or Homes and buildings in all other proposed forms of ownership and/or other improvements on Charleston Commons or in Charleston Commons or adjacent to or near Charleston Commons, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

### 23.11 Telecommunications Services.

23.11.1 Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any part of Charleston Commons. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association, shall be subject to the prior written approval of Developer. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within Charleston Commons as agreed, from time to time, between the Telecommunications Provider and Developer.

23.11.2 Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider that has entered into an agreement with Association respecting Telecommunications Services and/or Telecommunications Systems a perpetual right, privilege, easement and right-of-way across, over, under and upon Charleston Commons for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon Charleston Commons for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such Telecommunications Systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Providers are to serve all of Charleston Commons, then the amounts payable to such Telecommunications Providers under their written agreements with Association shall be part of Operating Costs of Association and shall be assessed as a part of the Assessments.

23.11.3 Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Lot or Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to commence such restoration within twenty (20) days after receiving written notice from Association of such failure or the Telecommunications Provider's failure to complete such restoration within ninety (90) days of commencement shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Lot or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Lot or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within twenty (20) days of completion of restoration and delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank or its successor on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as provided in an agreement between Association and a Telecommunications Provider.

23.11.4 Operating Costs. Each Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual home owners that are not subject to a homeowners association in County. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

23.12 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, THE ASSOCIATION, BUILDERS AND THE DEVELOPER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF CHARLESTON COMMONS INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

23.12.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF CHARLESTON COMMONS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF CHARLESTON COMMONS AND THE VALUE THEREOF; AND

23.12.2 DEVELOPER AND/OR ASSOCIATION ARE NOT EMPOWERED, AND HAVE NOT BEEN CREATED, TO ACT AS AGENCIES WHICH ENFORCE OR ENSURE THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR PALM BEACH COUNTY OR PREVENT TORTIOUS ACTIVITIES. NEITHER DEVELOPER, ANY BUILDER, NOR ASSOCIATION SHALL BE LIABLE FOR THE UNLAWFUL OR UNDESIRABLE ACTIONS OR INACTIONS OF OWNERS OR THEIR RESPECTIVE FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN



CHARLESTON COMMONS AND SHALL FURTHER HAVE NO OBLIGATION TO TAKE ANY AFFIRMATIVE ACTION NOT SPECIFICALLY SET FORTH IN THIS DECLARATION IN ORDER TO STOP, ENJOIN OR PREVENT ANY SUCH ACTIONS BY ANY OWNER OR THEIR FAMILIES, TENANTS, GUESTS, INVITEES OR ANY OTHER OCCUPANTS OF HOMES WITHIN CHARLESTON COMMONS; AND

23.12.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF CHARLESTON COMMONS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

23.13 Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE ASSOCIATION DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A LOT.

23.14 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A LOT, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN COUNTY. DEVELOPER HAS AN OFFICE IN COUNTY AND EACH LOT IS LOCATED IN COUNTY. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN COUNTY.

23.15 Reliance. BEFORE ACCEPTING A DEED TO A LOT, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A LOT THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT CHARLESTON COMMONS TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

23.16 Access Control System. Developer may, but is not obligated to, install a tele-entry system at the entrance to Charleston Commons. Association shall have the right, but not the obligation, to contract for the installation of additional Access Control System facilities for Charleston Commons. Prior to the Community Completion Date, all contracts for Access Control Systems shall be subject to the prior written approval of Developer. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Each and every Owner and the occupant of each Home acknowledges that Developer, Association, and their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes.

Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any casualty or intrusion into a Home. Notwithstanding anything to the contrary in this Declaration, prior to the Community Completion Date, Developer shall have the unilateral right to control the operation of the community gates, if any, and the same shall remain open during normal business hours or as otherwise determined in the sole and absolute discretion of Developer.

24. **Refund of Taxes and Other Charges.** Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

25. **Assignment of Powers.** All or any part of the rights, exemptions and powers and reservations of Developer herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and, at Developer's option, recorded in the Public Records.

26. **Selling, Leasing and Mortgaging of Homes.** In order to maintain complementary uses, congenial neighbors and to protect the value of Homes and Lots, the transfer of title to or possession of Homes by any Owner shall be subject to the following provisions so long as Association exists, which provisions each Owner covenants to observe:

26.1 **Transfers Subject to Approval.**

26.1.1 **Sale.** No Owner may dispose of a Home or Lot or any interest therein by sale without approval of Association.

26.1.2 **Lease.** No Owner may transfer possession of a Home or any interest therein by lease for any period without approval of Association. The renewal of any lease, including any lease previously approved by Association under this Section 26, shall be re-submitted for approval by Association. No Owner may transfer possession of a Home or any interest therein by lease for any period until such Owner is current in payment of all assessments due to Association under the terms of this Declaration, and Association shall have the right to withhold approval of any lease until such time as the Owner is current in payment of such Assessments.

26.1.3 **Gift.** If any Owner proposes to transfer a Home by gift, the proposed transfer shall be subject to the approval of Association.

26.2 **Approval by Association.** To obtain approval of Association which is required for the transfer of Homes, each Owner shall comply with the following requirements:

26.2.1 **Notice to Association.**

26.2.1.1 **Sale.** An Owner intending to make a bona fide sale of his or her Lot or Home, or any interest therein, shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intentions, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as Association may reasonably require. Such notice, at the Owner's option, may include a demand by the Owner that Association furnish a new purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract for sale.

26.2.1.2 **Lease.** An Owner intending to make a bona fide lease of his or her or any interest therein shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as Association may reasonably require, and an executed copy of the proposed lease, which lease shall provide that it is subject to approval by Association.

26.2.1.3 **Gift.** An Owner who proposes to transfer his or her title by gift shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of the proposed transfer of his or her title, together with such information concerning the transferee as Association may reasonably require, and a copy of all instruments to be used in transferring title.

26.2.1.4 **Failure to Give Notice.** If the notice to Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Home, Association at its discretion and without notice may approve or disapprove the lease, sale or transfer. If Association disapproves the transaction or ownership, Association shall proceed as if it had received the required notice on the date of such disapproval.

26.2.1.5 **Effect and Manner of Notice.** The giving of notice shall constitute a representation and warranty by the offeror to Association and any purchaser produced by the Board that the offering is a bona fide offer in all respects. The notice shall be given by certified mail, return receipt requested, or delivered by professional courier or by hand-delivery to Association which shall give a receipt therefor.

26.2.2 Certificate of Approval.

26.2.2.1 Sale. If the proposed transaction is a sale, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the purchaser and may be recorded in the Public Records of County (the "Public Records").

26.2.2.2 Lease. If the proposed transaction is a lease then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association and shall be delivered to the lessee.

26.2.2.3 Devise or Inheritance. Any person who has obtained a Home by devise or inheritance (except for the spouse, parents or children of the immediately previous Owner of such Home) shall give to Association notice thereof together with such information concerning the person(s) obtaining such Home as may be reasonably required by the Board and a certified copy of the instrument by which such Home was obtained. If such notice is not given to Association, then at any time after receiving knowledge thereof, the Board shall proceed in accordance with Section 26.2.4 as if it had been given such notice on the date of receipt of such knowledge. Within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the person receiving title by devise or inheritance.

26.2.2.4 Gift. If the Owner giving notice proposes to transfer his or her title by gift, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer of title to the Home. If approved, the approval shall be upon such terms and conditions as Association may reasonably require, and the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the Owner and shall be recorded in the Public Records.

26.2.3 Approval of Owner Other Than an Individual. Inasmuch as the Home may be used only for residential purposes, and a corporation, trust or other entity cannot occupy a Home for such use, if the Owner or purchaser of a Home is a corporation, trust or other entity, the approval of ownership by the corporation, trust or other entity shall be conditioned upon the primary occupant or the beneficial owners of the entity being approved by Association. Any change in such primary occupant or beneficial owners of the Home shall be deemed a change of ownership subject to Association approval pursuant to this Section.

26.3 Disapproval by Association. Although an Owner complies with the foregoing requirements, Association may disapprove of the transfer. If Association disapproves a transfer or ownership of a Home or Lot, the matter shall be disposed of in the following manner:

26.3.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the Owner shall so demand, then, within thirty (30) days after receipt of such notice and information by Association, Association shall deliver by professional courier or hand-delivery, or mail by certified mail, to the Owner an agreement to purchase by Association, or a purchaser approved by Association who will purchase and to whom the Owner must sell the Home, upon the following terms:

26.3.1.1 The price to be paid by the purchaser, to be identified in the agreement, shall be that stated in the disapproved contract to sell.

26.3.1.2 The purchase price shall be paid by official check or federal wire.

26.3.1.3 The sale shall be closed within ninety (90) days after the delivery or mailing of the agreement to purchase to the Owner and shall be upon terms no less favorable than the terms of the disapproved contract.

26.3.1.4 If Association fails to provide a purchaser upon the demand of the Owner in the manner provided, or if a purchaser furnished by Association shall default in his or her agreement to purchase, the proposed transaction shall be deemed to have been approved and Association shall furnish a certificate of approval as provided in this Section 26.

26.3.2 Lease. In the event the Board disapproves of a transfer of possession of a Home by lease, then the Owner may not lease the Home to the intended lessee for whom the Owner sought approval.

26.3.3 Transfer by Gift, Devise or Inheritance. In the event the Board disapproves of such transfer of title by gift, devise or inheritance, the Board shall advise in writing within such thirty (30) day period, the person who has obtained such title of a purchaser approved by the Board to purchase the respective Home at its fair market value. The fair market value of the Home will be determined by any one of the following methods determined by the Board: (i) by three (3) M.A.I. appraisers, one of whom shall be selected by the Association's proposed purchaser, one by the person holding title, and one by the two (2) appraisers so selected; or (ii) by mutual agreement by the Association's proposed purchaser and the person holding title. All costs for such appraisal shall be paid by the Association's proposed purchaser. The purchase price shall be paid by federal wire or official check and the sale closed within thirty (30) days after the determination of the purchase price. Simultaneously upon notification to the person holding title that the Board has a purchaser for the respective Home, the person holding

title and such purchaser shall execute a contract providing for the acquisition of such Home in accordance with the terms of this Declaration. In the event the purchaser furnished by Association shall default in his or her obligation to purchase such Home, then the Board shall be required to approve the passage of title to the person then holding title thereof and shall issue and deliver a certificate of approval therefor.

26.4 Exceptions. The foregoing provisions of this Section shall not apply to a transfer or purchase by a Lender or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Home concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a Lender or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Home at a duly advertised public sale with open bidding which is provided by law including, but not limited to, an execution sale, foreclosure sale, judicial sale or tax sale. The provisions of this Section shall not apply to Developer.

26.5 Unauthorized Transactions. Any sale, transfer mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by Association.

26.6 Notice of Lien or Suit.

26.6.1 Notice of Lien. An Owner shall give notice to Association of every lien upon his or her Home other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of such lien.

26.6.2 Notice of Suit. An Owner shall give notice to Association of every suit or other proceeding which may affect the title to his or her Lot or Home; such notice is to be given within five (5) days after the Owner receives knowledge thereof.

26.6.3 Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial sale.

27. General Provisions.

27.1 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

27.2 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

27.3 Interpretation. The Board shall be responsible for interpreting the provisions hereof and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of counsel that any interpretation adopted by Association is not unreasonable shall conclusively establish the validity of such interpretation.

27.4 Execution of Documents. Developer's plan of development for the Property (including, without limitation, the creation of one (1) or more special taxing districts may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that such documents require the joinder of Owners or Builders other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Builder(s) and Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any special taxing district); and the Builder(s) and Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Builder and Owner agree, by their acceptance of a deed to a Lot or Home or any other portion of Charleston Commons, to execute or otherwise join in any petition and/or other documents required in connection with the creation of any special taxing district relating to Charleston Commons or any portion(s) thereof. In addition to the foregoing, all Builders and Owners within Charleston Commons shall be required to execute a joinder acknowledging and agreeing to the terms and provisions of this Declaration.

27.5 Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any

respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy.

27.6 Letter(s) of Credit. During the development of Charleston Commons, Developer may be required to obtain a letter of credit in connection with or as security for matters relating to Association including, without limitation, the Association's maintenance obligations. From and after the Turnover Date, Association agrees that it shall indemnify and be liable to Developer for any amounts drawn or due from any such letter(s) of credit which result from the Association's failure to act in accordance with the terms of this Declaration, any applicable law, ordinance or requirement of any governmental agency. In addition to the foregoing, Association agrees that immediately following the Turnover Date, the Association shall take all measures necessary to reimburse Developer for all amounts expended in connection with the letter of credit, remove Developer from the letter of credit, and add Association as the responsible party under the letter of credit.

27.7 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

27.8 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

27.9 Disclosures Regarding Surrounding Areas. CHARLESTON COMMONS IS LOCATED IN CLOSE PROXIMITY TO, AMONG OTHER THINGS, ONE OR MORE OF EACH OF THE FOLLOWING: A PUBLIC BALLFIELD, A WATER PLANT, AND HIGH VOLTAGE POWER TRANSMISSION LINES. A PUBLIC BALLFIELD, A WATER PLANT AND HIGH VOLTAGE POWER TRANSMISSION LINES CAN AND WILL EMIT, AMONG OTHER THINGS, UNPLEASANT NOISES, ODORS, DUST AND/OR DEBRIS, AND MAY CAUSE TRAFFIC WHICH COULD POTENTIALLY RESULT IN, AMONG OTHER THINGS, INCONVENIENCES, INTERRUPTIONS IN USE OR ENJOYMENT OF PROPERTY OR COMMON AREAS, AND/OR HEALTH ISSUES. AS THE BALLFIELD, WATER PLANT AND HIGH VOLTAGE POWER TRANSMISSION LINES ARE NOT OWNED, OPERATED OR IN ANY WAY AFFILIATED WITH DEVELOPER, ASSOCIATION, OR BUILDERS, NEITHER DEVELOPER, ASSOCIATION NOR ANY BUILDER WILL BE RESPONSIBLE FOR, AMONG OTHER THINGS, ANY ODORS AND/OR OTHER EMISSIONS, OR NUISANCES OR OTHER ISSUES WHATSOEVER WHICH MIGHT RESULT FROM THE SAME. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, TRUST, LEASEHOLD, LICENSE OR OTHER INTEREST, EACH OWNER, OCCUPANT, TENANT AND USER OF ANY PORTION OF CHARLESTON COMMONS AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT THE BALLFIELD, WATER PLANT AND HIGH VOLTAGE POWER TRANSMISSION LINES SHALL NOT BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) DEVELOPER, BUILDERS, AND ASSOCIATION SHALL NOT BE LIABLE IN ANY WAY WHATSOEVER FOR LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS OR ANY OTHER ISSUES ARISING FROM OR RELATING IN ANY WAY TO THE BALLFIELD, WATER PLANT AND HIGH VOLTAGE POWER TRANSMISSION LINES, AND (iii) ANY PURCHASE OR USE OF ANY PORTION OF CHARLESTON COMMONS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING. ADDITIONALLY, EACH OWNER ACKNOWLEDGES AND AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS DEVELOPER, BUILDERS, AND ASSOCIATION IN CONNECTION WITH ANY AND ALL CLAIMS AND/OR ACTIONS WHICH SUCH OWNERS OR OCCUPANTS OR THEIR RESPECTIVE GUESTS, INVITEES, EMPLOYEES, AGENTS OR OTHER PERSONS MAY HAVE WHICH MAY RELATE IN ANY WAY DIRECTLY OR INDIRECTLY TO THE BALLFIELD, WATER PLANT AND HIGH VOLTAGE POWER TRANSMISSION LINES WHICH ARE IN CLOSE PROXIMITY TO CHARLESTON COMMONS.

27.10 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF CHARLESTON COMMONS ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO CHARLESTON COMMONS. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF CHARLESTON COMMONS, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO CHARLESTON COMMONS WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF CHARLESTON COMMONS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

27.11 **Title Documents.** Each Owner by acceptance of a deed to a Lot acknowledges that such Lot is subject to certain land use and title documents and all amendments thereto which include among other items, unrecorded land use documents and all title documents of record affecting title to Charleston Commons (collectively, the "Title Documents"). Developer's plan of development for Charleston Commons may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Builders and Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Builders and Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Builder and Owner agrees, by its acceptance of a deed to a Lot or any other portion of Charleston Commons: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Builder and/or Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon the Community Completion Date Association shall assume all of the obligations of Developer under the Title Documents unless otherwise provided by Developer by amendment to this Declaration recorded by Developer in the Public Records, from time to time, and in the sole discretion of Developer.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this 6 day of November, 2014.

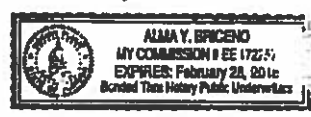
WITNESSES:  
 \_\_\_\_\_  
 Print Name: Keith Franco  
 \_\_\_\_\_  
 Print Name: Iselle Comez

LENNAR HOMES, LLC, a Florida limited liability company  
 \_\_\_\_\_  
 By: Greg McPherson  
 Name: \_\_\_\_\_  
 Title: V.P.  
 \_\_\_\_\_ [SEAL]

STATE OF FLORIDA )  
 COUNTY OF Miami Dade ) SS.:

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of November, 2014 by Greg McPherson, as V.P. of LENNAR HOMES, LLC, a Florida limited liability company, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the company.

My commission expires:



Alma Y. Brinceno  
 NOTARY PUBLIC, State of Florida at Large  
 Print Name: Alma Brinceno

JOINDER

CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC.

CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC. ("Association") does hereby join in the Declaration for Charleston Commons (the "Declaration") to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Declaration, as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 6 day of November, 2014.

WITNESSES:

CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC.,  
a Florida not-for-profit corporation

[Signature]  
Print Name: Amanda Nalqjett

By: \_\_\_\_\_  
Name: Teresa Daluga  
Title: President

[Signature]  
Print Name: Quette Correa

[SEAL]

STATE OF FLORIDA )  
COUNTY OF Miami Dade ) SS.:

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of November, 2014 by Teresa Daluga, as President of CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced as identification, on behalf of the corporation.

My commission expires:



[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print Name Alma Briceno

**EXHIBIT 1**

**LEGAL DESCRIPTION**

The Land referred to in this policy is described as follows:

Tract 33 of Plat of Subdivision of Section 11, Township 43 South, Range 42 East, Palm Beach County, Florida, according to the plat thereof recorded in Plat Book 20, Page 53, of the Public Records of Palm Beach County, Florida.

**LESS AND EXCEPT** that portion of the property conveyed to Palm Beach County by deed recorded in Official Records Book 20178, Page 1712 and more particularly described as follows:

The East 24.00 feet of Tract 33 of Plat of Subdivision of Section 11, Township 43 South, Range 42 East, Palm Beach County, Florida, according to the plat thereof recorded in Plat Book 20, Page 53, of the Public Records of Palm Beach County, Florida and being more particularly described as follows:

Beginning at the Southeast corner of said Tract 33; thence North 88 degrees 30' 37" West, along the South line of said Tract 33, a distance of 24.00 feet; thence North 01 degree 28' 51" East, along a line parallel with and 24.00 feet West of as measured at right angles to the East line of said Tract 33, a distance of 835.63 feet to the North line of said Tract 33; thence South 88 degrees 30' 08" East, along said North line, a distance of 24.00 feet to the Northeast corner of said Tract 33; thence South 01 degree 28' 51" West, along said East line of Tract 33, a distance of 835.65 feet to the point of beginning.

**ALSO LESS AND EXCEPT** that portion of the property conveyed to Palm Beach County by deed recorded in Official Records Book 22808, Page 788 and more particularly described as follows:

Commencing at the Southeast corner of said Tract 33; thence North 88 degrees 30' 37" West, along the South line of said Tract 33, a distance of 24.00 feet, to the POINT OF BEGINNING, thence continue North 88 degrees 30' 37" West, a distance of 15.00 feet; thence North 13 degrees 34' 34" East, a distance of 71.59 feet; thence South 01 degree 28' 51" West, along a line parallel with and 24.00 feet West of as measured at right angles to the East line of said Tract 33, a distance of 70.00 feet to the POINT OF BEGINNING.



**EXHIBIT 2**  
**ARTICLES OF INCORPORATION**

# State of Florida



## Department of State

I certify from the records of this office that CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on November 10, 2014.

The document number of this corporation is N14000010379.

I further certify that said corporation has paid all fees due this office through December 31, 2014, 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, 714A00024072-111214-N14000010379-1/1, noted below.

Authentication Code: 714A00024072-111214-N14000010379-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twelfth day of November, 2014



*Ken Dietzner*  
Ken Dietzner  
Secretary of State

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of CHARLESTON COMMONS COMMUNITY ASSOCIATION, INC., a Florida corporation, filed on November 10, 2014, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H14000261892. 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 N14000010379.

Authentication Code: 714A00024072-111214-N14000010379-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twelfth day of November, 2014



*Ken Detzner*  
Ken Detzner  
Secretary of State