

(b) such other percentage of the Parcels have been conveyed to members, or such other date or event has occurred, as set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of Parcels;

(c) Such earlier date as Developer may determine.

**ARTICLE V**

**COVENANT FOR ASSESSMENTS**

Note: With respect to the lien rights and liabilities hereinafter provided, such rights and liabilities shall encompass not only a particular Parcel, but shall also encompass any additional real property rights which may have been granted to a Parcel Owner in accordance with Section 2 of Article III of this Declaration of Covenants.

**Section 1. Payment of Assessments.** The Developer hereby covenants, creates and establishes, and each Parcel Owner of a Parcel, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner, shall hereafter be deemed to have covenanted and agreed to pay to the Association the following dues, fees, charges and assessments, subject to the provisions of Section 3 of this Article V:

(a) Any annual assessment or charge for the purpose of operating the Association and accomplishing any and all of its purposes.

(b) Any special assessments for emergencies, or non-recurring expenses; such assessments shall be in equal amounts against the Parcel Owners of each Parcel.

(c) Charges incurred in connection with the enforcement of any of the terms and conditions hereof, including reasonable attorney fees and costs reasonable.

(d) Fees or charges that may be established for such purpose deemed appropriate by the Board of Directors of the Association.

(e) Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. Such assessments shall be in equal amounts against the Parcel Owners of each Parcel.

(f) The assessments under (a), (b) and (c) above shall be in equal amounts to all Parcel Owners, subject to the provisions of Section 3. of this Article V. Such equal amount shall be determined by dividing the assessment by a fraction, the numerator of which is one (1) and the denominator of which is the number of Parcels in the Community submitted to this Declaration at the time the assessment was enacted.

**Section 2. Creation of the Lien and Liability of Parcel Owner.** The Developer, for each Parcel owned within the Community hereby covenants, and each Parcel Owner of any Parcel by acceptance of a deed or instrument of conveyance for the acquisition of title to a Parcel, whether or not it shall be so expressed in such deed or instrument, is deemed to covenant and agree that the annual and special assessments, or other charges and fees set forth in Section 1 hereof, together with interest, late fees, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Parcel against which each such assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records, stating the description of the Parcel, name of the Parcel Owner, amount due and the due dates. Each such assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Parcel Owner of such property at the time when the assessment fell due, as well as his heirs, legal representatives, successors and assigns.

**Section 3. Commencement of First Assessment.** Assessments provided herein shall first commence as to each Parcel on the day of the conveyance of title of each Parcel to a purchaser thereof (unless otherwise specifically set forth by Developer in such conveyance to the contrary). The annual assessments in effect at that time shall be adjusted according to the number of months remaining in the calendar year after such date.

**Section 4. Establishment of Assessments.** The Board of Directors of the Association shall approve and establish all sums which shall be payable by the members of the Association in accordance with the following procedures:

(a) The Board of Directors shall prepare an annual operating budget, reflecting the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, Developer or another person. The Board of Directors shall provide written notice of the amount and date of commencement thereof to each Owner not less than thirty (30) days in advance of the initial due date thereof. Annual assessments shall be payable at such time or times as the Board of Directors shall direct, which shall be monthly unless otherwise specifically set forth. Assessments may include an amount for reserves so as to enable the Association to establish and maintain an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the Common Areas.

(b) Annual assessments against the Parcel Owners of all of the Parcels shall be established after the adoption of an operating budget, and written notice of the amount and date of commencement thereof shall be given to each Parcel Owner not less than thirty (30) days in advance of the date thereof. Annual assessments shall be payable at such time or times as the Board of Directors shall direct which shall be monthly until otherwise directed.

(c) Special Assessments against the Parcel Owners and all other fees, dues and charges, including assessments for the creation of reasonable reserves, may be established by the Board of Directors at any regular or special meeting thereof, and shall be payable at such time or times as the Board of Directors shall direct.

(d) The Board of Directors may, from time to time, establish by a resolution, rule or regulation, specific fees, dues or charges to be paid by Parcel Owners of Parcels for any special or personal use of facilities, or to reimburse the Association for the expenses incurred in connection with the enforcement of any of the terms of this Declaration. Such sums shall be payable by the affected member at such time or times as shall be established by the resolution, rule or regulation.

(e) The Association shall prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Parcel Owner. The Association shall, upon request, furnish any Parcel Owner a certificate in writing signed by an officer of the Association, setting forth whether his assessment has been paid and/or the amount which is due as of any date. As to parties without knowledge of error, who rely thereon, such certificates shall be conclusive evidence of payment or partial payment of any assessment therein stated having been paid or partially paid.

(f) Developer may establish a Working Capital Fund for the initial months of operation of the Association, which shall be collected from each Parcel purchaser at the time of conveyance of each Parcel to such purchaser in an amount equal to two months of the annual assessment for each Parcel. Each Parcel's share of the Working Capital Fund shall be collected and transferred to the Association at the time of closing of the sale of each Parcel. The purpose of this fund is to assure that the Association's Board of Directors will have cash available to meet any legitimate Association expense, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. Amounts paid into the fund at closing are not to be considered advance payment of any assessments under this Article V, and are not refundable or transferable. In the event that during the startup of the Association, the Association does not have adequate working capital to meet its expenses, the Developer may, but is not obligated, to advance funds on behalf of the Association, and if such advances are made by the Developer then they shall be reimbursed to the Developer by the Association from such Working Capital Fund.

**Section 5. Effect of Nonpayment of Assessments; Remedies of the Association.** If any assessment is not paid within thirty (30) days after the due date a late fee of \$25.00, beginning from the due date, may be levied by the Board of Directors for each month the assessment is unpaid. The Association may at any time thereafter bring an action at law against the Parcel Owner personally obligated to pay the same, and/or foreclose the lien against the property. The Association shall not be required to bring such an action if it believes that the best interests of the Association would not be served by doing so. There shall be added to the assessment all costs and expenses, including attorneys' fees, required to collect same. No Parcel Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of such Parcel.

**Section 6. Subordination of the Lien to Mortgages.** As hereinabove provided in Section 2, the lien of the Association for assessments and other charges of the Association becomes effective from and after recording of a Claim of Lien in the Public Records. This lien of the Association shall be subordinate to a first mortgage on any Parcel or to a mortgage by an Institutional Mortgagee on any Parcel, which mortgage is recorded in the Public Records prior to any said Claim of Lien against the same Parcel being recorded in the Public Records. A lien for assessments shall not be affected by any sale or transfer of a Parcel; provided, however, that in the event of a sale or transfer pursuant to a foreclosure of a first mortgage, a foreclosure of a mortgage held by an Institutional Mortgagee, or a deed in lieu of foreclosure of a first mortgage or of a mortgage held by an Institutional Mortgagee, the acquirer of title, his successors and assigns, shall not be liable for assessments pertaining to the Parcel or chargeable to the former Parcel Owner of the Parcel which became due prior to such sale or transfer. However, any such unpaid assessments for which such acquirer of title is not liable, may be reallocated and assessed to all Parcels (including such acquirer of title) as an Association expense. Any such sale or transfer pursuant to a foreclosure or deed in lieu of foreclosure shall not relieve the Purchaser or Transferee of a Parcel from liability for, nor the Parcel 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 foreclosure.

**Section 7. Assessments During Class B Membership.** Notwithstanding anything to the contrary contained in this Article V, until such time as the Developer's Class B Membership in the Association terminates in accordance with the provisions of Article IV hereof, and at Developer's option, for the period of time of Developer's Class B membership, unless terminated earlier at Developer's sole discretion, Developer may be excused from payment of its share of assessments related to its Parcels, and in such event, Developer shall be responsible to pay any operating expenses incurred that exceed the assessments receivable from other Parcel Owners and other income of the Association.