

any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any such suit the prevailing party shall also be entitled to recovery of all costs and expenses including court costs and attorneys' fees.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time and from time to time upon approval of Owners who are entitled to vote a majority of all votes of the Association and the execution and recordation of an instrument containing a certification by the President and Secretary of the Association that the amendment is duly adopted, PROVIDED that for the period of time Developer owns one (1) or more Parcels, the Developer's written consent must first be obtained; and FURTHER PROVIDED, that for so long as Class B membership in the Association exists, the Declaration may be amended by the execution and recordation of an instrument executed solely by a majority of the Board of Directors. Notwithstanding any of the above, for such time that Developer owns one or more Parcels, Developer's written consent must first be obtained to any amendment. The Developer shall have the right at any time within five (5) years from the date hereof to amend this Declaration to correct scrivener's errors or to clarify any ambiguities determined to exist herein. No amendment shall alter the subordination provisions of this Declaration without the prior approval of any mortgagee enjoying such protection. It is further provided that in order to be effective any amendment to this Declaration must be recorded in the Public Records of Palm Beach County, Florida.

Notwithstanding anything contained herein to the contrary, the prior written approval of the South Florida Water Management District is required for any amendments to this Declaration that could affect the surface water management system.

**Section 4. Notices.** Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

**Section 5. Leasing of Parcels.** In the event a Parcel Owner leases said Parcel Owner's Parcel, such lease shall contain a covenant that the Lessee acknowledges that the Parcel is subject to this Declaration of Covenants and is familiar with the provisions hereof, including the uses and restrictions contained herein, and agrees to abide by all such provisions. In the event a lease of a Parcel does not contain language to the effect of the foregoing, then the Association may declare the lease void and take such further action as the Association deems applicable, including a "removal action" against the tenant and the Parcel Owner. All costs and expenses of the foregoing shall be the cost and expense of such Parcel Owner. The Parcel Owner shall be liable and fully responsible for all acts of Parcel Owner's Lessee and responsible for the compliance of the Lessee of all provisions of this Declaration. Further, in no event shall a Parcel be leased more than one (1) time in one (1) calendar year and in no event shall any such lease have a term of less than six (6) months.

**Section 6. Permits, Licenses and Easements.** The Association shall have the right to grant permits, licenses and easements over, upon, across, under and through the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Community, as so determined by the Board of Directors of the Association.

**Section 7. Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by eighty percent (80%) of all the votes entitled to be cast by all of the Voting Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article V hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Developer or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

## ARTICLE XII

### INFORMATION TO LENDERS AND PARCEL OWNERS

**Section 1. Records Available.** The Association shall make available to Parcel Owners and to lenders, and to holders, insurers, or guarantors of any first mortgage on any Parcel, current copies of this Declaration of Covenants, the Articles of Incorporation or By-Laws of the Association, other rules concerning these Properties and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

**Section 2. Financial Statement.** Any holder of a first mortgage upon a Parcel shall be entitled, upon written request, to a financial statement of the Association for the immediately preceding fiscal year.

**Section 3. Notices.** Upon written request to the Association by a holder, insurer, or guarantor of any mortgage of a Parcel (hereinafter referred to as "Lender"), which written request shall identify the name and address of the Lender and the Parcel number and address thereof, the Lender will be entitled to timely written notice of:

- (a) Any condemnation loss or casualty loss which affects either a material portion of the Properties, or the Parcel securing its mortgage;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner of a Parcel subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of mortgage holders.

**Section 4. Conflicts.** As determined by Developer, there may be incorporated as part of this Declaration, and, where applicable, the Articles and By-Laws of the Association, any and all provisions which now or hereafter may be required under the regulations or guidelines of FNMA, FHLMC, GNMA, VA and FHA so as to make any first mortgage encumbering a Parcel eligible for purchase by FNMA, FHLMC or GNMA, and eligible under VA or FIIA, and such provisions shall supersede any conflicting matters contained in this Declaration, the Articles or By-Laws, except to the extent compliance with any regulation or guideline is waived by FNMA, FHLMC, GNMA, VA or FHA.

Should FNMA, FHLMC, GNMA, VA or FIIA require an amendment to this Declaration, the Articles or By-Laws, then such amendment may be made and filed by the Developer or Association without regard to any other provisions herein contained regarding amendments, and without any requirement of securing the consent of any Parcel Owner.

Further, in the event of any inconsistency between this Declaration and the Declaration of Covenants and Restrictions for Hickory Lakes Planned Parcel Development and Hickory Lakes Planned Commercial Development, the provisions of the latter mentioned document shall supersede, govern and control.

### ARTICLE XIII

#### INSURANCE

**Section 1. Parcels.** Since this Association is created solely for the purpose of providing maintenance services, as herein described, there are no provisions herein as to the procuring of insurance on any Parcel. Such insurance shall be obtained by each Owner. The Association has no obligation whatsoever regarding Parcel insurance.

**Section 2. Common Areas.** The Association shall purchase and maintain a policy of property insurance covering all the Common Areas (except land, foundation, excavation and other items normally excluded from coverage) and any common personal property and supplies. This insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils normally covered by a standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available. This policy shall be in an amount equal to one hundred percent (100%) of current replacement cost of the Common Areas, exclusive of land, foundation, excavation and other items normally excluded from coverage. The policies may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association. The Association shall also obtain, if available, the following special endorsements: "Agreed Amount" and "Inflation Guard Endorsement".

**Section 3. Liability Insurance.** The Association shall maintain comprehensive general liability insurance coverage covering all of its maintenance activities. The coverage shall be at least for One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with its maintenance activities, and legal liability arising out of lawsuits related to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified by any party, without at least ten (10) days' prior written notice to the Association.

**Section 4. Fidelity Bonds.** The Association shall maintain a blanket fidelity bond for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds or administered by the Association. In the event the Association delegates some or all of the responsibility for