

The Association shall further have the obligation and responsibility for the hiring of certain personnel and purchasing and maintaining such equipment as may be necessary for maintenance, repair, upkeep and replacement of any Common Properties and facilities which may be located thereon, the performance of any of its maintenance obligations and performance of such other duties as are set forth herein, as follows:

(a) Notwithstanding the foregoing, the Association may, but is not obligated to, employ security guard(s) or a security guard service. If a security guard(s) or security guard service is employed by the Association, the Board of Directors shall determine, in its sole discretion, the schedule and cost of expense of security guard(s) or security guard service. Developer, while in control of the Association, does not intend to hire or pay for security guard(s) or a security guard service.

(b) The Association shall maintain the Common Properties and pay the real property ad valorem taxes and governmental liens assessed against the Common Properties and billed to the Association. Any Common Properties which are to be maintained by the Association as provided herein shall be maintained in good condition and repair. Should real property ad valorem taxes or governmental liens as to any Common Properties be assessed against the billed Lots, the Board of Directors shall have the right to determine, in its sole discretion, if the Association should pay all or any portion of said bill(s) for taxes or liens, and such amount as they determine should be paid by the Association shall be levied as a Special Assessment pursuant to Article VIII of this Declaration.

(c) The Association shall maintain all landscaping islands and all landscaping and/or signage located, placed, installed or erected thereon.

(d) In the event the Association in the future acquires any Common Properties, the Association shall obtain, maintain and pay the premiums for the hazard insurance, flood insurance, liability insurance and fidelity bond coverage as set forth below and as consistent with state and local insurance laws, and such other types of insurance as the Board may deem advisable:

(i) Hazard insurance covering all Common Properties, except for land foundations and excavations, and all common personal property and supplies. The policy must protect against loss or damage by fire and all other hazards normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement. The policy shall cover one hundred percent (100%) of the current replacement cost of all covered facilities and shall include the following endorsements: agreed amount and inflation guard (if available), construction code (if the local construction code requires changes to undamaged portions of buildings even when only part of the Property is destroyed by an insured hazard), and steam boiler coverage providing at least Fifty Thousand Dollars (\$50,000.00) coverage for each accident at each location.

(ii) Flood insurance covering the Common Property buildings and any other common personal property if any part of the project is in a special flood hazard area as defined by the Federal Emergency Management Agency. The amount of flood insurance shall be for not less than the lesser of (i) one hundred percent (100%) of the current replacement

cost of all buildings and insurable property within the flood hazard area, and (ii) the maximum coverage available for the Property under the National Flood Insurance Program.

(iii) Comprehensive general liability insurance covering all Common Properties and any other areas under the Association's supervision, including public ways and commercial spaces owned by the Association. The policy must provide coverage of at least One Million Dollars (\$1,000,000.00) for bodily injury and property damage for any single occurrence. The policy must cover bodily injury and property damage resulting from the operation, maintenance or use of the Common Properties and other areas under the Association's control and any legal liability resulting from law suits related to employment contracts to which the Association is a party. The policy must provide for at least ten (10) days' written notice by the insurer to the Association prior to cancellation or substantial modification.

(iv) Fidelity bond coverage for any person (including a management agent) who either handles or is responsible for funds held or administered by the Association, whether or not such persons are compensated for such services. The bond shall name the Association as an obligee and shall cover the greater of (i) the maximum funds that will be in the custody of the Association or its management agent while the bond is in force, and (ii) the sum of three (3) months' General Assessments on all Lots plus the Reserve Fund. The bond shall provide for ten (10) days' written notice to the Association and all servicers of FNMA-owned mortgages in the Property prior to cancellation of or substantial modification to the bond.

(e) The Association shall care for and maintain any entryway walls and signage intended for and/or identifying the Property and shall maintain any landscaping located within the Common Property, road right-of-way or any landscaping easement which is owned by or runs in favor of the Association, which maintenance activities may, but not necessarily will, include without limitation any of the following: replacement and/or replanting of existing landscaping, excavation, construction of berms, end installation, maintenance and repair of irrigation facilities.

(f) The Association shall care for and maintain all grass and lawn areas within the Property, including, but not limited to, lawns or grass located on any Lot. The Association shall also be responsible for irrigation on all grass and lawn areas within the Property, and the costs of such irrigation shall be a part of the General Assessment as defined herein.

(g) The Association shall care for and maintain any lakes located wholly on the Property. In addition, the Association shall have the power to contract with any other association or entity to share the expense of maintaining any lake which is not located wholly on the Property but which is contiguous to any portion of the Property, and such contractual obligations shall be a valid expense of the Association.

The foregoing constitutes the basic and general expenses of the Association, and said expenses are to be paid by members of the Association as hereinafter provided, except as otherwise provided herein. It shall be the duty and responsibility of the Association, through its Board of Directors, to fix and determine from time to time the sum or sums necessary and

adequate to provide for the expenses of the Association. The procedure for the determination of such assessments shall be as hereinafter set forth in this Declaration or the By-Laws or the Articles of Incorporation. The Board of Directors shall have the power and authority to levy a Special Assessment, should one become necessary, as determined by it in its sole discretion, and said Special Assessment shall be determined, assessed, levied and payable in the manner determined by the Board of Directors as hereinafter provided in this Declaration or the Articles of Incorporation or the By-Laws. A General Assessment shall be payable in advance or monthly, quarterly, or on a semi-annual or annual basis or otherwise as determined by the Board of Directors.

**Section 2. Management Contracts and Leases of Common Property.** The Association shall expressly have the power to contract for the management of the Association and/or the Common Property, if any, and to lease the recreation areas, further having the power to delegate to such contractor or lessee any or all of the powers and duties of the Association respecting the contract granted or property demised. The Association shall further have the power to employ administrative and other personnel to perform the services required for proper administration of the Association.

The undertakings and contracts authorized by the first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership of the Association; provided, however, that any management contract entered into by the Association prior to the election of such first Board shall be terminable by the Association without, cause or penalty at any time after such election upon not more than ninety (90) days' advance notice.

**Section 3. Easements.**

(a) Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat or as heretofore granted by Developer. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channel in the easements, or which may obstruct or retard the flow of water through drainage channel in the easements, or which are or might be prohibited by the public authority to whom said easement is given.

(b) Easements over, under, across and through each Lot are hereby expressly granted to the Association for the purpose of making any repairs or performing any maintenance provided for or required by this Declaration, regardless of whether such repairs or maintenance directly benefit the Lot upon which they are performed.

(c) The easement area of each Lot and all improvements in it shall be maintained by the Homeowner of the Lot, except for those improvements for which a public authority or utility company is responsible.

**Article VII: Maintenance of Units and Lots and  
Improvements and Landscaping Thereon**

Section 1. Homeowners. Each Homeowner shall be responsible for the maintenance, repair and replacement of all improvements (including landscaping to the extent maintenance responsibilities are not assumed by the Association) on his Lot and such other areas as are provided herein. Any area or matter not specifically required to be maintained, repaired or replaced by the Association shall be maintained, repaired and replaced by the Homeowner.

Section 2. Failure to Maintain Lots. In the event a Homeowner of any Lot shall fail to maintain or repair the Lot, the improvements thereon or the landscaping thereon, if any, within thirty (30) days' written notice of same, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot, any improvements thereon and the landscaping thereon. The cost of same shall be added to and become part of the assessment to which said Lot is subject, and said cost shall be a lien upon said Lot with the same force and effect and the liens on Lots for assessments as provided in this Declaration and the Articles of Incorporation and the By-Laws.

**Article VIII: Covenant for Assessments**

Section 1. Assessments Established. Each Homeowner of any Lot, by acceptance of a deed to such Lot, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association:

- (a) General Assessments, as defined in Section 2 of this Article; and
- (b) Special Assessments, as defined in Section 6 of this Article; and
- (c) Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as provided in Section 7 of this Article; and
- (d) All taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.

All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each assessment is made as provided in Section 9 of this Article. Each such assessment, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, also is the personal obligation of the person or persons who was or were the Homeowner(s) of such Lot when such assessment fell due.

Section 2. Purpose of Assessments; General Assessment. The assessments levied by the Association must be used exclusively to promote the common good and welfare of the residents, to operate and manage the Association and the Common Properties, if any, and to perform such duties as may be required by this Declaration and the Articles of Incorporation

and By-Laws of the Association. To effectuate the following, the Association may levy an annual general assessment ("General Assessment") to provide and be used for the operation, management and all other general activities and expenses of the Association.

Section 3. Initial General Assessment. The initial General Assessment shall be Ninety-Five Dollars (\$95.00) per month and will remain in effect until a different General Assessment may be determined as provided in Section 4 of this Article.

Section 4. Determination of General Assessment. Except with regard to the initial General Assessment, the amount of the General Assessment shall be fixed by the Board of Directors at least thirty (30) days in advance of each General Assessment period, and shall be based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Except for the initial General Assessment, written notice of the amount of the General Assessment should be given to every Homeowner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid assessment. The General Assessment must be payable in equal monthly installments without interest until delinquent, and prepayable in whole at any time or times during the applicable assessment period without penalty or other consideration. At the discretion of the Board of Directors, the General Assessment may be collected on a quarterly, semi-annual or annual basis rather than collected each month.

Section 5. Guarantee of Assessments by Developer. For the initial fiscal year of the Association, Developer guarantees to each Homeowner that the amount of the General Assessment to be paid by Homeowners for that year shall not exceed the amount of the initial General Assessment as described in Section 3 of this Article. Upon commencement of the second fiscal year of the Association, the aforementioned guarantee shall continue to exist on a month-by-month basis until (a) the end of the next month following Developer's delivery of written notice to the Association stating Developer's decision to no longer guarantee the amount of the General Assessment, or (b) upon the transfer of control of the Association from Developer to the Homeowners, whichever shall occur first. During any period of existence of the aforementioned guarantee, Developer shall not be responsible for the payment of assessments on Lots it owns but shall fund any budget deficit for that particular fiscal year. The guarantee of the General Assessment by Developer shall not preclude the levying of Special Assessments against the Homeowners to defray the costs of Association expenses not contemplated under the Association's estimated operating budget for that fiscal year.

Upon termination of the aforementioned guarantee, Developer shall be responsible for the payment of assessments only upon Lots which it owns and on which a Dwelling has been constructed for which a certificate of occupancy has been issued.

Section 6. Special Assessments. In addition to the General Assessment, the Association may levy in any fiscal year a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, known expenses which exceeded, or when mature will exceed, the budget prepared and on which the General Assessment was based, or as described in Section 5 of this Article. Notwithstanding the foregoing, no Special Assessment against the Homeowners shall exceed one-twelfth (1/12th) of the total of the General Assessments levied against the Homeowners for that fiscal year

without the prior approval of seventy-five percent (75%) of the total number of votes in the Association.

Section 7. Specific Assessments. Any and all accrued liquidated indebtedness of any Homeowner to the Association arising under any provision of this Declaration also may be assessed by the Association against such Homeowner's Lot after such Homeowner fails to pay it when due and such default continues for thirty (30) days after written notice.

Section 8. Uniformity of Assessments. The General Assessment and any Special Assessment must be uniform for each Homeowner throughout the Project.

Section 9. Commencement of General Assessment. The General Assessment as to each Lot owned by a Homeowner other than the Developer commences on the first day of the month following the closing of the purchase of the respective Lot by the Homeowner from Developer.

Section 10. Lien for Assessment. All sums assessed against any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums validly secured by any First Mortgage encumbering such Lot. Except for liens for all sums validly secured by any such First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Article, whether or not such consent is specifically set forth in the instrument creating such lien. The recording of this Declaration constitutes constructive notice to all subsequent purchasers and/or creditors of the existence of the Association's lien and its priority. The Association from time to time may record a Notice of Lien for the purpose of further evidencing the lien established by this Article, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the Association's lien.

Section 11. Certificate. Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certificate signed by an officer of the Association setting forth whether the General Assessment and any Special Assessment or Specific Assessment have been paid and, if not, the unpaid balance(s).

Section 12. Remedies of the Association. Any assessment not paid within thirty (30) days after its due date bears interest at the rate of eighteen percent (18%) per annum or such other rate as may be from time to time determined by the Board, provided, however, that such rate shall not exceed the maximum rate allowed by law not constituting usury. The Association may bring an action at law against the Homeowner personally obligated to pay such assessment, or foreclose its lien against such Homeowner's Lot. No Homeowner may waive or otherwise escape liability for the Association's assessments. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority.

Section 13. Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the

Homeowner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Homeowner also is required to pay to the Association any assessments against the Lot that become due during the period of foreclosure, which assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Homeowner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its Homeowner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction over the foreclosure may enter a personal judgment against the Homeowner for such deficiency.

Section 14. Subordination of Lien. Except where a notice of lien has been filed in the public records prior to the recording of a valid First Mortgage, the lien for the assessments provided in this Article is subordinate to the lien of any such First Mortgage. Sale or transfer of any Lot does not affect the assessment lien. The Association may give any encumbrancer of record thirty (30) days' notice within which to cure such delinquency before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Article; upon such payment, such encumbrancer will be subrogated to all rights of the Association with respect to such lien, including priority.

Section 15. Homesteads. By acceptance of a deed to any Lot, each Homeowner is deemed to acknowledge conclusively and consent that all assessments established pursuant to this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 16. Reserve Fund. In the event the Association in the future acquires any Common Properties, then the Association shall maintain a reserve fund to be used solely for making expenditures in connection with the Common Properties ("Reserve Fund"). The Board shall determine the appropriate level of the Reserve Fund based on a periodic review of the useful life of the improvements to the Common Properties and equipment owned by the Association, as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Properties, the purchase of equipment to be used by the Association in connection with its duties hereunder, or performance of required maintenance. Each budget shall disclose that percentage of the General Assessment which shall be added to the Reserve Fund and each Homeowner shall be deemed to make a contribution to the Association equal to such percentage multiplied by each installment of the General Assessment paid by such Homeowner.

Section 17. Initial Funding of Working Capital Fund. At the time the initial sale of each Lot is closed, the purchaser of the Lot shall pay to the Association an amount equal to two (2) times the initial monthly General Assessment for such Lot ("Initial Working Capital Fund Payment"). This sum shall be used and applied for start-up costs and as a working capital fund in connection with all initial operating expenses for the Association. This payment shall not be refundable or applied as a credit against the Homeowner's payment of assessments.

*amended  
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**Section 18. Greater Sun City Center Beautification Corporation.** The Property is subject to the Master Beautification Declaration for Greater Sun City Center as amended from time to time and recorded in the public records of Hillsborough County, Florida ("Master Beautification Declaration"). Accordingly, each Lot is subject to the terms and provisions of the Master Beautification Declaration and each Homeowner by virtue of his acceptance of a deed or other instrument of conveyance of his Lot shall become a member of the Greater Sun City Center Beautification Corporation, a Florida not-for-profit corporation, hereinafter referred to as the "Master Beautification Association." The President of the Association shall be the designated representative of all Homeowners in their role as members of the Master Beautification Association.

The principal purpose of the Master Beautification Association shall be to undertake the maintenance of landscaping and other beautification features of the medians and rights of way along Sun City Center Boulevard at a level higher than would otherwise be achieved by county, state or other governmental bodies as are described in the Master Beautification Declaration. The board of directors of the Master Beautification Association shall determine the budget required to accomplish such projects, collect the funds necessary to fund the Association's obligations and determine when such assessments are due. If the Association levies an assessment against each Homeowner on the basis of their membership in the Master Beautification Association, then the sums due and owing from each Homeowner shall be secured by a lien upon the Lot of each of the respective Homeowner members, and said lien is subject to being foreclosed in the same manner as mortgages are foreclosed in the State of Florida. The amount secured by such lien shall include all costs as well as court costs and reasonable attorneys' fees incurred to collect such sum, whether in or out of court, as well as the amount of unpaid assessment applicable thereto and interest thereon. The Master Beautification Declaration may be amended to institute additional mechanisms for funding the Master Beautification Association budget.

**Section 19. Additional Master Association.** In the event the Association, or its members, become members of a master community association, master association, or umbrella association ("Master Association") in addition to the Master Beautification Association, or as is otherwise described herein, then and in that event the Association shall have the power to:

(a) levy and collect on its own behalf as part of the General Assessment an amount equal to the amount levied upon the Association by the Master Association; or

(b) collect on behalf of the Master Association as part of the General Assessment or as a separate charge an amount equal to the amount levied upon the Association's members by the Master Association.

### **Article IX: Membership in Community Association**

**Section 1. Membership.** Each Resident of a Unit (not exceeding two (2) Residents, unless otherwise provided by the board of directors of the Community Association) which is subject to assessment pursuant to Section 2 of this Article is hereby declared to be a member of the Community Association ("Community Association Member"). Community Association



Membership is appurtenant to and shall not be separated from a Unit. Each Homeowner, by acceptance of a deed or other conveyance of the Unit thereby, whether this Declaration or such mention is made a part of, incorporated by reference in, or expressed in such deed or conveyance, subjects his Unit to all of the obligations, burdens and benefits of this Article and thereby subjects said Unit and the Community Association Members connected with such Unit to all rules, regulations and authorities of the Community Association and its articles of Incorporation and by-laws.

**Section 2. Creation of the Lien and Personal Obligation for Assessments.** Each Homeowner (excluding Developer, its affiliates, the Association and the Community Association), by acceptance of a deed to a Unit, whether or not it shall be so expressed in such deed or other conveyance for a Unit, hereby covenants and agrees and shall be deemed to covenant and agree, personally and unconditionally, and if there is more than one Homeowner of such Unit, jointly and severally, to pay to the Community Association such assessments as are levied by the Community Association. Such assessments, together with interest thereon and the cost of collection, if any, as provided in the articles of Incorporation and by-laws of the Community Association, shall be a charge and a continuing lien upon the Unit against which such assessment is made and upon the membership(s) appurtenant thereto. Each such assessment, together with such interest and costs thereon, shall also be a personal obligation of the Homeowner who was the Homeowner of such Unit at the time when the same fell due.

**Section 3. Non-Payment of Assessments.**

(a) Any assessment or installment thereof levied by the Community Association which is not paid when due shall be delinquent. In the event of a delinquent installment of any such assessment, the board of directors of the Community Association may, upon ten (10) days' notice to the Homeowner, accelerate the maturity of all remaining installments due with respect to the then current budget year.

The Community Association shall have a lien for unpaid assessments, together with interest thereon, against such Unit and on all tangible personal property located within the Unit, subordinate to prior bona fide liens of record. Reasonable attorneys' fees incurred by the Community Association incidental to the collection of such assessments, or the enforcement of such lien, together with all sums advanced and paid by the Community Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Community Association in order to preserve and protect its lien, shall be payable by the Homeowner of the Unit and secured by such lien. The Community Association may take such action as it deems necessary to collect such assessments by personal action or by enforcing and foreclosing said lien and may settle and compromise the same if deemed in its best interest. The Community Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid all sums due as provided herein, covered by the lien enforced.

(b) Whenever a person acquires title to a Unit through foreclosure of a First Mortgage or deed in lieu of foreclosure of a First Mortgage, he shall not be liable for the assessments levied by the Community Association with respect to such Unit or chargeable to the former Homeowner of such Unit, if (i) said assessments became due prior to acquisition

of title as a result of the foreclosure or the acceptance of a deed in lieu of foreclosure of a first mortgage, and (ii) such assessments are not secured by a claim of lien for assessments that is recorded prior to the recording of the foreclosed mortgage. Said unpaid assessments shall be deemed to be an expense of the Community Association collectible from assessments levied by the Community Association. Notwithstanding the foregoing, such sale or transfer shall not relieve the Unit and the acquirer, his successors and assigns from liability for any assessments thereafter becoming due, or from the lien of any such subsequent assessment.

(c) Any person who acquires an interest in a Unit, except through foreclosure of a First Mortgage, or acceptance of a deed in lieu of foreclosure of a First Mortgage, as specifically provided hereinabove, including, without limitation, persons acquiring title by operation of law (including purchasers at judicial sales), shall be liable for the payment of any unpaid assessments due and owing by the former Homeowner(s) of such Unit. The Community Association may assign its claim and lien rights for the recovery of any unpaid assessments to any Homeowner or Homeowners of Units, or to any third party.

(d) Any and all rights and remedies provided herein may be exercised at any time and from time to time, cumulatively or otherwise. The Community Association's rights and remedies may be waived only by written authority of the Community Association's board of directors, and any such waiver shall not constitute a continuing waiver or be renewed or extended without such written authority.

Section 4. Binding Effect. Notwithstanding anything in this Declaration to the contrary, the covenants, conditions and restrictions set forth in this Article shall run with and bind the Property and any additional property submitted to this Declaration and shall inure to the benefit of and be enforceable by the Community Association and/or the Homeowner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date that this Declaration is recorded, after which time the same shall be automatically extended for successive periods of ten (10) years unless, prior to the end of such thirty (30) year period or the ten (10) year period then in effect, as the case may be, there shall be recorded in the public records of Hillsborough County, Florida: (i) an instrument modifying or abolishing any of the provisions hereof signed by the then Homeowners and their mortgagees representing seventy-five percent (75%) or more of the Units which are subject to the provisions of this Declaration; and (ii) a certification by the Association to the adoption by the Board of resolutions recommending such modification or abolition to the Community Association Members.

Section 5. Amendment. Notwithstanding anything herein to the contrary, this Article may only be amended by recording of an instrument, executed by the President and attested to by the Secretary of the Community Association, indicating that seventy-five percent (75%) of the votes of all Community Association Members approved such amendment. No amendment shall be effective unless: (i) so long as the Developer is still in title to any part of the Property, the Developer shall join therein; and (ii) written notice of the amendment is sent to every Community Association Member, Homeowner and mortgagee appearing in the records of the Community Association, at least ninety (90) days in advance of any action taken. In addition, no amendment shall be effective if the effect of the amendment would be either to unreasonably deprive Homeowners of their rights and interests in the Community Association or to impose a substantially greater economic burden upon

individual Homeowners, unless such amendment is executed by or consented to by all the Homeowners.

Section 6. Special Amendments. Anything herein to the contrary notwithstanding, the Developer reserves the right and power to record a special amendment ("Special Amendment") to this Declaration, at any time and from time to time, which amends this Article: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Units; (iii) to correct clerical or typographical errors in this Article; (iv) to bring this Article into compliance with applicable laws, ordinances or governmental regulations; (v) to bring this Article into compliance with that certain agreement, as amended from time to time, between Sun City Center Corp., and the Community Association, which agreement has an effective date of January 26, 1984; or (vi) to minimize any federal or state income tax liability of the Community Association. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Developer to make or consent to a Special Amendment on behalf of each Homeowner and the Community Association. Each deed, Mortgage, trust deed, other evidence of obligation, or other instrument effecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Developer to make, execute and record Special Amendments. The right and power to make Special Amendments hereunder shall terminate on December 31, 2001.

#### Article X: Miscellaneous Provisions Respecting Mortgages

The following provisions are intended for the benefit of a First Mortgagee and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

Section 1. Notices of Overdue Assessments; Foreclosure. Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded First Mortgage on a Lot ("Insurer or Guarantor") and the Lot number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of such Lot owner's obligations under this Declaration which is not cured within sixty (60) days. Any First Mortgagee of a Lot who comes into possession of the said Lot pursuant to the remedies provided in the Mortgage, foreclosure or a deed in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Lot which become due prior to (i) the date of the transfer of title, or (ii) the date on which the holder comes into possession of the Unit, whichever occurs first.

Section 2. Rights of First Mortgagees, Insurers and Guarantors. Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

(a) to examine current copies of this Declaration, the By-Laws, all rules and regulations, and the books and records of the Association during normal business hours;

(b) to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Homeowners at the end of each of its respective fiscal years; provided, however, that in the event an audited financial statement is not available, any First Mortgagee shall be entitled to have such an audited statement prepared at its expense;

(c) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

(d) to receive written notice of any decision by the Homeowners to make a material amendment to this Declaration, the By-Laws or the Articles of Incorporation;

(e) to receive written notice of any lapse, cancellation or modification of an insurance policy or fidelity bond maintained by the Association; and

(f) to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

**Section 3. Distribution of Proceeds.** No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to the Property or the Lots therein shall be deemed to give a Homeowner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Homeowners of insurance proceeds or condemnation awards for losses to or a taking of the Lots, and/or the Common Property, or any portion thereof or interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

**Section 4. Fannie Mae Requirements.** Unless the First Mortgagees on the Individual Lots which represent at least fifty-one percent (51%) of the votes of Lots that are subject to First Mortgages and sixty-seven percent (67%) of the total allocated votes of Class A and Class B members have given their approval, neither the Association nor the Homeowners shall be entitled to:

(a) amend this Declaration, the Articles of Incorporation or the By-Laws concerning:

(i) voting rights;

(ii) increases in assessments that raise the previous assessment by more than twenty-five percent (25%), assessment liens or the priority of assessment liens;

(iii) reductions in reserves for maintenance, repair and replacement of the Common Properties;

(iv) hazard or fidelity insurance requirements;

- (v) rights to use of the Common Properties;
  - (vi) responsibility for maintenance and repair of the Property;
  - (vii) boundaries of any Lot;
  - (viii) convertibility of Lots into Common Properties or of Common Properties into Lots;
  - (ix) leasing of Lots;
  - (x) imposition of any right of first refusal or similar restriction on the right of a Homeowner to sell, transfer, or otherwise convey his or her Lot;
  - (xi) any provisions which expressly benefit First Mortgagees, Insurers or Guarantors;
- (b) terminate professional management of the Project and establish self-management thereof where professional management had been previously required by a First Mortgagee;
  - (c) restore or repair the Project (after hazard damage or a partial condemnation) in a manner other than specified in this Declaration; or
  - (d) take any action to terminate the legal status of the Project after substantial destruction or condemnation thereof.

**Section 5. Termination of the Project.** Unless the First Mortgagees of the individual Lots representing at least sixty-seven percent (67%) of the votes in the Association have given their prior written approval, neither the Association nor the Homeowners shall be entitled to terminate the legal status of the Project for reasons other than substantial destruction or condemnation thereof.

**Section 6. Notice of Damage, Destruction or Condemnation.** Upon specific written request to the Association, each First Mortgagee, Insurer or Guarantor of a Lot shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Property if such damage or destruction or taking exceeds Ten Thousand Dollars (\$10,000.00). If damages shall occur to such Lot in excess of One Thousand Dollars (\$1,000.00), notice of such event shall also be given.

**Section 7. Condemnation; Priority of Awards.** If any Lot, Unit thereon or portion thereof or the Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Lot will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition, and no provisions of any document will entitle the Homeowner of such Lot or other party to priority over such First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.

## **Article XI: Damage, Destruction, Condemnation and Restoration of Improvements**

**Section 1. Damage, Destruction and Restoration.** In the event the Improvements forming a part of the Common Property, or any portion thereof, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus the Reserve Fund, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds and, if necessary, the Reserve Fund shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event, within one hundred eighty (180) days after said damage or destruction, the Homeowners shall elect to withdraw the Property from the provisions of this Declaration, or if the insurance proceeds and the Reserve Fund are insufficient to reconstruct the damaged or destroyed Improvements to the Common Property and the Homeowners and all other parties in interest do not voluntarily make provision for reconstruction within one hundred eighty (180) days from the date of damage or destruction, then such repair, restoration, or reconstruction shall not be undertaken. In the event such repair, restoration, or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Homeowners, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

**Section 2. Withdrawal of Property From Declaration.** In the case of damage or other destruction, upon the unanimous affirmative vote of the Homeowners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from this Declaration. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Homeowners, shall be on an equitable basis. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease.

**Section 3. Eminent Domain.** In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portion so taken from the provisions of this Declaration may be made by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Homeowner shall be on an equitable basis. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Property shall be allocated to the Homeowners on the basis of an equal share for each Lot. Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease. The Association shall represent the Homeowners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Property or any part thereof. In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the Association among all Homeowners on the basis of

an equal share for each Lot, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

### **Article XII: Termination of the Project**

At a meeting called for such purpose and attended by all Homeowners, the Homeowners, by affirmative vote of one hundred percent (100%) of the Homeowners, may elect to terminate the legal status of the Project and sell the Common Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to all First Mortgagees, Insurers and Guarantors entitled to notice under Article IX of this Declaration. Such action shall be binding upon all Homeowners, and it shall thereupon become the duty of every Homeowner to execute and deliver such instruments and to perform all acts in manner and form as may be necessary to effect such termination and sale. The Association shall represent the Homeowners in any negotiations, settlements and agreements in connection with termination of the Project and sale of the Common Property, and any proceeds obtained therefrom shall be first used to pay all expenses and outstanding obligations of the Association and the remainder, if any, shall be divided among all Homeowners on the basis of an equal share for each Lot.

### **Article XIII: Operation**

The provisions of this Declaration are self-executing and will run with the land and be binding upon all persons having any right, title, or interest therein, or any part, their respective heirs, successors, and assigns.

### **Article XIV: General Provisions**

Section 1. **Enforcement.** Unless expressly provided otherwise, the Association, or any Homeowner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, charges, rules, and regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If the Association or any person entitled to enforce any of the provisions of this Declaration is the prevailing party in any litigation involving this Declaration or any rule or regulation, such party may recover from the losing party all costs and expenses incurred, including reasonable attorneys' fees for all trial and appellate proceedings, if any. If the Association is the losing party against any Homeowner, such costs and expenses, including reasonable attorneys' fees, payable to the prevailing party and those incurred by the Association itself, may be assessed against such Homeowner's Lot, as provided in Article VIII of this Declaration. Failure by the Association or by any Homeowner to enforce any covenant, restriction, rule, or regulation will not constitute a waiver of the right to do so at any time.

Section 2. **Amendment.** Subject to the provisions of Article X of this Declaration and as may be otherwise provided herein, Developer may amend this Declaration by an instrument executed with the formalities of a deed without the approval or joinder of any other party at any time prior to two (2) years after the date on which Developer shall have conveyed ninety percent (90%) of the Lots on the Property. Subject to the provisions of Article X of this Declaration and as may be otherwise provided herein, two (2) years after Developer shall have

*amended  
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