

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:
SCOTT WEISBURD, ESQ.
WEISBURD, EISEN & POSSENTI, P.A.
7700 North Kendall Dr., Suite # 707
Miami, Florida 33156

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HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**AMENDMENT TO, AND RESTATEMENT OF,
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR CENTURY BREEZE EAST
(A COMMUNITY KNOWN AS KENDALL BREEZE EAST)**

WHEREAS, CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company (the "Developer"), filed that certain Declaration of Covenants and Restrictions for KENDALL BREEZE EAST (the "Declaration") on May 19, 2005, in Official Records Book 23389, at Page 3654, of the Public Records of Miami-Dade County, Florida; and,

WHEREAS, the Developer desires to amend the Declaration to delete any and all references to the creation of a Community Development District, and restate the Declaration in its entirety as more particularly set forth on Exhibit "A" attached hereto and made a part hereof.

NOW, THEREFORE, the Developer, as the owner of the Property as described in the Declaration, does hereby amend the Declaration by deleting any and all references to the creation of a Community Development District as set forth in the Declaration, and does hereby restate the Declaration in its entirety as more particularly set forth in Exhibit "A" attached hereto and made a part hereof.

IN WITNESS WHEREOF, the Developer has caused this Amendment to, and Restatement of, Declaration to be duly executed and its corporate seal to be hereunto affixed this 14th day of September, 2005.

WITNESSES:

DEVELOPER:

CENTURY HOMEBUILDERS, LLC,
a Florida Limited Liability Company

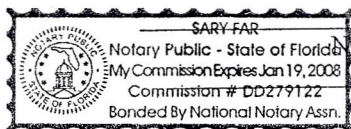
Mari-set Bellio
MARISET BELLIO.
Print or Type Name

By: *[Signature]*
SERGIO PINO, President and Manager

Pedro Hernandez
PEDRO HERNANDEZ
Print or Type Name

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing Declaration of Covenants and Restrictions for KENDALL BREEZE EAST was acknowledged before me this 14 day of September, 2005, by SERGIO PINO, as the President and Manager of CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company, on behalf of the corporation, who produced as identification.



[Signature]
NOTARY PUBLIC, State of Florida at Large
Print or Stamp Name of Notary
My Commission expires:
[NOTARIAL SEAL]



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This instrument prepared by and recorded
copies sent to:

SCOTT WEISBURD, Esq.
WEISBURD EISEN & POSSENTI, P.A.
7700 N. Kendall Dr., Suite 707
Miami Florida 33156

EXHIBIT "A"

RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR CENTURY BREEZE EAST (A COMMUNITY KNOWN AS KENDALL BREEZE EAST)

14th THIS RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS is made this
day of September, 2005, by CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability
Company (hereinafter called "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the property more particularly described on **Exhibit "A"**
attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Developer desires to create on the Property a community of single family homes,
interior roadways, parking areas, entry feature, landscaping, green areas, and irrigation system to be
known as "**KENDALL BREEZE EAST**";

WHEREAS, Developer desires to provide for the preservation and enhancement of the Property,
amenities and improvements thereon, and to this end desires to subject the Property to the covenants,
restrictions, easements, charges and liens hereafter set forth, all of which are for the benefit of the Property
and each Owner, as hereafter defined, thereof;

WHEREAS, to achieve these purposes, Developer deems it desirable to create an agency to which
shall be delegated and assigned the powers of owning, maintaining and administering common properties
and facilities as well as administering and enforcing these covenants and restrictions and collecting and
disbursing the assessments and charges hereafter created, along with promoting the health, safety and
welfare of all Owners; and,

WHEREAS, Developer has incorporated, or will incorporate, under the laws of the State of
Florida **KENDALL BREEZE EAST HOMEOWNERS' ASSOCIATION, INC.**, as a corporation not
for profit for the purpose of exercising all of the functions stated herein, which Association is not intended
to be a "Condominium Association" as such term is defined and described in the Florida Condominium
Act (Chapter 718 of the Florida Statutes).

NOW, THEREFORE, the Developer declares that the Property is and shall be held, transferred,
sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereafter
set forth which are for the purpose of protecting the value and desirability of, and which shall run with,
the Property and be binding on all parties having any right, title or interest in the Property or any part
thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I - DEFINITIONS

Section 1: "Articles" shall mean and refer to the Articles of Incorporation of the Association, a copy
of which is attached hereto as **Exhibit "B"**.

Section 2: "Assessment" shall mean and refer to any assessment or other charge as described in this
Declaration.

Section 3: "Association" shall mean and refer to **KENDALL BREEZE EAST HOMEOWNERS'
ASSOCIATION, INC.**, a not for profit corporation, its successors and assigns whose purpose is to
administer the Property in accordance with the provisions of the Land Use Documents.

Section 4: "Board" shall mean and refer to the Board of Directors of the Association, its successors
and assigns.

Section 5: "Book of Resolutions" shall mean and refer to the document containing the rules and regulations and policies adopted by the Board of Directors of the Association as the same may from time to time be supplemented or amended.

Section 6: "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto as **Exhibit "C"**.

Section 7: **INTENTIONALLY DELETED.**

Section 8: "Common Area" shall mean and refer to those areas of land, together with any improvements thereon, other than the Lots, to be conveyed to the Association and which are intended to be devoted to the common use and enjoyment of the Owners, and which shall include, by way of example, but not by way of limitation, street lights; surrounding walls and/or fences, if any; park areas, landscaped areas; and, entrance feature, if any.

Section 9: "County" shall mean and refer to Miami-Dade County, Florida.

Section 10: "Declaration" shall mean the covenants, conditions and restrictions and all other provisions hereinafter set forth in this document, as the same may from time to time be amended.

Section 11: "Developer" shall mean and refer to **CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company**, its successors and assigns. Any rights specifically reserved to Developer in any instrument of conveyance shall not inure to the benefit of its successors or assigns unless such rights are assigned by Developer in a recorded instrument to such successor or assignee and such successor or assignee accepts the obligations of the Developer. The Developer may assign or pledge any or all of its rights reserved under the Land Use Documents upon a specific designation to such assignee in an instrument of conveyance or assignment. Reference to **CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company**, as the Developer is not intended, and shall not be construed, to impose on **CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company**, any obligation or liability for the acts or omissions of third parties who purchase Lots within this community from **CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company**, and develop and resell such Lots.

Section 12: "General Plan of Development" shall mean the plan for development of the Property as approved by appropriate governmental agencies, and as the same may be amended with amendments approved by the governmental agencies involved.

Section 13: "Household Pet" shall mean dog, cat, fish or other domesticated animal.

Section 14: "HUD/VA" shall mean the Federal Housing Authority and the Veterans Administration.

Section 15: "Improvements" shall mean the green areas, entrance feature, if any; dumpster enclosures, surrounding walls and/or fences, if any; and, other private facilities that may be provided in the development of the Property.

Section 16: "Land Use Documents" shall mean and refer to this Declaration, the Articles, Bylaws and any amendments and supplements thereto.

Section 17: "Lender" shall mean and refer to **UNION PLANTERS BANK, N.A.**, and the "Lender Mortgage" shall mean and refer to the mortgages from Developer to the Lender, recorded in **Official Records Book 20958, at Page 2324**, of the Public Records of Miami-Dade County, Florida.

Section 18: "Living Unit" shall mean and refer to each detached residential unit comprised of improvements and land as the same shall be more particularly described in each deed from the Developer to each Owner.

Section 19: "Lot" shall mean any parcel of land shown upon the approved site plan of the Property upon which in the future will be located a Living Unit.

Section 20: "Maintenance" shall mean, but not be limited to, cleanup, landscaping and grounds care, repair and structural upkeep of the Common Area. The Owner of a Living Unit shall be responsible for the maintenance, repair and replacement of the Living Unit and the Lot upon which it is located.

Section 21: "Member" shall refer to all those Owners who are Members of the Association.

Section 22: "Owner" shall mean and refer to the owner of the fee simple title to any Lot, its successors or assigns, whether one or more persons or entities, as shown by the records of the Association or the

Public Records of Miami-Dade County. Owner shall not mean or refer to the holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to a foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

Section 23: "Plat", shall refer to the Plat of **CENTURY BREEZE EAST**, as recorded in Plat Book 163, at Page 46 of the Public Records of the County, and, any other plats covering property subsequently included under this Declaration.

Section 24: "Property" shall mean and refer to all real property that becomes subject to the Declaration.

Section 25: "Single Family" shall mean and refer to either a single person occupying a dwelling and maintaining a household, including not more than one authorized tenant; two or more persons related by blood, marriage or adoption occupying a dwelling and living together and maintaining a common household, including not more than one authorized tenant; or, not more than four unrelated persons occupying a dwelling as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.

Section 26: "Surface Water or Storm Water Management Systems" shall mean and refer to a system which is designed and constructed to control the discharge of water caused by rainfall, and which shall incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution which would otherwise affect the quantity and quality of discharges of water from the system.

Section 27: "Rental" shall mean rental of Living Units under the terms and conditions contained in County resolutions and ordinances regulating the rental of real property in the County and the rules and regulations of any other governmental agency regulating the rental of real property.

Section 28: "Turnover" shall mean and refer to that date upon which the Developer's control of the Board of Directors of the Association terminates and control is turned over to a Board of Director selected by the Membership of the Association.

ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS AND DELETIONS

Section 1: Property

A. Existing Property. The Property that initially is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is more particularly described on **Exhibit "A"** attached hereto and incorporated herein. The Property constitutes that certain subdivision known as **CENTURY BREEZE EAST**, pursuant to the plat thereof, as recorded in Plat Book 163, at Page 46, of the Public Records of the County, and is commonly known as **"KENDALL BREEZE EAST."**

B. Additions to or Deletions from the Property. Additional real property may, but is not required to, be added to the Property subject to this Declaration by an amendment hereto and shall include the description of such additional property, and shall subject the additional lands to the provisions of this Declaration. The Developer may also from time to time transfer portions of the Common Area and/or Lots or both by recorded supplemental declarations. Additions or deletions under this Paragraph may occur within 30 years from the date this Declaration is recorded. Such additions or deletions may be accomplished by the Developer provided the annexation or deletion is in accord with this Declaration as the same shall have been modified and approved from time to time by applicable governmental authorities. The amendment shall be executed by the Developer without requiring the joinder and consent of any Owner. The amendment, when recorded in the Public Records of the County, shall bring the additional property under the provisions of this Declaration or delete the designated property from the provisions of this Declaration.

C. Additions by Merger. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other property as one scheme.

D. Site Plan Changes. Developer reserves the right to make such changes and/or modifications to any plat or site plan as are required by any appropriate governmental authorities or as Developer deems necessary.

**ARTICLE III - MEMBERSHIP AND VOTING RIGHTS IN THE
ASSOCIATION, TERMINATION AND TURNOVER**

Section 1: Members.

Every Owner of a Lot, including the Developer, shall be a mandatory member of the Association and by acceptance of a deed or other instrument evidencing ownership interest, each Owner accepts membership in the Association and agrees to abide by and be bound by the provisions of this Declaration and other rules and regulations of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of any Lot. Transfer of Lot ownership, either voluntarily or by operation of law, shall terminate membership in the Association and said membership shall be vested in the transferee.

Section 2: Membership Classification and Voting Rights.

The Association shall have two (2) classes of voting membership:

Class A - Class A member(s) shall be all Owners of Lots with the exception of Developer (provided that Class B membership continues to exist), and each Class A member shall be entitled to one (1) vote for each Lot owned. There shall be no cumulative voting. At such time as Developer's Class B membership is converted to Class A membership in accordance with the provisions hereafter contained, Developer shall likewise be a Class A member and entitled to one (1) vote for each Lot owned.

Class B - Class B member(s) shall be the Developer who shall be entitled to **three (3)** votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership, on the happening of the first of the following events to occur:

- 1) when **seventy-five percent (75%)** of Lots with Living Units constructed on them are deeded to Owners; or
- 2) on **December 31, 2007**.

From and after the happening of the earliest of these events, each Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interest required for membership.

Section 3: Turnover.

At time of Turnover, the Developer shall direct the company employed by the Association to provide management services to the Association to provide the new members of the Board of Directors with all records required to be kept by the Association in accordance with the terms of the Bylaws. These records shall include, but not be limited to, all maintenance and repair records pertaining to the improvements to the Common Area constructed by the Developer together with all warranties still in effect, if any. No warranty for improvements to the Common Area shall extend beyond one year from completion of the improvement to the Common Area and under no circumstances shall the Turnover extend any warranty given by the Developer.

Section 4: Developer's Rights as to the Association.

So long as the Developer is the owner of any of the Property which it leases or offers for sale in the ordinary course of business, the Board shall have no authority to and shall not, without the Developer's consent, undertake any action which shall: (a) prohibit or restrict in any manner the sales and marketing program of the Developer; (b) make any special or individual assessment against or impose any fine upon the Developer's property or the Developer; (c) authorize or undertake any litigation against the Developer; (d) alter or amend the Declaration, any subsequent amendment thereto, the Articles or Bylaws; (e) terminate or cancel any easements granted hereunder; (f) terminate or impair in any fashion any easements, powers or rights of the Developer hereunder; or (g) restrict the Developer's right of use, access and enjoyment of any of the Property unless the Developer consents to the action. The Developer's consent shall be exercised by its appointee on the Board or other person designated to so act by the Developer.

Section 5: Multiple Owners.

When any Lot entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, or if two or more persons or entities have the same fiduciary relationship respecting the same property, such Owner shall select one official representative to qualify for voting in the Association and shall notify in writing the Secretary of the Association of the name of such individual. The vote of such individual shall be considered to represent the will of all the Owners of that Lot. In the circumstance of such common ownership, if the Owners fail to designate their voting representative then the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Member(s). Upon such notification, the Owner may not vote until the Owner(s) appoint their representative pursuant to this paragraph.

Unless otherwise specifically defined herein, any reference in this Declaration to the vote or consent of Members shall mean the required number or percentage of Lots and not the required number or percentage of Members or Owners.

Section 5: Record Date.

For purposes of determining voting rights hereunder, the membership roster of record Owners shall be set as of three (3) days prior to the commencement of the meeting at which the vote shall take place.

ARTICLE IV - COMMON AREA. EASEMENTS

Section 1: Obligations of the Association

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, maintenance and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, if any), and the Association shall keep the same in good, clean, attractive order and repair.

The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other capabilities, as permitted by Miami-Dade County DERM. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by Miami-Dade County DERM or any other governmental organization having authority over this system.

Section 2: Owners' Easements of Enjoyment.

Subject to the provisions herein, and the use restrictions contained herein and in the Plat, every Owner shall have a right and easement of enjoyment in and to the Common Area which right and easement shall be appurtenant, and shall pass with the title, of every Lot for the benefit of each Owner, his immediate family, guests, tenants and invitees. Such easement of enjoyment shall include but not be limited to the Owner's right of ingress and egress over the streets, roadways and walkways within the Property for purposes of access to the Owner's Lot. Developer also reserves the aforesaid perpetual non-exclusive easement in favor of Developer, the Association and their respective agents, employees, invitees, licensees, successors and assigns.

Section 3: Conveyance or Mortgage of Common Area.

The Common Area cannot be mortgaged or conveyed without the consent of at least two thirds (2/3) of the Owners (excluding the Developer).

Section 4: Extent of Owners' Easements.

The Owners' easements of enjoyment created hereby shall be subject to the following:

A. With respect to the use and enjoyment of the roadways running through and around the Property providing access to each Lot, and the parking areas, if any, the use of the said easement shall be unrestricted and each Owner's rights shall be co-extensive with the rights of all other Owners. Any conveyance or encumbrance of the roadways running through and around the Property providing access to each Lot shall be subject to the Lot Owners' easement over such area.

B. With respect to all other property comprising the Common Area, the Owners' easements of enjoyment shall be subject to the rights of the Association and the Developer as follows:

- 1) The right of the Association to establish reasonable rules and regulations for usage of Common Area facilities.
- 2) The right of the Association to suspend an Owner's voting rights for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date, and the right of the Association to suspend the right of an Owner to use Common Area facilities (but not roadways providing access to his Lot) for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date, and for a period not to exceed sixty (60) days for any infraction of the Book of Resolutions, it being understood that any suspension for either non-payment of any assessment or infraction of any rules or regulations, of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment.
- 3) The right of the Association to mortgage, dedicate or transfer all or any part of the Common Area to any lending institution, public agency, authority or utility for such purposes and subject to such conditions as the Association may deem appropriate; provided that no such dedication or transfer shall be effective without the consent of 2/3 of the Owners as evidenced by an instrument signed by the appropriate officers of the Association certifying the occurrence of a special or regular meeting of Members called for such purpose, of which thirty(30) days prior written notice was sent to each Member, and that the vote of two-thirds of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer.
- 4) The right of the Association to consent or modify the legal descriptions of the Common Area or exchange any of the Common Area for other land to be used as Common Area.
- 5) The right of the Association to grant exclusive easements and rights of way over certain parts of the Common Area to Members of the Association when the Association deems it necessary.
- 6) The right of the Developer, without approval of the Association, or the Membership, to dedicate easements and rights of way over the Common Area in accordance with the terms of this Declaration and to grant such other easements and enter into such other agreements as may be necessary for the development of the Property.
- 7) The right of the Association to adopt and enforce at any time rules and regulations governing the use of the Common Area and all facilities situated thereon, which shall apply until rescinded or modified as if originally set forth at length in this Declaration.
- 8) The right of the Association and the Developer to grant to governmental agencies and/or other public or private entities the right to install and maintain roadways, water, sewer, drainage, irrigation, natural gas, electrical, telephone and cable television facilities within the Property.
- 9) The easements described in Sections 5, 6, 7, 8, 9 and 10 of this Article.

Section 5: Developer's Right to Grant Easements.

There is reserved unto the Developer so long as it owns a Lot the right to grant reasonable easements for the installation and maintenance of temporary roads, cable television services, security system services, public utilities and irrigation systems (including the installation of irrigation pumps) on the Common Area in addition to those easements already reserved.

Section 6: Utility Easements.

Developer hereby reserves for itself, the Association and their respective successors and assigns, easements upon, across, under, through and over all portions of the Property for county and private utility services (including cable television), including, but not limited to: (a) the right of the police to enter upon any part of the Property for the purpose of enforcing the law; and, (b) the right of all such utility companies to install and maintain their equipment and facilities in areas designated by Developer for such purposes and on such terms as Developer may determine. Easements further are reserved for Developer, the Association and their respective successors and assigns, upon, across, over, through and under the Common Area and roadways for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines, pipes, wires, ducts, vents, cables and conduits and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation, telephones, electricity, television, cable or communication lines and systems and similar or related facilities located within the Property or serving any portion thereof, and police powers and services supplied by local, state and federal governments. Utility easements are hereby granted throughout the Property, and across each Lot, as shown on the Plat.

Section 7: Easement for Governmental, Health, Sanitation and Emergency Services.

A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, for purpose of ingress and egress over the Common Area and roadways.

Section 8: Access Easement.

The roads, walkways, sidewalks and other rights of way within the Property are hereby declared to be subject to a perpetual non-exclusive easement over and across same for ingress to and egress from the Property in favor of the Owners and tenants of the Lots and their guests, invitees and licensees, the Developer, and the Association to be used in a manner consistent with the purposes set forth herein. The Association is hereby granted an access easement across the Lots, for purposes of carrying out the maintenance responsibilities of the Association.

Section 9: Easements for Maintenance.

Easements are hereby reserved in favor of the Association upon, across, under, through and over all portions of the Common Areas and roadways for the purpose, as deemed necessary by the Association, of preserving and maintaining the Lots, the Living Units, if applicable, and the Common Areas and roadways within the Property and carrying out its responsibilities pursuant hereto; provided, however, that all such activity shall be undertaken in a manner so as to minimize interference with any Owner's use of his Living Unit.

Section 10: Extent of Easements.

The rights and easements created hereby shall be subject to the following: (1) the Association's right to place any reasonable restrictions upon the use of any roadways within the Property, including, but not limited to, the maximum and minimum speeds of vehicles using the roadways and other traffic and parking regulations; and, (2) Developer's right to give, dedicate or sell all or any portion of the Property to any governmental entity, other public agency, authority or utility or private concern for such purposes, and subject to such conditions as may be determined by Developer.

Section 11: Developer's Construction and Sales Activities.

In addition to the property rights in this Declaration to the Developer, as Owner or otherwise, the Developer (and any builder having purchased one or more Lots from Developer, or such builder's assignee) is extended the right to enter upon the Property at any time and in anyway reasonably necessary to allow the Developer or such builder to construct or sell, or promote, in this subdivision, any responsibility of the Developer or builder to Owners in the subdivision, including but not limited to, the right to use the street in front of any model areas designated by the Developer or a builder for parking by visitors and staff, to maintain and show model homes, to have employees in the office, and to use the Common Area. Notwithstanding any other provision in this Declaration, the Developer is irrevocably empowered to sell, lease or rent Lots on any terms to any purchasers or lessees for as long as it owns any Lot.

Section 12: Delegation of Use.

Any Owner may delegate his rights of enjoyment to the Common Area and facilities located thereon to the members of his family, his guests and lessees, subject to such general regulations as may be established from time to time by the Association, but may not transfer said rights apart from the Lot.

Section 13: Damage or Destruction of Common Area by Owner.

In the event any portion of the Common Area is damaged or destroyed by an Owner or any guests, tenants, licensees, agents or members of Owner's family, such Owner does hereby authorize the Association to repair said damaged area. The Association shall repair such damaged area in a good and workmanlike manner in conformity with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association. At the discretion of the Association, the amount necessary for such repair shall become an individual assessment upon the Lot of the said Owner.

Section 14: Title to Common Area.

The Developer may retain legal title to the Common Area or any portion thereof until such time as it has completed improvements to the Property. Notwithstanding any provision contained herein to the contrary, the Developer hereby covenants that it shall convey the Common Area to the Association by Quitclaim Deed, free and clear of all encumbrances, other than the easements created under Article IV hereof, and the Association shall accept such conveyance, no later than six (6) months from the termination of the Class B membership. While title to all or a portion of the Common Area is retained by the Developer, the Owners shall have all of the rights and obligations imposed by the Declaration with respect to the Common Area.

Section 15: 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 Area of Association to 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, roads, landscaping, irrigation areas, lakes, 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 the assumption by the County of any responsibility for maintenance of any portion of the Common Area. As hereinafter provided, Developer may sign any special taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such special taxing district shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall positively provide for the proper and continuous payment of taxes for Common Area and maintenance thereof without expense to the general taxpayers of the County and shall be created pursuant to all applicable ordinances of Miami-Dade County and all other applicable governing entities having jurisdiction with respect to the same.

ARTICLE V – ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments.

A. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association the following:

- 1) Annual General Assessments or charges;
- 2) Special Assessments;
- 3) Individual Lot Assessments;
- 4) Reserve Fund Assessments;

All such Assessments to be established and collected as provided herein.

All such Assessments, together with interest or delinquency fees thereon, reasonable attorneys' fees, whether suit be brought or not, and costs at both trial and appellate levels, incurred by the Association in connection with the collection thereof, shall be a charge and continuing lien upon the Lot against which each such Assessment is made. The lien shall be evidenced by an instrument executed by the Association and recorded among the Public Records of the County, and shall be enforced in the manner provided by law for the enforcement of mechanics' and material men's liens. Each such Assessment, together with interest thereon, costs, and reasonable attorneys' fees as described above, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time the Assessment first became due and payable. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the Assessment.

B. Subject to the alternate provisions available to the Developer in **Section 8** of this Article and notwithstanding any of the provisions of this Declaration, the Articles of Incorporation or the Bylaws to the contrary, the Developer shall be obligated to pay the Assessments described in this Article only with respect to Lots: (i) upon which it has completed construction of a Living Unit as evidenced by the issuance of a Certificate of Occupancy by the County; and, (ii) upon which Developer has retained title thereto for a period of six (6) months after the issuance of said Certificate of Occupancy. In no event shall Developer be obligated to pay Assessments with respect to Lots upon which there are no Living Units, nor with respect to Lots upon which Developer has constructed models to assist in the sales of Lots and/or Living Units to prospective Owners. If Developer so elects, it may provide services and/or materials and receive credit for the value of same toward any Assessments due from it rather than making such contributions as might be due from it in cash.

C. **INTENTIONALLY DELETED.**

Section 2: Annual General Assessment.

A. Purpose of Assessment. The Annual General Assessment levied by the Association shall be used for: insurance, maintenance, operation, improvement, repair and replacement of the Common Area and facilities, and for the promotion of the recreation, safety, health and welfare of all residents of the Lots and Living Units.

B. Basis for Assessment. Each Lot with a Living Unit which is certified for occupancy and which has been conveyed to an Owner shall be assessed at a rate that is uniform with all other Living Units. To the extent a Lot is conveyed to an Owner without a Living Unit, the Lot shall be assessed at a rate uniform to that of other Lots without Living Units. The first Annual General Assessment shall be based upon an estimate of the operating expenses for the year for each type of Living Unit, plus an adequate reserve for anticipated expenses for each type of Living Unit, if the Board elects to provide for such reserve. The annual operating expenses for each Living Unit shall be calculated by reference to the respective maintenance obligations as specified in **Article VI** hereinafter. In the event this Assessment proves insufficient to satisfy such expenses the Board shall levy a supplementary Assessment in the amount of the deficit. Notwithstanding any other provision herein, the supplementary Assessment shall not require the assent of any of the members of the Association.

Thereafter, by vote of a majority of the Directors, the Board shall adopt an annual budget for the subsequent fiscal year that shall provide for allocation for expenses in such a manner that the obligations imposed by this Declaration will be met.

C. Maximum Annual General Assessment. Until after **December 31, 2006**, the maximum Annual General Assessment shall not exceed **\$1,042.08** per Lot; (exclusive of any Special, Individual Lot or Reserve Fund Assessments pursuant to **Sections 3, 4 and 5** below). After **January 1, 2007**, the maximum Annual General Assessment shall not increase by more than **fifteen percent (15%)** of the prior year's Annual General Assessment without a vote of two-thirds (2/3) of each class of Members of the Association who are voting in person or by proxy, at a meeting duly called for this purpose.

D. Method of Assessment. The Board, by a majority of the Directors, shall fix the Annual General Assessments upon the basis provided herein, except that until the first budget year after the Turnover, the Annual General Assessments shall be established by the Developer. The Board shall set the date such Assessments shall become due. The Board may provide for collection of Assessments annually or in monthly, quarterly or semi-annual installments; provided, however, that upon default in the payment of any one (1) or more installments by any Owner, the entire balance of said Annual General Assessment may be accelerated, as to the said Owner and Lot, at the option of the Board, with the same being declared immediately due and payable in full. The Board may change the budget and level of Assessments at a duly constituted meeting of the Board which occurs after Turnover, provided that written notice containing a copy of the newly adopted budget outlining the Assessment change is sent to all Members at least thirty (30) days in advance of the effective date of the adopted change. For each twelve (12) month period thereafter, commencing on the first day of **January** (hereinafter called an "Assessment Year"), the Annual General Assessments may be adjusted by vote of the Board at a duly held meeting after giving proper notice as described above.

Section 3: Special Assessments for Capital Improvements.

In addition to the Annual General Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year, for the purpose of defraying, in whole or in part, the costs of any acquisition, maintenance, construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a special meeting duly called for said purpose. Upon the required affirmative vote by the Members for any such Special Assessment, the Board shall determine the amount required to be paid by each Member which shall be in the same proportion as the Member's share of the expenses for which the Assessment applies, and shall notify the Lot Owner of the amount of their portion of the Special Assessment, and when and where the Special Assessment shall be paid.

Section 4: Individual Lot Assessments.

The Association may impose an Individual Lot Assessment upon any Owner whose use or treatment of Common Areas is not in conformity with the standards as adopted by the Association and which lack of conformity increases the maintenance cost to the Association. Said Individual Lot Assessment shall be treated in all other respects as an Annual General Assessment.

Section 5: Reserve Fund Assessment.

A. The Association may establish a fund for reserves for periodic major maintenance of the Common Areas, with a minimum level of reserves to be maintained in perpetuity and replenished from time to time, as necessary, by Assessment (the "Reserve Fund"). The Association may levy, in any Assessment Year, a Reserve Fund Assessment for purposes of funding the Reserve Fund. The amount required to be paid by each Member shall be in the same proportion as the Member's share of the expenses for which the Assessment applies.

B. The Reserve Fund shall be held in an account separate and apart from other Association funds.

Section 6: Insurance.

The Association shall purchase and maintain insurance on all of the Common Area, in accordance with the following provisions:

A. Purchase, Custody and Payment of Policies.

1) All such insurance policies purchased by the Association shall be issued by an insurance company authorized to do business in Florida

2) The name insured on all policies purchased by the Association shall be the Association.

3) All policies purchased by the Association shall provide that payment for losses made by the insurer on the account of casualty to any portion of the Common Area shall be paid to the Association.

4) Any deductible or exclusion under an insurance policy purchased by the Association shall be a common expense, and shall be such sum as is approved by the Board of Directors of the Association.

B. Coverage.

1) The Association shall procure and maintain casualty insurance on all improvements upon the Common Area equal to 100% of the then current replacement cost, as determined annually by the Association. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by standard extended coverage endorsement; (b) such other risks as from time to time shall be customarily insured against. With respect to improvements similar in construction, location and use, including but not limited to, vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

2) The Association shall purchase and maintain comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or occurrences on or about or in connection with the Common Area or any work, matters or things related to the Common Area or this Declaration.

3) Workers compensation insurance shall be maintained as required to meet statutory or regulatory requirements.

4) Officers and directors errors and omissions insurance shall be maintained in such amounts as deemed necessary by the Board of Directors.

5) When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (a) subrogation against the Association; (b) any pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and, (c) avoid liability for a loss that is caused by an act of one or more Directors of the Association or by one or more Owners; and shall provide that such policies may not be cancelled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the Association.

6) The Association shall also be required to maintain fidelity bonds on all officers and employees handling funds of the Association.

C. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense and shall be included within the Annual General Assessments provided for in this Declaration.

D. Damage and Destruction.

1) Repair or Reconstruction. Immediately after damage or destruction, by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of claims arising under such insurance and obtain reliable and detailed estimates of the cost of the repair or reconstruction of the damaged or destroyed Common Area. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Areas to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

2) Determination. Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy five percent (75%) of the total Class "A" vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct or unless such repair or reconstruction is prohibited by law. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

3) No Repair. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then the affected portion of the Common Areas shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with community standards.

4) Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

5) Insufficient Funds. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Owners, levy a special assessment. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

E. None of the provisions contained in this **Section 6** shall apply to Living Units encumbered by the Lender Mortgage.

Section 7: Date of Commencement of Annual General Assessments.

The Annual General Assessments provided for herein shall commence with respect to assessable Lots on the date of the conveyance of the first Lot from the Developer to an Owner. The initial Assessment on any assessable Lot shall be collected at the time of closing on the conveyance to said Owner, and shall be adjusted according to the number of days remaining in the calendar year of said conveyance. Nothing contained herein shall in any way infringe upon the Developer's rights to be excused from all Assessments in exchange for its guaranty to pay operating deficits of the Association in accordance with the provision of **Section 8** of this Article.

Section 8: Developer's Guaranty.

Notwithstanding anything herein to the contrary, the Developer, or its successors or assigns, will be excused from payment of the Annual General, Special Individual Lot and Reserve Fund Assessments for Lots owned by it provided that the Developer guarantees to each Owner that the maximum Annual General Assessment as above determined, will not increase until after **December 31, 2006**. During such period as this guaranty shall be in force, the Developer obligates itself to pay to the Association any

amount for expenses incurred during that period not produced by the Association from assessments against other Lot Owners at an amount not less than specified above, subject, nevertheless, to the other provisions hereof. Said guaranty does not pertain to or include such portions of Assessments, annual or special, or installments thereunder, required to meet the cost of improvements or betterment to the Common Area, the funding of reserves, if any, or the payment of ad valorem taxes assessed against the Property as a whole. Notwithstanding this guaranty, Developer shall have the right, in its sole discretion, to pay the regular amount of Annual General Assessments for each Lot owned by it, and if there is a deficit, said deficit shall be shared and paid equally by all Lots. Further, notwithstanding anything, herein to the contrary, the above guaranty shall expire and be of no further force and effect upon the Developer's electing to relinquish control of the Association through its designee-directors, as provided in the Bylaws. Developer may extend this guaranty for four (4) six (6) month intervals by notice to the Association at least thirty (30) days prior to the end of the preceding period of guaranty.

Notwithstanding anything in this paragraph to the contrary, if the sale or transfer of any portion of the Property occurs pursuant to foreclosure, or deed in lieu thereof, of the Lender Mortgage, neither Lender nor any successor in interest to Lender shall be deemed guarantors under this paragraph.

Section 9: Duties of the Board of Directors.

A. The Board of Directors of the Association shall prepare budgets and a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment for each Assessment Year shall be sent to every Owner subject thereto at least thirty (30) days prior to the commencement of the Assessment Year.

B. Prior to the voluntary sale of a Lot, an Owner may request from the proper officers of the Association a certificate, in recordable form, specifying whether the Owner has paid all Assessments to date. The Association shall furnish the requested certificate signed by an officer stating whether said Assessments have been paid. The Owner requesting the certificate shall pay the Association a reasonable sum to cover the costs of examining records and preparing the certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 10: Effect of Nonpayment of Assessments: Remedies of the Association

Any Assessment not paid within fifteen (15) days after the due date shall be delinquent, and shall bear interest from that date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the Assessment or foreclose the lien described in Section 1 of this Article. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. In addition, should the Association find it necessary to employ an attorney or institute legal action against any Owner in order to collect unpaid Assessments, the Owner shall be obligated for the payment of all of the Association's costs in connection with said action, including, but not limited to, reasonable attorneys' fees, whether suit be brought or not, and court costs at all trial and appellate levels. In the event a judgment is obtained, such judgment shall include interest on the Assessments and a reasonable attorney's fee to be fixed by the court together with costs incident to the action.

Section 11: Subordination of the Lien to Mortgages.

A. The lien of the Assessments provided for herein shall be a lien superior to all other liens save and except tax liens and mortgage liens, provided said 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.

B. Sale or transfer of any Lot shall not affect the Assessment lien; provided, however, the sale or transfer of any Lot pursuant to foreclosure shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer unless such Assessments are secured by a claim of lien for Assessments that is recorded prior to the recording of such mortgage. No sale or transfer of any type shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

C. It is the express intent of this Section, notwithstanding any other provisions hereof, to subordinate the Assessment lien referred to above only to first mortgages executed in favor of institutional mortgagees which shall include banks, savings and loan associations, insurance companies and mortgage bankers. In no event shall any second mortgage or other junior mortgage take priority over the Assessment lien.

Section 12: Exempt Property.

All Common Area shall be exempted from the Assessments, charges and liens created herein.

ARTICLE VI - USE OF PROPERTY

Section 1: Protective Covenants.

A. Residential Use. All property designated as a Lot shall be used, improved and devoted exclusively to residential use. No business, profession or trade of any type, other than rental, including transient rental, of a Lot or Living Unit, shall be conducted on any portion of the Property, but this prohibition shall not be applicable to Developer with respect to its development of the Property, construction and sale of Lots and Living Units, the use of Lots and Living Units as model units or the use of any portion of the Property as parking areas.

B. Common Area. The Common Area shall be maintained and operated by the Association as private property for the benefit of the parties described herein and on the terms and conditions set forth herein.

Section 2: Rentals.

A. All lessees of a Lot shall comply with all requirements of the Declaration, Articles of Incorporation and Bylaws of the Association. Notwithstanding the rental of his/her Lot, the liability of the Owner under the Declaration shall continue. **No Owner (except for the Developer) may lease a Lot or Living Unit without the prior written approval of the Association.** The Association may require that a substantially uniform form of lease be used by all Owners, as such form may be approved by the Board. All leases shall provide that the Association may terminate the lease upon the tenant's default of any of the provisions of this Declaration, the Land Use Documents or the Book of Resolutions. The Association shall approve or disapprove a lease within thirty (30) days after the Board meeting immediately following submission of a complete and accurate request for approval, which request shall be accompanied by a copy of the form lease and such other information as the Board may reasonably require, together with a non-refundable application fee in an amount as determined by the Board from time to time. If the Association fails to approve or disapprove the tenancy within the thirty (30) day period, the lease shall be deemed approved. In connection with each lease, the Association may require all Owners to place in escrow with the Association a security deposit in an amount to be determined by the Association, which may be used by the Association to repair any damage to the Common Areas or other portions of the Property resulting from acts or omission of the tenants. Any balance remaining from the security deposit, less an administrative charge as may be reasonably determined by the Association, shall be returned to the Owner within thirty (30) days after the Association has been advised in writing by the Owner that the tenant has vacated the Lot. Notwithstanding anything to the contrary in this Paragraph, the provisions of this Section 2 shall not be applicable in any way to the Developer, so that the Developer may lease any Lot or Living Unit within the Property without restriction or prior approval of any entity, including the Association.

Section 3: Maintenance of Living Units and Lots.

A. Each Living Unit and Lot and all improvements therein, shall be maintained by each respective Owner in good order and repair and free of debris. No refuse or unsightly objects shall be allowed to be placed, or permitted to remain, anywhere on any Lot. Each Owner shall be responsible for maintaining their Living Unit and Lot in a good, clean, neat and attractive condition. The Lots, and each Living Unit located thereon, shall be kept in good, safe, clean, neat and attractive condition by the Owner thereof, and all walls, doors and windows thereon shall be maintained by each Owner in a finished, painted and attractive condition. In addition to the foregoing, each Owner shall be responsible for the cost of periodic maintenance of the roofs incident to their Living Unit, as needed and consistent with good property management, and the replacement of such roofs upon the expiration of the roofs' useful life. Each Owner shall be responsible for the maintenance, repair and restoration of all lawns, including without limitation, the seeding, watering and mowing of all lawns, pruning and cutting of all trees and shrubbery, and the sprinkler systems within their Lot. The cost of any hazard, flood and windstorm insurance, as applicable, incident to each Living Unit shall be borne by each Owner thereof. Each Owner shall be responsible for entering into a contract for the servicing of the alarm systems located in each of the Living Units, and shall remit the payment due thereunder as and when due. In the event any Owner of a Living Unit shall fail to maintain the said Living Unit or Lot as provided herein, the Association, after notice to such Owner, shall have the right to enter upon the Living Unit and Lot to correct, repair, maintain and restore the Living Unit or Lot. All costs related to such correction, repair or restoration shall be the personal obligation of the Owner, and shall become a lien against the Living Unit and Lot with the same force and effect of a lien created by the said Owner's failure to pay assessments when due. Such entry by the Developer or the Association or their agents shall not be a trespass and, by acceptance of a deed for a Living Unit, and by recordation of these Covenants and Restrictions, such party has expressly

given the Developer and the Association the continuing permission to do so, which permission may not be revoked.

B. The Association shall be responsible for the maintenance, repair and restoration of all lawns, including without limitation, the seeding, watering and mowing of all lawns, pruning and cutting of all trees and shrubbery, and the sprinkler systems within the Common Area. The Association shall not have exterior maintenance responsibilities, periodic or otherwise, for Living Units or Lots.

C. Notwithstanding anything set forth herein to the contrary, the Association shall be responsible for the maintenance of the medians, if any, within any roadway within the Property.

Section 4: Non-Responsibility of the County.

In no event shall the County be obligated to carry out any of the maintenance obligations of the Association, including, but not limited to, maintenance and up keep of the roadways, unless such obligations are undertaken by way of a resolution of the Board of County Commissioners of the County.

Section 5: Management Services.

The Association may contract for the management of all or any part of the Common Area and any other association duties for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration. Any such contract may not exceed a term of **three (3) years** and shall permit termination by either party at will and without payment of any fee for such termination upon **ninety (90) days** written notice by one party to the other.

Section 6: Utility Services.

The Association may contract with public or private utility companies for purposes of supplying utility services to the Property and may assess the costs and expenses charged by such utility companies as part of the Assessments set forth in this Declaration.

Section 7: Architectural Control.

A. No building, fence, wall, antennas or other structures, or landscaping alterations or additions, shall be commenced, erected or maintained upon any Living Unit or Lot, nor shall any exterior addition to, change or alteration, including the changing of the existing color of paint or of roofing materials thereon, be made or undertaken unless approved in writing by the Board of Directors of the Association, or its designated review committee composed of three (3) or more representatives appointed by the Board (the "Committee"), and all appropriate governmental authorities having jurisdiction there over. The Committee shall have absolute and complete discretion in approving or disapproving any request submitted to it and may base its decision on any ground it, in its sole discretion, deems sufficient.

B. All requests for approval of such plans and specifications shall be mailed or delivered to such address as shall from time to time be designated by the Association.

C. Notwithstanding anything herein to the contrary, Developer shall have the right to appoint the members of the Committee until the first to occur of the events specified in **Article III - Section 2** hereof.

ARTICLE VII - GENERAL PROVISIONS

Section 1: Duration.

The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Developer, the Association, or the Owners, their respective legal representatives, heirs, successors and assigns, for a term of **thirty (30) years** from the date this Declaration is recorded. After the original thirty (30) year period, the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such thirty (30) year period, or each successive ten (10) year period, an instrument signed by the then Owners of three-fourths (3/4) of the Lots agreeing to terminate the covenants and restrictions at the end of such thirty (30) year or ten (10) year period has been recorded in the Public Records of the County. No such agreement to terminate the covenants and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This section may not be amended.

Section 2: Modifications.

Developer reserves the right to alter, amend, modify, change, revoke, or rescind or cancel any or all of the restrictive covenants contained in the Declaration, or hereinafter included in any subsequent Declaration. Any such subsequent or modified Declaration shall conform with all HUD/VA requirements and all other requirements of the County. Notwithstanding the foregoing, Developer may not, without the County's prior written consent, alter, amend, modify, change, revoke, rescind or cancel this Section or any other Section herein that is relevant to the continuing obligation of the Association, or a special taxing district, as applicable, to pay taxes for and maintain the Common Area without expense to the general taxpayers of the County.

Section 3: Amendment.

A. Subject to the provisions of **Paragraphs B, C, D, E and F** of this Section, the provisions of **Article VII, Section 2** above, and HUD/VA approval as provided for in **Article VIII - Section 27** hereof, this Declaration may be amended by an instrument first approved by a majority of the Board of Directors and subsequently approved and signed by persons or entities representing **sixty-seven percent (67%)** of the total votes outstanding, at said time. To be effective, all amendments must be filed in the Public Records of the County. Unless otherwise specifically recited in said amendment, the effective date thereof shall be the date same is filed in the Public Records of the County.

B. Notwithstanding anything herein to the contrary until the first to occur of the events specified in **Article III, Section 2**, this Declaration may only be amended with the written consent of Developer, unless said requirement is waived in writing by Developer prior thereto.

C. Notwithstanding anything herein to the contrary, until such time as the deeds to **fifty-one percent (51%)** of the Lots are recorded among the Public Records of the County, Developer shall have the absolute and unconditional right to amend or modify this Declaration by recordation of an instrument containing such amendment or modification without the joinder of any Owner or the holder of any mortgage on any Lots, provided that no such amendment or modification by Developer shall materially affect any Lots or the rights of any Owner or mortgagee. Such amendment needs to be executed and acknowledged by the Developer only, and need not be approved by the Association, Lot Owners, lienors and mortgagees.

D. For so long as the Property is encumbered by the Lender Mortgage, this Declaration shall not be amended without the written joinder and consent of the Lender attached to such amendment.

E. In addition to the foregoing, any amendment which shall have the effect of altering the permitted Surface Water or Stormwater Management System, beyond the maintenance of the system in its original condition, must have the prior approval of Miami-Dade County DERM.

F. No amendment shall alter the subordination provisions contained in this Declaration without the prior approval of any mortgagee enjoying such protection.

G. Without the County's prior written consent, there shall be no amendment to this Article VII, or to any other provision herein that is relevant to the continuing obligation of the Association, or a special taxing district, as applicable, to pay taxes for and maintain the Common Area without expense to the general taxpayers of the County.

Section 4: Temporary Committees.

The Developer, prior to Turnover of the Association, at its sole discretion, may create temporary committees for the purpose of aiding with the transition of the Association from Developer control to control by the membership.

Section 5: Enforcement.

The Association, any Owner or the Developer, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, as the same may be amended. The Association or any Owner may recover sums due for damages, injunctive relief, or any combination thereof, including attorneys' fees, whether suit be brought or not, and court costs at trial and appellate level. The Association shall have the right to suspend the voting rights of an Owner for any period during which any Annual General Assessment levied against his Lot remains unpaid for more than ninety (90) days after its due date. Furthermore, the Association shall have the right to suspend use of Common Areas (but not the roadways providing access to an Owner's Lot) for any Owner for any period during which any Annual General Assessment levied against this Lot remains unpaid for more than ninety (90) days after its due date, and for a period not to exceed sixty (60) days for any infraction of the Book of Resolutions. Failure

of the Association, any Owner or the Developer to enforce any covenants, restrictions or provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In addition to the foregoing rights of enforcement, Miami-Dade County DERM shall have the right to enforce, by a proceeding in law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

Section 6: Severability.

Invalidation of any one (1) or more of the covenants, conditions or restrictions contained in this Declaration, any amendments hereto, by judgment or court order shall in no way effect any other provision hereof, all of which shall remain in full force and effect as if said invalidated provision had never existed.

Section 7: Notice.

Any notice required to be sent to any person pursuant to any provision of these covenants, conditions or restrictions, will be effective if such notice has been deposited in the United States mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence, or such other address as may be furnished to the Secretary of the Association. The effective date of the notice shall be the date of mailing.

Section 8: Special Exceptions and Variations.

Unless the written consent of the Association is first obtained, no Owner shall file a request for a zoning variation, special exceptions or zoning changes affecting or relating to the Property.

Section 9: Conflict.

This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles shall take precedence over the By laws.

Section 10: Mortgagee's Notice of Default.

An institutional first mortgagee who provides written request to the Association (such request to state the name and address of such first mortgagee, and identify the Lot or Living Unit) will be entitled to timely written notice of any delinquency in the payment of Assessments or other charges owed by an Owner of a Lot or Living Unit subject to the mortgage of such first mortgagee or default by or failure of such Owner to comply with any provisions of the Land Use Documents, where such delinquency or default has continued for a period of sixty (60) days or more.

Section 11: Singular, Plural and Gender.

Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 12: Captions.

The captions, if any, for each Article or Section of this Declaration are for convenience and reference only and in no way define, describe, extend or limit, the scope or intent of this Declaration or the intent of any provision hereof.

Section 13: Effective Date.

This Declaration shall become effective upon recordation in the Public Records of the County.

Section 14: Construction.

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Property.

Section 15: Fines.

In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner to comply with this Declaration or with any rule or regulation, provided the following procedures are adhered to:

A. Notice; Hearing: The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee (the "Committee") of at least three members appointed by the Board of Directors at which time the Owner shall present reasons why fines should not be imposed. At least fourteen (14) days notice of such meeting shall be given. The members of the Committee may not be officers, directors, or employees of the Association, or the spouse, parent child brother or sister of an officer, director or employee. If the Committee, by majority vote, approves the fine, it shall be imposed subject to the requirements set forth below. The requirements, of this Paragraph shall not apply to the imposition or suspension of fines upon any Owner because of the failure of the Owner to pay Assessments or other charges when due (a "Payment Failure"). In the event of a Payment Failure, the Board of Directors may impose the fines as set forth below without recourse to the notice and hearing procedures of this Paragraph.

B. Amounts of Fines: The Committee or the Board of Directors (if either of its or such panel's findings are made against the Owner) may impose special assessment fines against the Lot as follows: a fine not to exceed \$100.00 per violation. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000.00 in the aggregate. The Board may also suspend the voting rights of a member for the nonpayment of Annual General Assessments that are delinquent in excess of 90 days.

C. Payment of Fines: Fines shall be paid not later than ten (10) days after notice of the imposition or Assessment of the penalties.

D. Collection of Fines: Fines shall be treated as a Special Assessment subject to the provisions for the collection of Assessments as set forth herein.

E. Application of Fines: All monies received from fines shall be allocated as directed by the Board of Directors.

F. Remedies: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Section 16. Liens.

All liens against a Lot, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments upon a Lot shall be paid before become delinquent.

A. Notice of Lien: A Lot Owner shall give notice to the Association of every lien upon his Lot, other than for permitted mortgages, taxes and special assessments, within five(5) days after the attaching of the lien.

B. Notice of Suit: Lot Owners shall give notice to the Association of every suit or other proceeding which will or may affect title to his Lot or any part of the Property; such notice to be given within five (5) days after the Lot Owner receives notice thereof.

C. Failure to Comply: Failure to Comply with this article concerning liens will not affect the validity of any judicial sale.

ARTICLE VIII - SPECIFIC PROVISIONS

Section 1: Fencing.

No fences or any similar type of enclosures may be erected on any Lot without the approval of the Board unless constructed by a builder in accordance with plans approved by the Developer. No chain link fence shall be permitted on any Lot or portion thereof, except for temporary construction purposes.

Section 2: Swimming Pools.

No swimming pools shall be constructed on any Lot or portion thereof without the prior written approval of the Board.

Section 3: Tennis Court.

No tennis court shall be constructed on any Lot or portion thereof.

Section 4: Required Setbacks.

Every Living Unit on a Lot shall comply in all ways with the Building Code of the County. No building, roof or wall on any Lot shall be closer to the boundaries of the Lot (whether on the ground or in a vertical plane with the ground) than the setback lines established by the Building Code, or as modified by an appropriate variance granted by the County, as minimum setback requirements for front, side and rear yards.

Section 5: Exemption for Developer.

For so long as the Developer owns any portion of the Property, it shall be exempt from the provisions of this Article.

Section 6: Antennas.

Television or radio antennas or towers, multi-party use electromagnetic receivers or transmitters, or similar devices shall be prohibited from being placed or constructed on any portion of the Property, except in the event that Developer or the Association contracts with a cable television service which requires antennas or such other similar devices to provide cable television to the Living Units. Notwithstanding the foregoing, satellite dishes with a diameter of no greater than twenty-four inches (24") shall be permitted provided the Association shall have the right to approve the location of all satellite dishes on the Lots.

Section 7: Painting.

No exterior of a Living Unit or a portion thereof, whether now or hereafter constructed, shall be painted except in the same color as selected by the Developer, unless a different color is approved by the Board.

Section 8: Garage Doors.

In order to maintain a harmonious and aesthetic appearance; the garage doors affixed to any Living Unit shall remain closed except when in actual use to allow ingress and egress into the garage.

Section 9: Tree Removal Restrictions.

Trees situated on any Lot between setback lines and the property lines having a diameter of six inches or more measured four feet from ground level may not be removed without prior approval of the Board. All requests for approval of tree removal shall be submitted to the Board along with the plans showing generally the location of such tree(s). This restriction shall not apply to the Developer in the course of construction, sales or maintenance of improvements upon the Property. Anyone violating the provisions of this Section will be required to replace such trees with trees of like kind, size and condition within thirty (30) days after demand by the Association. If the Owner fails or refuses to replace the trees as demanded, the Association may cause suitable replacements to be planted and the cost thereof shall be a lien against the Owner's Lot. An easement of ingress and egress over said Lot is hereby granted to the Association, its agents and employees to enable it to comply with this Section.

Section 10: Construction Scheduling.

No outdoor construction or development activity of any kind (other than minor do-it-yourself repairs) will be permitted within the Property on Sundays or legal holidays without the express prior written consent of the Board. This restriction shall not apply to the Developer in the course of its construction, sales or maintenance of improvements upon the Property.

Section 11: Renewable Resource Devices.

Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided however, that same shall be installed only in accordance with the reasonable standards adopted from time to time by the Board. Such standards shall be reasonably calculated to maintain the aesthetic integrity of the Property without making the cost of the aforesaid devices prohibitively expensive.

Section 12: Temporary Structures.

No structure of a temporary character, trailer, shed, tent, shack, barn or other outbuilding shall be placed, erected or used at any time, temporarily or permanently, on the Property, except for the use of

construction trailers, sales offices and storage facilities by Developer during any construction on the Property.

Section 13: Windows and Glass Doors.

No Owner shall be permitted to place tin foil or other covering (except for draperies, blinds, or other window treatment as same are conventionally defined by decorators) upon any windows or sliding glass doors in his Living Unit, nor shall said Owner be permitted to tint any windows or sliding glass doors in his Living Unit without first receiving the written approval of the Board of Directors.

Section 14: Oil and Mining Operations.

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

Section 15: Livestock and Poultry.

No animals, livestock or any other animal not commonly considered Household Pets shall be raised, bred or kept in or on any Living Unit or Lot. No more than two (2) Household Pets shall be kept in or on any Living Unit or Lot at any one time, except that more than two (2) fish will be permitted. No pit bull dogs will be allowed. Under no circumstances shall any commercial or business enterprises involving the use, care or treatment of animals be conducted on the Property or in a Living Unit. All permitted Household Pets shall be kept on a leash when not on or in the Living Unit and no Household Pets shall be allowed to roam unattended. An Owner shall immediately pick up and remove any solid animal waste deposited by his pet(s) anywhere on the Property, including his Lot. Each Owner who chooses to keep a pet hereby agrees to indemnify the Association and the Developer and hold each of them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of his having an animal on the Property.

Section 16: Waste and Rubbish Disposal.

No Living Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers or as required by the Association or the applicable ordinances of the County. Building materials during the course of construction of any approved structure by Developer will be permitted to be kept on the Lot. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Trash collection and disposal procedures established by the Association shall be observed. It is possible that the Association may provide for garbage pick-up, the cost of which shall be included in the Assessments. 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 Living Unit. 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.

Section 17: Nuisances.

No noxious or offensive activity shall be carried on, in or upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No flammable, combustible or explosive fluid or chemical substance shall be kept in or upon any Lot except such as are required for normal household use and same shall be kept within the Living Unit. No Owner shall permit or suffer anything to be done or kept in or upon his Lot which will increase the rates of insurance as to other Owners, other Lots and Living Units and the Common Area. This restriction shall not apply to activities conducted by the Developer in the construction, sale or maintenance of improvements on the Property.

Section 18: Cars, Commercial Trucks, Trailers and Boats.

Owners' automobiles shall be parked in the garage, driveway or parking lot, as appropriate, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of the Common Areas or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the Lot and not in the roadway or swale. To the extent that there is any guest parking, Owners are prohibited from parking in such guest parking spaces. In order to maintain the high standards of the subdivision: with respect to residential appearance, no trucks or commercial vehicles, boats, house trailers, unlicensed or inoperable vehicles, boat trailers or trailers of every other description, including campers or any vehicle registered RV, shall be permitted to be parked or stored at any place on the Property except during the period of construction by the Developer, nor shall any motor vehicles be

parked on any portion of the Property for the purpose of repairing or maintaining the same. The prohibitions in this Section shall not apply to the temporary parking of trucks and commercial for pick-up and delivery and other commercial services, or to pick-up trucks or sports utility vehicles for personal use of any Owner to a maximum of three-quarter (3/4) ton capacity.

Section 19: Real Estate Offices.

No Living Unit shall be used for a real estate office unless written approval of the Developer or the Committee has been received, except that Developer shall be able to build and maintain sales models and offices.

Section 20: Signs.

In order to insure a harmonious effect as to the overall appearance of the Property, no signs of any type shall be displayed on any Lot where same is visible to the outside thereof, or on any portion of the Property. This shall include, but not limited to advertisements, solicitations, "For Sale" and "For Rent" signs. No freestanding signs are allowed. Notwithstanding anything to the contrary contained herein, this prohibition shall not apply to the Developer, its successors or assigns, so long as the Developer retains title to any Lot.

Section 21: Outdoor Clothes Drying.

Outdoor clothes drying activities are hereby prohibited and no such activities shall be conducted on any portion of any Lot or the Common Area.

Section 22: Change of Elevation.

No sod or topsoil shall be removed from any portion of a Lot without permission from the Developer, the Board of Directors or the Committee. No change in elevation of any Lot shall be made without protecting adjoining Lots from surface water drainage caused by the change.

Section 23: Enforcement.

In addition to the enforcement provisions provided in **Article VII - Section 5** above, the Association is hereby granted an easement over the Lot of each Owner for the purpose of enforcing the provisions of this Article, and may go upon the Lot of said Owner to remove or repair any violation of these provisions. In the event that the Association, after notice to the Owner of any violation and the Owner's failure to cure the same, does in fact exercise its right to cure said violation, all costs incident to said action by the Association shall become the personal obligation of the Owner, and shall be imposed as a lien against his lot in the same manner as if said sums represented monies due for unpaid Assessments.

Section 24: Utility Easements.

Developer hereby grants a perpetual right and easement in and to the Property to any utility company which provides its services to the Property in order to install, maintain, repair or replace same, and said right and easement shall be a covenant running with the land. As used herein, the term "utility company" shall include, but not be limited to companies providing water, sewer, electricity, telephone or cable television services.

Section 25: HUD/VA

For so long as there is a Class B membership, the following actions will require the approval of either the Federal Housing Administration or the Veterans Administration if any mortgage encumbering a Lot within the Property is guaranteed or insured by either such agency: (a) annexation of additional properties; (b) mergers and consolidations; (c) mortgaging or dedication of Common Area; and, (d) dissolution or amendment of this Declaration. Such approval, however, shall not be required where the amendment is made to correct errors, omissions or conflicts or is required by any institutional lender so that such lender will make, insure or guarantee mortgage loans encumbering the Lots, or is required by any governmental authority. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any amendment to the Developer or to the Association within twenty (20) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval shall be conclusively evidenced by a certificate of Developer or the Association that the approval was given or deemed given.

Section 26: Skate Board Ramp, Basketball Hoops, Go Peds.

No skate board ramp or basketball hoops shall be allowed on the Property without written permission of the Board of Directors. No "Go Peds", or similar items shall be permitted on the Property.

Section 27: Real Property Tax Credit.

No Owner shall receive a credit on the real property tax bill applicable to his or her Lot because of the roadways and drainage system provided for herein.

Section 28: INTENTIONALLY DELETED.

Section 29: REAL ESTATE TAXES. Each Owner shall pay all real estate taxes and obligations relating to its Lot which, if not paid, could become a lien against the Lot which lien would be superior to the lien for Assessments created by this Declaration.

Section 30: WARRANTIES.

DEVELOPER WARRANTS THE IMPROVEMENTS TO THE COMMON AREA FOR A PERIOD OF ONE (1) YEAR AFTER COMPLETION OF THE IMPROVEMENTS AND WILL REPAIR OR REPLACE, AS NECESSARY, ANY DEFECTIVE IMPROVEMENT DURING THE WARRANTY PERIOD. THIS DEVELOPER WARRANTY IS THE ONLY EXPRESS WARRANTY GIVEN AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. TURNOVER OF THE ASSOCIATION SHALL NOT EXTEND ANY WARRANTY PROVIDED FOR HEREIN.

IN WITNESS WHEREOF, the undersigned Developer has hereunto set its hand and seal this 14th day of SEPTEMBER, 2005.

WITNESSES:

CENTURY HOMEBUILDERS, LLC,
a Florida Limited Liability Company

Mariela Baylo
Umariset Bello

Print or Type Name

By: [Signature]
SERGIO PINO, President and Manager

[Signature]
Pedro HERNANDEZ

Print or Type Name

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing Declaration of Covenants and Restrictions for KENDALL BREEZE EAST was acknowledged before me this 14 day of September, 2005, by SERGIO PINO, as the President and Manager of CENTURY HOMEBUILDERS, LLC, a Florida Limited Liability Company, on behalf of the corporation, who produced _____ as identification.

[Signature]

NOTARY PUBLIC, State of Florida at Large

Print or Stamp Name of Notary
My Commission expires:
[NOTARIAL SEAL]

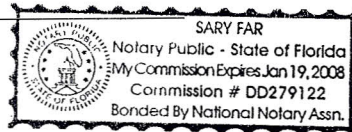


EXHIBIT "A"
LEGAL DESCRIPTION:

THE NORTH 1/2 OF THE FOLLOWING DESCRIBED PROPERTY: THE PORTION OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 LYING WEST OF THE WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF THE HOMESTEAD EXTENSION TO FLORIDA'S TURNPIKE (STATE ROAD 821), LESS AND EXCEPT THE WEST 35 FEET AND LESS THE SOUTH 35 FEET IN SECTION 13, TOWNSHIP 55 SOUTH, RANGE 39 EAST, MIAMI-DADE COUNTY, FLORIDA.

JOINDER AND CONSENT

The Property is presently encumbered by a Mortgage in favor of **UNION PLANTERS BANK, N.A.** (the "Mortgagee") which Mortgage is recorded in Official Records Book 20958, at Page 2324, of the Public Records of Miami-Dade County, Florida (the "Mortgage").

Mortgagee hereby certifies that it is the holder of the Mortgage and hereby joins in and consents to the **Amendment to Declaration** to which this **Restated Declaration of Covenants and Restrictions for KENDALL BREEZE EAST** (the "Declaration") is attached. The Mortgagee or its successors and/or assigns in interest by virtue of foreclosure of the Mortgage or the taking of a deed in lieu thereof shall not assume any responsibility or liability under this Declaration unless specifically assumed by an instrument in writing and recorded in the Public Records of Miami-Dade County, Florida.

IN WITNESS WHEREOF, the undersigned has caused these presents to be duly executed this 14th day of September 2005.

Signed sealed and delivered presence of:

UNION PLANTERS BANK, N.A.

Maria P. Garcia

By: Mercedes Montalvo

Maria P. Garcia

As Its: EXECUTIVE VICE PRESIDENT

Print or Type Name

[CORPORATE SEAL]

Josefina Fonticoba

JOSEFINA FONTICOB

Print or Type Name

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing Joinder and Consent was acknowledged before me this 14th day of September, 2005, by MERCEDES MONTALVO as a Executive Vice President of, UNION PLANTERS BANK, N.A., on behalf of the corporation, who is personally known to me.

Josefina Fonticoba

NOTARY PUBLIC, State of Florida at Large

JOSEFINA FONTICOB

Print or Stamp Name of Notary

My Commission expires:

