


This instrument prepared by and  
after recording return to:

Grant T. Downing  
Godbold, Downing, Sheahan & Bill, P.A.  
222 West Comstock Avenue, Suite 101  
Winter Park, Florida 32789



[SPACE ABOVE THIS LINE FOR RECORDING DATA]

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
THE VILLAS AT VENETIAN BAY**

This Declaration of Covenants, Conditions and Restrictions is made this 24th  
day of March, 2005, by TOUSA HOMES, INC., a Florida corporation,  
hereinafter referred to as "Tousa," whose address is 11315 Corporate Blvd., Suite 250,  
Orlando, Florida 32817 and joined in by Jupiter Partners, LLC, a Florida limited liability  
company and GMAC Model Home Finance, Inc., a Virginia corporation.

**W I T N E S S E T H:**

WHEREAS, Tousa is the builder of certain real property located in Volusia  
County, Florida, which real property is owned in part by Jupiter Partners, LLC, a Florida  
limited liability company, and owned in part by GMAC Model Home Finance, Inc., a  
Virginia corporation, and is more particularly described as:

**Lots 190 through 294, inclusive, and Tract "J" all of Venetian Bay,  
Phase 1A, according to the Plat thereof as recorded in Plat Book 51,  
Pages 1 through 15, Public Records of Volusia County, Florida. (the  
"Subject Property").;**

WHEREAS, Tousa desires to create on the Subject Property a residential  
community of single family residences, and recreation or common areas, all to be  
known as The Villas at Venetian Bay (the "Neighborhood Association"); and

WHEREAS, Tousa may from time to time in its sole discretion subject additional  
lands to this Declaration, whereupon such added property, hereinafter referred to as  
"Additions to Subject Property", shall be subject to this Declaration and the jurisdiction  
of the Association; and

WHEREAS, Tousa desires to provide for the preservation of the value and  
amenities in said community and, to this end, desires to subject the Subject Property to  
the covenants, conditions, restrictions, easements, charges and liens hereinafter set  
forth and those which may arise in the future, each and all of which is and are for the  
benefit of the Subject Property and each Owner thereof; and

WHEREAS, Tousa has created The Villas at Venetian Bay, Inc., as the  
Association to which will be delegated and assigned the powers of administering and  
enforcing the covenants, conditions and restrictions hereof, and collecting and  
disbursing the assessments and charges referred to herein; and

WHEREAS, Tousa has incorporated the Association referred to in Article I as a

not for profit corporation under the laws of the State of Florida for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Tousa hereby declares that the Subject Property is and shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens (at times hereinafter referred to as "covenants and restrictions"), which are for the purpose of protecting the value and desirability of, and which shall run with, the Subject Property and be binding on all parties having any right, title or interest in the Subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

#### **ARTICLE I** **DEFINITIONS**

The following words when used in this Declaration or any Supplemental Declaration (as defined hereafter), unless the context shall otherwise prohibit, shall have the following meanings:

a. "Additions to Subject Property" shall mean and refer to any real property which may become subject to this Declaration under the provisions of Article II hereof. Such Additions to Subject Property, which may be added from time to time, may be of any size and contain any number of Lots and in any sequence as determined solely by Tousa.

b. "ARC" shall mean the Architectural Review Committee of The Villas at Venetian Bay established pursuant to Article VI hereof.

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

d. "Association" shall mean and refer to The Villas at Venetian Bay Homeowners Association, Inc., a not for profit Florida corporation.

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

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

g. "Common Properties" or "Common Property" shall mean and refer to those tracts of land, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association, or tracts of land or improvements which the Association undertakes to maintain. The terms "Common

Properties" or "Common Property" shall also include any personal property acquired by the Association and any real property within the Subject Property, together with any improvements thereon, upon which the Association has accepted an easement for maintenance.

h. "Community Completion Date" shall mean the date upon which all Homes in The Villas at Venetian Bay, as ultimately planned and as fully developed, have been conveyed by Touse to Owners.

i. "Development" shall mean and refer to The Villas at Venetian Bay development constructed by Touse upon the Subject Property.

j. "Home" shall mean and refer to any portion of a building or a single family structure situated upon a Lot within the Subject Property designed and intended for use and occupancy as a residence by a single family.

k. "Initial Capital Contribution" shall have the meaning set forth in Article V, Section 3(a) hereof.

l. "Lot" shall mean and refer to any numbered plot of land shown on a recorded subdivision plat of the Subject Property, with the exception of the Common Properties heretofore defined, which is intended for use and construction thereon of a Home. The term Lot shall also include the Home located thereon when a house has been constructed on the Lot.

m. "Master Association" shall mean Venetian Bay Homeowners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

n. "Master Community" shall mean the community in Volusia County known as Venetian Bay, which is legally described as Exhibit A to the Master Declaration.

o. "Master Developer" shall mean Venetian Bay of New Smyrna Beach, L.L.C.

p. "Master Declaration" shall mean The Declaration and Restrictions for Venetian Bay Subdivision New Smyrna Beach, Volusia County, Florida and Notice of Provisions for Venetian Bay Homeowners' Association, Inc. recorded in Official Records Book 5327, Page 3951, Public Records of Volusia County, Florida, as the same may be amended from time to time, together with all amendments and modifications thereof.

q. "Member" shall mean and refer to all those Owners who may be designated Members of the Association as provided in Article IV hereof.

r. "Neighborhood Association" shall have the meaning set forth in the

Master Declaration. Association is a Neighborhood Association.

s. "Neighborhood Plan" shall mean collectively any full or partial concept plan for the development of Venetian Bay, Phase 1A, Lots 190 through 294 and Tract "J", as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Neighborhood Plan is subject to change as set forth herein.

t. "Neighborhood Title Documents" shall have the meaning set forth in Article IX, Section 2 hereof.

u. "Operating Costs" shall mean all costs and expenses of Association and the Common Areas. Operating Costs may include, without limitation, all of the costs of ownership; operation; administration; all amounts payable by Association; all amounts payable in connection with any private street lighting agreement between Association and any utility provider; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance and any and all of the costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration.

v. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot and Home which is situated within the Subject Property; but, notwithstanding any applicable theory of the law of mortgages, Owner shall not mean or refer to any holder of a security interest in a Lot as security for the performance of an obligation, unless and until such holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

w. "Plat" shall mean any plat of any portion of Venetian Bay, Phase 1A, as recorded in Plat Book 51, Pages 1 through 15, Public Records of Volusia County, Florida, as may be amended from time to time.

x. "Subject Property" shall initially mean and refer to those lands described in the first Whereas recital set forth in this Declaration. The term "Subject Property" shall also include Additions to Subject Property when added from time to time under the provisions of Article II hereof.

y. "Surface Water Management System" means a system which is

designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the applicable provisions of the Florida Administrative Code. The Surface Water Management System also shall mean and refer to all land, easements and other facilities and appurtenances that together constitute and comprise the master surface water management and drainage system of the Neighborhood Association as reflected on the plans therefore on file with and approved by the applicable Water Management District.

z. "Tousa" shall mean and refer to Tousa Homes, Inc., a Florida corporation. Wherever the term Tousa is used in this Declaration, it shall be deemed to include Tousa's successors and assigns only to the extent specifically so identified by an instrument in writing executed by Tousa.

## ARTICLE II

### **PROPERTY SUBJECT TO THIS DECLARATION**

**SECTION 1. Subject Property.** The Subject Property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is more particularly described in the first Whereas recital set forth in this Declaration.

**SECTION 2. Additions to Subject Property.** Tousa, from time to time, may in its sole discretion cause additional lands to become subject to this Declaration, which additional lands have been hereinabove defined as Additions to Subject Property. Until such time as such additions are made to the Subject Property in the manner hereinafter set forth, real property other than the Subject Property shall in no way be affected or encumbered by this Declaration. Tousa's right to cause additional lands to become subject to this Declaration shall not require the prior approval of any other party.

**SECTION 3. Supplemental Declaration of Covenants and Restrictions.** The Additions to Subject Property authorized under this Article shall be made by the Tousa's filing of record a Supplemental Declaration of Covenants and Restrictions, hereinafter referred to as "Supplemental Declaration," with respect to the Additions to Subject Property which shall extend the scheme of the covenants and restrictions of this Declaration to such property. Upon the filing of record of such Supplemental Declaration, the lands described therein shall be added to and become a part of the Subject Property under this Declaration.

Such additions may be made whenever Tousa in its sole discretion deems

appropriate. Such Supplemental Declaration shall be made by Touse and shall not require consent of any Owner, Member, mortgagee of a Home, or the Association. Such Supplemental Declaration may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additions to Subject Property, and to identify any Common Property included in the Additions to Subject Property. The Owner of each Home in any Additions to Subject Property shall become a Member of the Association when the Supplemental Declaration of Covenants and Restrictions is recorded in the Public Records submitting the Additions to Subject Property in which the Home is located to the terms of this Declaration, and at that time the Owner may exercise all rights of a Member of the Association, including the right to vote, and shall become subject to the terms and conditions of this Declaration as provided in the Supplemental Declaration, including such obligations as the payment of assessments as provided therein.

### **ARTICLE III**

#### **COMMON PROPERTY**

**SECTION 1. Common Property.** The Common Property will be identified by designation as Common Property on plats of the Subject Property from time to time or by other written designation by Touse. The Association shall operate, maintain and, when and to the extent deeded by Touse, hold record title to the Common Property. Notwithstanding the foregoing, Touse subsequently may determine that certain other limited areas may be designated as Common Property which will be operated and maintained by the Association. Any such additional Common Property to be operated and maintained by the Association will be identified by written designation between Touse and the Association. Further, Touse shall determine which areas of Common Property shall be deeded to the Association, if any. Every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every Lot. The rights and easements of enjoyment created hereby shall be subject to the right of Touse to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility.

a. Tract J on the Plat is a recreation area to be owned and maintained by the Association.

### **ARTICLE IV**

#### **STRUCTURE, POWERS AND DUTIES OF, AND**

#### **MEMBERSHIP AND VOTING RIGHTS IN, THE ASSOCIATION**

**SECTION 1. Association.** The Association created by Touse hereunder is a

not for profit corporation charged with the duties and vested with the powers prescribed by law and set forth in this Declaration. Neither the Articles of Incorporation nor the By-Laws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (1) Members of the Association, or (2) officers, directors, agents, representatives or employees of Touse. The Board of Directors and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with this Declaration, the Articles of Incorporation and the By-Laws of the Association.

Notwithstanding anything contained in this Declaration, the Articles of Incorporation or the By-Laws to the contrary, Touse shall be entitled to select a majority of the members of the Board of Directors until such time as Touse has sold, transferred or conveyed at least seventy-five percent (75%), but not more than ninety percent (90%) of the total number of Lots Touse plans to develop within the Neighborhood Association to third parties.

**SECTION 2. Association Purpose and Duties.** For the purposes of administering the covenants, restrictions and other provisions of this Declaration, and continuing the orderly and aesthetically pleasing growth and maintenance of the Neighborhood Association, the Association shall have the following authority and duties:

- a. Provide for the landscaping, maintenance and irrigation of the Common Property.
- b. Adopt standards of maintenance and operation which are, at the very least, as stringent as those adopted and/or followed by other first class developments similar to the Neighborhood Association.
- c. Take any and all actions necessary to enforce all covenants, conditions and restrictions set forth in this Declaration and to perform any of the functions or services delegated to the Association in this Declaration or in the Articles of Incorporation or By-Laws of the Association.
- d. Conduct the business of the Association, including, but not limited to, administrative services such as legal, accounting, and financial, and communications services informing the Members of activities, notices of meetings, and other important events.

e. Purchase general liability and hazard insurance covering improvements and activities on the Common Property at a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, directors and officers liability and such other insurance as the Board of Directors deems necessary. Hazard insurance proceeds for losses to any Common Property may not be used other than for the repair, replacement or reconstruction of such property unless the Board of Directors decides otherwise.

**SECTION 3. Membership.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of the Master Association and the Association, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member. The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Master Association and the Association appurtenant thereto to the new Owner thereof.

**SECTION 4. Voting Rights.** The Association shall have two classes of voting membership.

Class A. Class A members shall be every person or entity who is a record owner of a fee simple interest or undivided fee simple interest in any Lot, with the exception of the Touse. Class A Members shall be entitled to one vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Touse and the Class B Member shall have seven (7) votes for each Lot owned by said Member. For purposes of determining voting rights hereunder, the number of Lots owned by the Touse shall be deemed to include the total number of Lots Touse plans to develop within the entire Neighborhood Association, whether or not yet included in a final plat subdividing the Subject Property into single family residential lots.

The Class B membership shall cease and become converted to Class A membership upon the earlier to occur of the following events:



a. When the Touse has sold, transferred or conveyed seventy-five percent (75%) of the total number of Lots Touse plans to develop within the Neighborhood Association, or such other percentage as is required to comply with the regulations of any governmentally chartered entity with regard to mortgage financing of Lots; or

b. On July 31, 2014.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### SECTION 1. Creation of the Lien and Personal Obligation of Assessments.

a. Each Owner of any Lot in the Subject Property, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees to pay (1) an initial capital assessment; (2) annual assessments for the Association and Master Association; and (3) special assessments for capital improvements; such assessments to be fixed, established and collected from time to time as hereinafter provided at a uniform rate applicable to each Lot within the Subject Property. The initial, annual, resale and special assessments may be imposed in Touse's reasoned discretion or by the Association. The charges imposed together with such interest thereon and costs of collection thereof, including court costs and reasonable attorneys' fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. All Lots shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms and provisions of this Declaration applicable to Lots, including, but not limited to, the continuing lien herein described. Each such assessment, together with such interest, costs and attorneys' fees as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment falls due.

b. Notwithstanding the provisions of subparagraph a. above, the Touse shall not be subject to any of the aforesaid assessments as to Lots which are owned by Touse. Lots owned by the Touse shall be exempt from the assessments until such time that any of said Lots has been improved by Touse with a completed Home as determined by the issuance of a certificate of occupancy and has been conveyed to a third party homeowner. Touse shall fund any deficit for payment of the general operating expenses of the Association for as long as Touse is exempt from the assessments as provided herein, provided that Touse shall not be obligated to contribute to or pay for funding any reserves for capital expenditures or deferred

maintenance, capital improvement funds, or special assessments. Touse shall have the right to waive the exemption from assessments set forth herein, at which time the Lots owned by Touse shall be subject to the assessments in the same manner as the Owners of all other Lots in the Subject Property.

**SECTION 2. Purpose of Assessments.** Any assessments levied shall be used exclusively for the purposes of the improvement and maintenance of the Common Properties and promoting the recreation, health, safety and welfare of the Owners within the Subject Property, including, but not limited to:

a. Installation, management, maintenance, improvement and beautification of landscaping and irrigation on Common Properties; and

b. Payment of operating expenses of the Association, including, without limitation, real estate taxes and insurance; and

c. Repayment of deficits, if any, previously incurred by Touse or the Association in making capital improvements to or upon the Common Properties, and/or in furnishing the services and facilities provided herein or for the Members of the Association; and

d. Doing any other thing necessary or desirable in the judgment of Touse or the Association to benefit or improve the Neighborhood Association, to keep the Neighborhood Association neat and attractive, to preserve or enhance the value of the properties therein, to eliminate fire, health or safety hazards, or any other thing which, in the judgment of Touse or the Association, may be of general benefit to the Owners or occupants of lands included in the Neighborhood Association.

**SECTION 3. Amount of Assessments.**

(a) Initial Capital Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Touse to the purchaser, shall pay to Touse an initial capital contribution in the amount of one (1) year Assessments (the "**Initial Capital Contribution**"). The funds derived from the Initial Capital Contribution shall be used at the discretion of Touse for any purpose, including, but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs.

(b) Annual Assessment. Upon the closing of the first sale of each Lot, and on the first day of each fiscal year thereafter, an annual assessment shall be

assessed against each Lot. The annual assessment shall be in addition to the initial capital assessment and shall be prorated in the year in which the first sale of the Lot occurs to the actual date of closing.

**SECTION 4. Special Assessments for Capital Improvements.** In addition to the foregoing initial, annual and resale assessments, the Touse or the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, installation, repair or replacement of any capital improvement upon the Common Properties, provided that any such assessment shall have the assent of fifty-one percent (51%) of the total number of votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

**SECTION 5. Effect of Nonpayment of Assessments.** The Association has a lien on each Lot for any unpaid or past due assessments and charges. If any assessments are not paid on the date when due, then said assessments shall become delinquent and shall, together with such interest thereon and charges and costs of collection thereof as hereinafter provided, be and remain a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The lien shall be perfected by recording a Claim of Lien in the public records of the County in which the Subject Property is located; such lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The personal obligation of the then Owner to pay assessments shall remain his personal obligation for the statutory period.

If any assessment is not paid within thirty (30) days after the due date, an administrative charge may be levied by Touse or the Association and the assessment shall bear interest from the date when due at the rate of 18% per annum. Touse or the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, and there shall be added to the amount of such assessment, all charges and interest as provided above, and all costs of the action, including legal fees whether or not judicial proceedings are involved, and including legal fees and costs incurred on any appeal of a lower court decision.

**SECTION 6. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage recorded prior to the filing of the claim of lien in the public records. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, of any first mortgage recorded prior to the filing of the claim of lien in the public records shall extinguish the lien for such assessments as to payments which became due prior to

such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI

### ARCHITECTURAL CONTROL

**SECTION 1. Architectural Review Committee.** The ARC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to The Villas at Venetian Bay. The ARC shall consist of a minimum of three (3) members who shall initially be named by Touse and who shall hold office at the pleasure of Touse. Until the Community Completion Date, Touse shall have the right to change the number of members on the ARC, and to appoint, remove, and replace all members of the ARC. Touse shall determine which members of the ARC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Touse, Touse shall have the right to replace any member within thirty (30) days of such occurrence. If Touse fails to replace that member, the remaining members of the ARC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Touse with respect to the ARC.

**SECTION 2. Membership.** There is no requirement that any member of the ARC be an Owner or a member of Association.

**SECTION 3. General Plan.** It is the intent of this Declaration to create a general plan and scheme of development of The Villas at Venetian Bay. Accordingly, the ARC shall have the right to approve or disapprove all architectural, landscaping, and improvements within The Villas at Venetian Bay by Owners other than Touse, as permitted by this Declaration. Without limiting any other restriction or limitation provided for in this Declaration to the contrary, the ARC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ARC. The ARC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Touse, which may be granted or denied in its sole discretion.

**SECTION 4. Neighborhood Plan.** Touse has established an overall Neighborhood Plan. However, notwithstanding the above, or any other document, brochures or plans, Touse reserves the right to modify the Neighborhood Plan or any

site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, TOUSA MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING THE VILLAS AT VENETIAN BAY. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW THE VILLAS AT VENETIAN BAY WILL APPEAR UPON COMPLETION AND TOUSA RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS TOUSA DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

**SECTION 5. Community Standards.** Each Owner and its contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ARC and approved by the Board of Association from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Touse shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

**SECTION 6. Quorum.** A majority of the ARC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC. In lieu of a meeting, the ARC may act in writing.

**SECTION 7. Power and Duties of the ARC.** No improvements shall be constructed on any portion of The Villas at Venetian Bay, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Touse (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ARC. The ARC shall have no right to approve any improvements that are the specific maintenance responsibility of Association.

**SECTION 8. Procedure.** In order to obtain the approval of the ARC, each Owner shall observe the following:

(a) Each applicant shall submit an application to the ARC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ARC. The applications shall include such information as may be required by the application form adopted by

the ARC. The ARC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ARC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer.

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

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

(d) Construction of all improvements shall be completed within the time period set forth in the application and approved by the ARC.

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

(e) Upon disapproval, the applicant may appeal the decision of the ARC to the Board within thirty (30) days of the ARC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefore. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The decision of the ARC, or if appealed, the Board of Association, shall be final and binding upon the applicant, its heirs, legal

representatives, successors and assigns.

**SECTION 9. Alterations.** Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ARC shall be subject to the approval of the ARC in the same manner as required for approval of original plans and specifications.

**SECTION 10. Variances.** Association or ARC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

**SECTION 11. Permits.** The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

**SECTION 12. Construction by Owners.** The following provisions govern construction activities by Owners after consent of the ARC has been obtained:

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

appropriate by the ARC in its sole discretion.

(b) Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and all contractors, subcontractors, materialmen and suppliers (collectively, **"Contractors"**). In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ARC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ARC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in The Villas at Venetian Bay.

(c) The ARC may, from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within The Villas at Venetian Bay. Each Owner and Contractor shall comply with such standards and cause its respective employees to also comply with same. The ARC may also promulgate requirements to be inserted in all contracts relating to construction within The Villas at Venetian Bay and each Owner shall include the same therein.

**SECTION 13. Inspection.** There is specifically reserved to Association and ARC and to any agent or member of either of them, the right of entry and inspection upon any portion of The Villas at Venetian Bay at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

**SECTION 14. Violation.** Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ARC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ARC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ARC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

**SECTION 15. Court Costs.** In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ARC shall be entitled to



recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

**SECTION 16. Certificate.** In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ARC, Association and/or ARC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

**SECTION 17. Certificate of Compliance.** If requested by an Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Tousa, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the ARC, certifying that the Owner has complied with the requirements set forth herein. The ARC may, from time to time, delegate to a member or members of the ARC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ARC's rights set forth in Section herein.

**SECTION 18. Exemption.** Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Tousa or its nominees, including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the ARC, Association, or the provisions of the Community Standards.

**SECTION 19. Exculpation.** Tousa, Association, the directors or officers of Association, the ARC, the members of the ARC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Tousa, Association, ARC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Tousa, Association or their respective directors or officers, the ARC or the members of the ARC, or their respective agents, in order to recover any damages caused by the actions of Tousa, Association, or ARC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Tousa and the ARC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ARC or their members, officers and directors. Tousa, Association, its directors or officers, the ARC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements

constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

## **ARTICLE VII** **RESTRICTIVE COVENANTS**

In addition to use restrictions in the Master Declaration, each Owner must comply with the following:

**SECTION 1. Alterations and Additions.** No material alteration, addition or modification to a Lot or Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration.

**SECTION 2. Animals.** No animals of any kind shall be raised, bred or kept within The Villas at Venetian Bay for commercial purposes. Otherwise, Owners may keep domestic pets as permitted by County ordinances and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Home, as approved by the ARC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within The Villas at Venetian Bay designated for such purpose, if any, or on that Owner's Home. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section. Pigs shall not be allowed within The Villas at Venetian Bay.

**SECTION 3. Artificial Vegetation.** No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Lot, unless approved by the ARC.

**SECTION 4. Cars and Trucks.**

(a) **Parking.** Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of The Villas at Venetian Bay or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the

Home and not in the roadway or swale. There shall be no overnight parking on the street within The Villas at Venetian Bay. No vehicles used in business for the purpose of transporting goods, equipment and the like, or any trucks or vans which are larger than three-quarter (3/4) ton shall be parked in The Villas at Venetian Bay except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks of three-quarter (3/4) ton capacity or smaller, and personal vehicles that can be appropriately parked within standard size parking garages may be parked in The Villas at Venetian Bay.

(b) **Repairs and Maintenance of Vehicles.** No vehicle which cannot operate on its own power shall remain on The Villas at Venetian Bay for more than twelve hours, except in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within The Villas at Venetian Bay, except in the garage of a Home. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

(c) **Prohibited Vehicles.** No commercial vehicle, limousines, recreational vehicle, boat, trailer including, but not limited to, boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept within The Villas at Venetian Bay except in the garage of a Home. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (i.e., Broncos™, Blazers™, Explorers™, Navigators™, etc.) or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer of Homes, Common Areas, or any other The Villas at Venetian Bay facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on The Villas at Venetian Bay. For any Owner who drives an automobile issued by the County or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently.

**SECTION 5. Casualty Destruction to Improvements.** In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as set forth in Article VIII, Section 3(a) herein and as approved by the ARC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ARC.

**SECTION 6. Commercial Activity.** Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, administrative offices of Developer, no commercial or business activity shall be conducted in any Home within The Villas at Venetian Bay. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within The Villas at Venetian Bay. No solicitors of a commercial nature shall be allowed within The Villas at Venetian Bay, without the prior written consent of Association. No day care center or facility may be operated out of a Home.

**SECTION 7. Completion and Sale of Units.** No person or entity shall interfere with the completion and sale of Homes within The Villas at Venetian Bay. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED TO A HOME, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE, EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS IS STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN THE COMMUNITY AND RESIDENTIAL ATMOSPHERE THEREOF.

**SECTION 8. Control of Contractors.** Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

**SECTION 9. Cooking.** No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association.

**SECTION 10. Decorations.** No decorative objects including, but not limited to, birdbaths, landscape edging, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of The Villas at Venetian Bay without the prior written approval of the ARC. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed not later than January 15th of the following year. The ARC may establish standards for holiday lights. The ARC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home).

**SECTION 11. Disputes as to Use.** If there is any dispute as to whether the use of any portion of The Villas at Venetian Bay complies with this Declaration, such dispute

shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

**SECTION 12. Drainage System.** Drainage systems and drainage facilities may be part of the Common Areas and/or Homes. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Home shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers) or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to the ARC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association, the District and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

**SECTION 13. Driveway Repair.** Each Owner shall be responsible to timely repair, maintain and/or replace the driveway comprising part of a Home, including, but not limited to, any damage caused by Developer, Association or by the holder of any easement over which such driveway is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify, defend and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

**SECTION 14. Easement for Unintentional and Non-Negligent Encroachments.** If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual

nonexclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.

**SECTION 15. Extended Vacation and Absences.** In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have responsibility of any nature relating to any unoccupied Home.

**SECTION 16. Fences and Walls.** No walls or fences shall be erected or installed without prior written consent of the ARC. No chain link fencing of any kind shall be allowed. All enclosures of balconies or patios, including, without limitation, addition of vinyl windows and decks shall require the prior written approved of the ARC.

**SECTION 17. Fuel Storage.** No fuel storage shall be permitted within The Villas at Venetian Bay, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces or similar devices and provided all fuel storage for swimming pools and spas is stored below ground.

**SECTION 18. Garages.** Each Home may have its own garage. No garage shall be converted into a general living area unless specifically approved by the ARC. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

**SECTION 19. Garbage Cans.** Trash collection and disposal procedures established by Association shall be observed. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up, and must be returned to the Home so that they are not visible from outside the Home on the day of pick-up.

**SECTION 20. General Use Restrictions.** Each Home, the Common Areas and any portion of The Villas at Venetian Bay shall not be used in any manner contrary to the Association Documents.

**SECTION 21. Grass.** Any replanting or resodding of grass by an Owner within his or her Lot must be done with St. Augustine sod or other ground cover first approved the ARC.

**SECTION 22. Hurricane Shutters.** Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved in writing by the ARC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the ARC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

**SECTION 23. Irrigation.**

(a) Due to water quality, irrigation systems may cause staining on Homes, other structures or paved areas. It is each Owner's responsibility to treat and remove any such staining. Any irrigation system that is not specifically the maintenance obligation of Association or an Owner, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

(b) Reuse Distribution System. Developer, if required by the applicable governing agency, will install a reuse distribution system for irrigation use within The Villas at Venetian Bay. The reuse distribution system, until such time as reuse may become available from the applicable governing agency, will use potable water. Association and Owners of the community will be required to connect their respective irrigation systems into the reuse distribution system. Each Owner will maintain the portion of the system on its Lot operable and in good condition.

**SECTION 24. Lake and Canal Slopes.** The rear yard of some Homes may border lakes and canals forming part of the Common Areas. Association may maintain portions of the Common Areas contiguous to the rear lot line of such Home which comprise part of the lake slopes and banks and/or canal slopes and banks to prevent or restore erosion of slopes and banks due to drainage or roof culvert outfalls. The Owner of each Home bordering on the lake and canals shall ensure that lake and canal banks and slopes remain free of any structural or landscape encroachments so as to permit vehicular access for maintenance when needed. Each Owner hereby grants the Association an easement of ingress and egress across his or her Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this Section. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR

ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME.

**SECTION 25. Laundry.** Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no clotheslines, rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Lot.

**SECTION 26. Lawful Use.** No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of The Villas at Venetian Bay. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of The Villas at Venetian Bay shall be the same as the responsibility for maintenance and repair of the property concerned.

**SECTION 27. Landscaping and Irrigation of Lots; Removal of Sod and Shrubbery; Additional Planting.**

(a) Every Owner shall be required to irrigate the grass and landscaping located on the Lots in a routine and ordinary manner, and shall ensure that sufficient irrigation occurs during all periods when the Owner is absent from the Lot. Every Owner shall be responsible to maintain in good condition any irrigation system within such Owner's Lot.

(b) All grass and landscaping located within any rear yard of a Lot shall be maintained by the Owner. No gardens, Jacuzzis, fountains, playground equipment, pools, screened rooms, or other permitted improvements shall be constructed within the rear yard of a Lot without the prior written approval of the ARC. Each Owner understands that Lots within this Community may not be large enough to accommodate any of the foregoing items in any event.

(c) No decorative objects including, but not limited to, birdbaths, landscape edging, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of The Villas at Venetian Bay without the prior written approval of the ARC. Without the prior consent of the ARC, no sod, topsoil, tree or shrubbery shall be removed from The Villas at Venetian Bay, and there shall be no change in the plant landscaping or elevation of such areas and no change in the condition of the soil or the level of the land of such areas which results in any change in the flow and drainage of surface water which the ARC, in its sole discretion, considers detrimental or potentially detrimental to person or property. Notwithstanding the foregoing, Owners who install improvements to the Home (including, without limitation, concrete or brick pavers) which result in any change in the flow and/or drainage of surface water shall be responsible for all costs of drainage problems resulting from such improvement. Further, in the event that such Owner fails to pay for such required repairs, each Owner agrees to reimburse Association for all expenses



incurred in fixing such drainage problems including, without limitation, removing excess water and/or repairing the Surface Water Management System.

(d) No landscape lighting shall be installed by an Owner without the prior written approval of the ARC.

(e) No alterations to the landscaping beds within an Owner's Lot shall be made without the prior written approval of the ARC.

(f) Without the prior consent of the ARC, no Owner shall remove soil from any portion of The Villas at Venetian Bay or change the level of the land within The Villas at Venetian Bay, or plant landscaping which results in any permanent change in the flow and drainage of surface water within The Villas at Venetian Bay. Owners may not place additional plants, shrubs, or trees within any portion of The Villas at Venetian Bay without the prior approval of the ARC.

**SECTION 28. Leases.** Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes shall be provided to Association if so requested by Association. No time-share or other similar arrangement is permitted. The Owner must make available to the lessee or occupants copies of the Association Documents. Short term rentals (as that term is defined by County) are not allowed within The Villas at Venetian Bay. No lease term shall be less than seven (7) months. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

**SECTION 29 Maintenance by Owners.**

(a) **Standard of Maintenance.** All lawns, landscaping and sprinkler systems and any property, structures, improvements, fences, and appurtenances not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of The Villas at Venetian Bay by the Owner of each Home. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of a Lot. In addition, if an Owner has installed a fence or wall around a Lot, or any portion thereof, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association. Each Owner shall be responsible for root pruning trees within any portion of his or her Lot.

(b) **Mailboxes.** Each Owner shall be responsible for the maintenance, repair and replacement of his or her mailbox. In the event a mailbox post requires

maintenance, repair or replacement, each Owner whose mailbox is affixed to such mailbox post shall share equally in the cost of the same.

(c) **Weeds and Refuse.** No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

**SECTION 30. Minor's Use of Facilities.** Adults shall be responsible for all actions of their minor children at all times in and about The Villas at Venetian Bay. Neither Developer nor Association shall be responsible for any use of the facilities by anyone, including minors.

**SECTION 31. Nuisances.** No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of The Villas at Venetian Bay is permitted. No firearms shall be discharged within The Villas at Venetian Bay. Nothing shall be done or kept within the Common Areas, or any other portion of The Villas at Venetian Bay, including a Home or Lot which will increase the rate of insurance to be paid by Association.

**SECTION 32. Personal Property.** All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property may be stored on, nor any use made of, the Common Areas, any Lot or Home, or any other portion of The Villas at Venetian Bay, which is unsightly or which interferes with the comfort and convenience of others.

**SECTION 33. Pools.** No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ARC as set forth in this Declaration. The design must incorporate, at a minimum, the following: (i) the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the ARC; (iii) pool cages and screens must be of a design, color and material approved by the ARC and shall be no higher than twelve (12) feet unless otherwise approved by the ARC; and (iv) pool screening shall in no event be higher than the roof line of the Home. Pool screening shall not extend beyond the sides of the Home without express approval by the ARC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Developer, no diving boards, slides, or platforms shall be permitted without ARC approval.

**SECTION 34. Roofs, Driveways and Pressure Treatment.** Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated within thirty (30) days of notice by the ARC. No surface applications to driveways shall be permitted without the prior written approval of the ARC as to material, color and pattern. Such applications shall not extend beyond the

front Lot line or include the sidewalk. Notwithstanding Association's responsibility to paint, each Owner shall be responsible to pressure clean between paintings.

**SECTION 35. Satellite Dishes and Antennae.** No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of such items must be first approved by the ARC in order to address the safety and welfare of the residents of The Villas at Venetian Bay. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("**FCC**") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

**SECTION 36. Screened Enclosures.** No screened enclosures, for pools or otherwise, shall be permitted without the prior written approval of the ARC.

**SECTION 37. Sculptures, Fountains, Equipment, Signs and Flags.** No sign (including, without limitation, brokerage or for sale/lease signs, or any window signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any portion of The Villas at Venetian Bay that is visible from the outside without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration; provided, however, signs required by governmental agencies and approved by the ARC may be displayed (e.g., permit boards). Developer is exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within The Villas at Venetian Bay, unless written approval of the ARC is obtained. Notwithstanding the foregoing, flags which are no larger than 24" x 36", attached to a Home and displayed for the purpose of a holiday and United States of America flags shall be permitted without ARC approval.

**SECTION 38. Sports Equipment.** No recreational, playground or sports equipment shall be installed or placed within or about any portion of The Villas at Venetian Bay without prior written consent of the ARC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval by the ARC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home. No tennis courts are permitted within Lots.

**SECTION 39. Storage.** No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other

structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ARC, which approval shall conform to the requirements of this Declaration. Any boat stored on a Lot must be screened by landscaping, fencing or walls approved by the ARC so that such boat is not visible from the street. Water softeners, trash containers, barbecue grills, and other similar devices shall be properly screened from the street in a manner approved by the ARC.

**SECTION 40. Subdivision and Regulation of Land.** No portion of any Home or Lot shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to The Villas at Venetian Bay, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

**SECTION 41. Substances.** No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of The Villas at Venetian Bay or within any Home or Lot, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ARC.

**SECTION 42. Swimming, Boating and Docks.** Swimming is prohibited within any of the lakes or waterbodies within or adjacent to The Villas at Venetian Bay. Boating and personal watercrafts (e.g., water skis) are prohibited. No docks may be erected within any lake or waterbody.

**SECTION 43. Use of Homes.** Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

**SECTION 44. Visibility on Corners.** Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ARC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

**SECTION 45. Window or Wall Air Conditioning Units.** No window or wall air conditioning unit may be installed in any window or wall of a Home.

**SECTION 46. Window Treatments.** Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars

shall be placed on the windows of any Home without prior written approval of the ARC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ARC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

## **ARTICLE VIII**

### **INSURANCE**

**SECTION 1. Association.** The Association shall maintain the following insurance coverage:

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

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

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

(d) **Other Insurance.** Such other insurance coverage as appropriate from time to time deemed appropriate by the Board. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto. Without limiting the foregoing and in addition to any other insurance required under this Section, Association shall carry an insurance policy insuring itself from liability for damages related to or arising in connection with the streets, sidewalks, drainage system (including detention/retention areas). The minimum amount of insurance required shall be established by resolution of the Board of County Commissioners.

**SECTION 2. Touse.** Prior to and including the Turnover Date, Touse shall have the right, at Association's expense, to provide insurance coverage under its master insurance policy in lieu of any of the foregoing.

### SECTION 3. Homes.

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

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

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

**SECTION 4. Additional Rights of Association.** If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board

is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

**SECTION 5. Association Has No Liability.** Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

**SECTION 6. Association as Agent.** Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

**SECTION 7. Casualty to Common Areas.** In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

**SECTION 8. Nature of Reconstruction.** Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

**SECTION 9. Additional Insured.** Touse and its Lender(s), if applicable, shall be named as additional insured on all policies obtained by Association, as their interests may appear.

**SECTION 10. Cost of Payment of Premiums.** The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs.

## **ARTICLE IX MISCELLANEOUS**

**SECTION 1. Term and Amendment.** The terms, provisions, restrictions and easements set forth or created in this Declaration shall run with the land, regardless of whether or not they are specifically mentioned in any deeds or instruments of conveyance for any Lots in the Neighborhood Association subsequent to the execution

hereof and shall be binding on all parties and all persons claiming an interest in the Subject Property under such deeds for a period of fifty (50) years from the date this Declaration is recorded, after which time this Declaration shall automatically extend for successive periods of ten (10) years each, unless prior to the commencement of any ten (10) year period an instrument in writing, signed by a three-quarters (3/4) majority of the Owners of Lots in the Neighborhood Association, has been recorded in the Public Records which said instrument rescinds this Declaration, except as hereafter specifically provided. This Declaration may not be amended without the consent of at least a two-thirds (2/3) vote of the Members as long as there is a Class B Member, and the Veterans Administration and/or the Federal Housing Administration shall have a veto authority over any such amendments as long as there is a Class B Member. No amendment of this Declaration shall be effective which requires Touse to relinquish any rights reserved to Touse under this Declaration.

**SECTION 2. Neighborhood Title Documents.** Each Owner by acceptance of a deed to a Home acknowledges that such home is subject to certain land use and title documents and all amendments thereto, which include among other items, the title documents recorded in the Public Records including, without limitation, the Master Declaration and this Declaration (collectively, the "**Neighborhood Title Documents**"). Touse's plan of development for Villas at Venetian Bay may necessitate from time to time the further amendment, modification and/or termination of the Neighborhood Title Documents. TOUSA RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE NEIGHBORHOOD TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Neighborhood Title Documents. To the extent that such documents require the joinder of Owners other than Touse, Touse, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Touse, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Neighborhood Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Neighborhood Title Documents. Without limiting the foregoing, upon the Community Completion Date Association shall assume all of the obligations of Touse under the Neighborhood Title Documents unless otherwise provided by Touse by amendment to this Declaration recorded by Touse in the Public Records, from time to time, and in the sole and absolute discretion of Touse.



**SECTION 3. Fines and Enforcement.** If any person, firm or corporation, or their respective heirs, personal representative, successors or assigns, shall violate or attempt to violate any provisions of this Declaration, it shall be the right of the Touse, and the Association, or any other person or persons owning any Lot in the Neighborhood Association to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any term or condition of this Declaration, whether such proceeding is to prevent such persons from so doing or to recover damages. If such person is found in the proceedings to be in violation of or attempting to violate any term or condition of this Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorneys' fees (including those incurred on appeal) incurred by the party enforcing the term or condition of this Declaration. Touse and the Association (acting through its Board of Directors) each also shall have the full right and authority to impose fines upon the Owner of any Lot who causes or permits any violations of any terms or conditions of this Declaration; any and all such fines levied by Touse or the Association shall be secured by a lien, and shall be due, payable and enforceable in accordance with the same provisions for any nonpayment of assessments as provided in Article V of this Declaration. Touse shall not be obligated to enforce any term or condition of this Declaration and shall not in any way or manner be held liable or responsible for any violation of any term or condition of this Declaration by any person other than itself. Failure by Touse or any other person or entity to enforce any term or condition of this Declaration upon breach thereof, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or as to a similar breach occurring prior or subsequent thereto. Issuance of a building permit or license, which may be in conflict with any term or condition of this Declaration, shall not prevent Touse or any Owner in the Neighborhood Association from enforcing any term or condition of this Declaration.

**SECTION 4. Irreparable Harm.** Every Owner agrees and acknowledges that a violation of any term or condition of this Declaration by such Owner or its family members, guests, invitees, licensees, tenants or servants constitutes irreparable harm to Touse and every other Owner in the Neighborhood Association and that any action at law or equity to obtain an injunction against such violation shall require no further proof of irreparable harm other than the admission herein contained.

**SECTION 5. Severability.** Invalidity of any one provision contained herein by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

**SECTION 6. Governmental Authorities.** All codes, rules and regulations of the City or County in which the Subject Property is located and all other applicable governmental authorities shall remain fully applicable to the Subject Property, and no restrictions or provisions contained in this Declaration shall be applied or construed in any manner to allow any violations of all such codes, rules and regulations of the governmental authorities.

**Section 7. Exculpation.** No personal liability is assumed by nor shall at any time be asserted or enforceable against Tousa on account of any representation, covenant, undertaking or agreement of Tousa contained in this Declaration either expressed or implied. All such personal liability, if any, is expressly waived and released by the Association, the Owners and by all persons claiming by, through or under the Owners.

**Section 8. Notice.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, post paid, to the last known address of the person who appears as Member or Owner on the records of the Association as the time of such mailing. It shall be the duty of each Owner to keep the Association advised of his name and address and any changes therein.

**Section 9. Conflict.** This Declaration shall take precedence over conflicting provisions in the Articles and By-Laws of the Association and the Articles shall take precedence over the By-Laws.

**Section 10. Effective Date.** This Declaration shall become effective upon its recordation in the Public Records of Volusia County.

**Section 11. Enforcement Costs.** If any legal action or other proceeding is brought forth enforcement of this Declaration, or because of an alleged dispute, breach, default, or misrepresentations in connection with any provision of this Declaration, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, court costs, and all expenses even if not taxable as court costs (including, but without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

**Section 12. Covenants Running with the Land.** It is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants shall run with the land and with title to the properties. If any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid, such provision or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants to so run with the land; but if such provision or application cannot be so modified, such provision or application shall be unenforceable and considered null and void and in order that the paramount goal of the parties affected hereby (that these covenants run with the land as aforesaid) be achieved.

**Section 13. Master Association.** Each Owner shall be subject to the terms and conditions of the Master Association which contains, among other things,

assessment obligations and use restrictions. In the event of a conflict between the covenants of the Master Associations and the Association, the more restrictive covenant shall control.

**Section 14. Touse's Obligations.** Touse hereby declares, for the benefit of GMAC Model Home Finance, Inc., and Jupiter Partners, LLC., that it shall be solely responsible for its obligations set forth hereunder, including without limitation the creation and administration of the Association, the improvement and maintenance of Common Property, the collection of assessments and the enforcement of the restrictive covenants. GMAC Model Home Finance, Inc., and Jupiter Partners, LLC shall have no obligation or liability to individual Owners for such matters.

**IN WITNESS WHEREOF**, the undersigned corporation has caused these presents to be executed in its name, under its corporate seal, by a duly authorized officer, and has executed the same on this 24<sup>th</sup> day of March, 2005.

Signed, sealed and delivered  
in the presence of:

TOUSA HOMES, INC., a Florida  
corporation

Sheri D. Carnicella  
Print Name: Sheri D. Carnicella

By: [Signature]

Candice H. Hawks  
Print Name: Candice H. Hawks

Name: DEAN A. BORLESON

Title: President

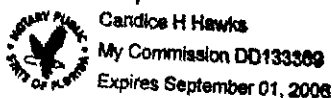
Date: 3/24/05

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of March, 2005, by Dean Ashley Borleson as He/She of Touse Homes, Inc., a Florida corporation. He/She is personally known to me, or G has produced \_\_\_\_\_ as identification.

Imprint Notary Public  
Rubber Stamp Seal Below



[Signature]  
Signature of Person Taking Acknowledgment  
Notary Public

**JOINDER TO THE DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
THE VILLAS AT VENETIAN BAY  
HOMEOWNERS ASSOCIATION**

The undersigned, GMAC Model Home Finance, Inc., a Virginia corporation does hereby join into the Declaration of Covenants, Conditions and Restrictions of The Villas at Venetian Bay.

The undersigned does hereby declare that the real property described therein is and shall be held, transferred, sold, conveyed and occupied subject to all of the covenants, restrictions, easements, charges and liens set forth in the Declaration, all of which shall run with the Subject Property and be binding on all parties having any right, title or interest in the Subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

Signed, sealed and delivered  
in the presence of:

GMAC Model Home Finance, Inc., a  
Virginia corporation

Karen m Counts  
Signature  
Karen m Counts  
Print Name

By: [Signature]  
Print Name: Mark Paniccia  
Title: AVP

[Signature]  
Signature  
Monika Peets  
Print Name

STATE OF VA  
COUNTY OF Henrico

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of march, 2005, by Mark Paniccia as Asst. Vice President of GMAC Model Home Finance, Inc., a Virginia corporation. He/She

G is personally known to me, or  
G has produced \_\_\_\_\_ as identification.

IMPRINT NOTARY PUBLIC  
RUBBER STAMP SEAL BELOW

[Signature]  
My Commission expires: 11-30-08

Signature of Person Taking Acknowledgment  
Notary Public

## **Electronic Articles of Incorporation For**

N [REDACTED]  
FILED  
July 22, 2004  
Sec. Of State  
nculligan

THE VILLAS AT VENETIAN BAY HOMEOWNERS ASSOCIATION,  
INC.

The undersigned incorporator, for the purpose of forming a Florida not-for-profit corporation, hereby adopts the following Articles of Incorporation:

### **Article I**

The name of the corporation is:

THE VILLAS AT VENETIAN BAY HOMEOWNERS ASSOCIATION,  
INC.

### **Article II**

The principal place of business address:

105 EAST ROBINSON STREET  
SUITE 312  
ORLANDO, FL. US 32801

The mailing address of the corporation is:

105 EAST ROBINSON STREET  
SUITE 312  
ORLANDO, FL. US 32801

### **Article III**

The specific purpose for which this corporation is organized is:

HOMEOWNERS ASSOCIATION

### **Article IV**

The manner in which directors are elected or appointed is:

WRITTEN BALLOT

### **Article V**

The name and Florida street address of the registered agent is:

DAN ROBERTS  
105 E. ROBINSON ST.  
SUITE 312  
ORLANDO, FL. 32801

I certify that I am familiar with and accept the responsibilities of registered agent.

Registered Agent Signature: DAN ROBERTS

N [REDACTED]  
FILED  
July 22, 2004  
Sec. Of State  
nculligan

### Article VI

The name and address of the incorporator is:

DAN ROBERTS  
105 E. ROBINSON STREET  
SUITE 312  
ORLANDO, FLORIDA 32801

Incorporator Signature: DAN ROBERTS

### Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P  
DAN ROBERTS  
105 E. ROBINSON STREET, SUITE 312  
ORLANDO, FL. 32801 US

### Article VIII

The effective date for this corporation shall be:

07/22/2004

**ARTICLES OF INCORPORATION  
OF  
THE VILLAS AT VENETIAN BAY  
HOMEOWNERS ASSOCIATION, INC.**

By these Articles of Incorporation, the undersigned incorporator forms a corporation not for profit in accordance with Chapter 617, Florida Statutes, and pursuant to the following provisions ("these Articles"):

**ARTICLE I  
NAME**

The name of the corporation shall be THE VILLAS AT VENETIAN BAY HOMEOWNERS ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association."

**ARTICLE II  
DURATION**

The Association shall exist perpetually unless and until dissolved according to law. Corporate existence of the Association shall commence upon the filing of these Articles with the Florida Department of State. If the Association is dissolved for any reason, the assets of the Association shall be dedicated to a public body or conveyed to a non-profit organization or similar entity with similar purposes.

**ARTICLE III  
DEFINITIONS**

The term "Declaration" shall mean the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAS AT VENETIAN BAY recorded in the Public Records of Volusia County, Florida, and all amendments or supplements made thereto. All other capitalized words and terms used in these Articles shall have the meaning and definition as provided in the Declaration.

**ARTICLE IV  
PRINCIPAL OFFICE**

The principal office of the Association is located at 105 East Robinson Street, Suite 312, Orlando, Florida 32801.

**ARTICLE V  
REGISTERED OFFICE AND AGENT**

Dan Roberts, whose address is 105 East Robinson Street, Suite 312, Orlando, Florida 32801, is hereby appointed the initial registered agent of the Association and the registered office shall be at said address.

ARTICLE VI  
PURPOSE AND POWERS OF THE ASSOCIATION

The Association shall not pay dividends and no part of any income of the Association shall be distributed to its Members, directors or officers. The Association is formed to provide for, among other things, the improvement, maintenance, preservation and architectural control of the Property and to promote the recreation, health, safety and welfare of the Owners. The Association shall have all the powers of a nonprofit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in these Articles, the Bylaws, or the Declaration. The Association shall have the power and duty to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, any Supplemental Declaration, these Articles and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, administration and improvement of the Property and the Common Property. Unless otherwise specifically prohibited, any and all functions, duties and powers of the Association shall be fully transferable, in whole or in part, to any developer, management agent, governmental unit, public body, or similar entity. Any instrument effecting such a transfer shall specify the duration thereof and the means of revocation.

ARTICLE VII  
MEMBERSHIP AND VOTING RIGHTS

Each Owner, including the Developer, shall be a Member of the Association. Any person or entity who holds any interest merely as a security for the performance of any obligation shall not be a Member. The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership, and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof. All voting rights and procedures within the Association shall be governed in accordance with the provisions set forth in the Declaration and in the Bylaws.

ARTICLE VIII  
DIRECTORS AND OFFICERS

The affairs of this Association shall be managed by a Board of Directors, and the affairs of the Association shall be administered by the Officers. All matters regarding the Directors and the Officers of the Association, including numbers, election, duration, etc., shall be governed in accordance with the provisions set forth in the Declaration and in the Bylaws.



ARTICLE IX  
INDEMNIFICATION

9.1 Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding whether civil, criminal, administrative or investigative, or any settlement of any proceeding, or any appeal from such proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, or having served at the Association's request as a director or officer of any other corporation, whether or not he is a director or officer at the time such expenses are incurred, regardless of by whom the proceeding was brought, except in relation to matters as to which any such director or officer shall be adjudged liable for gross negligence or willful misconduct, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

9.2 Expenses incurred in defending a suit or proceeding whether civil, criminal, administrative or investigative may be paid by the Association in advance of the final disposition of such action, suit or proceeding if authorized by all of the non-interested directors upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he is not to be indemnified by the Association as authorized by these Articles of Incorporation.

9.3 The Association shall have the power to purchase at its expense and maintain insurance on behalf of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another association, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of these Articles.

ARTICLE X  
BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the Bylaws.

ARTICLE XI  
AMENDMENTS

Amendments to these Articles of Incorporation shall be made in the following manner:

11.1 Resolution. The Board of Directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of Members, which may be either the annual or a special meeting.

11.2 Notice. Within the time and in the manner provided in the Bylaws for the giving of notice of meetings of Members, written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member of record entitled to vote thereon. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

11.3 Vote. At such meeting, a vote of the Members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a two-thirds (2/3) majority of the votes of Members entitled to vote thereon.

11.4 Multiple Amendments. Any number of amendments may be submitted to the Members and voted upon by them at one meeting.

11.5 Limitations. No amendment shall make any changes in the qualifications for membership. No amendment shall be made that is in conflict with the Declaration. HUD/VA shall have a veto power as long as there is a Class B membership over any dissolution of the Association, any amendment of these Articles, any mortgaging of Common Property, any mergers and consolidations affecting this Association, and the annexation of any additional properties.

ARTICLE XII  
INCORPORATOR

The name and address of the Incorporator of these Articles of Incorporation is as follows:

Name

Address

Dan Roberts

105 East Robinson Street, Suite 312,  
Orlando, Florida 32801.

## BYLAWS

### OF

#### THE VILLAS AT VENETIAN BAY HOMEOWNERS ASSOCIATION, INC. A NONPROFIT ORGANIZATION

1. **Definitions.** When used in these Bylaws, the terms defined in the Articles of Incorporation of the Association (the "Articles") and the Declaration of Covenants, Conditions and Restrictions for The Villas at Venetian Bay ( the "Declaration") shall have the same meanings as in the Articles and the Declaration.

2. **Identity.** These Bylaws, together with the Articles and the Declaration shall be sometimes referred to as the "governing documents" of the Association.

2.1 **Office.** The office of the Association shall be located at 105 East Robinson Street, Suite 312, Orlando, Florida 32801., or at such other place as may be designated from time to time by the Board of Directors.

2.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

2.3 **Seal.** The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation not for profit", and the year of incorporation.

### 3. **Members.**

3.1 **Qualification.** The members of the Association shall consist of every Owner, including the Developer, and in the case of multiple Owners, every group of record Owners, of Lots in the Property. The foregoing is not intended to include persons or entities who hold an interest merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the Lot. A Member does not have the authority to act for the Association by virtue of being a Member. A Member may act only through its voting rights or as is otherwise specifically set forth herein.

3.2 **Change of Membership.** Change of membership in the Association shall be established by recording in the Public Records of the County in which the Property is located a deed or other instrument establishing record title to a Lot under the jurisdiction of the Association. The Owner designated as grantee by such instrument thus becomes a Member of the Association and the membership of the prior Owner is terminated. The new Owner shall notify the Association of such property transfer and furnish the Association a copy of the recorded deed, the new Owner's address, and the Owner's local agent, if any, in the event the Owner is located outside the State of Florida. Any notice requirements set out in these Bylaws and in the Articles shall be deemed to be complied

with if notice to an Owner is directed to the address of said Owner as then reflected in the Association's records.

**3.3 Voting Rights.** Every Member of the Association, including the Developer, shall have one (1) vote for each Lot to which it holds title. Notwithstanding the foregoing, the Declaration or the Articles may provide for "Class A" Members and "Class B" Members, in which case such Members shall have the number of votes as designated therein.

**3.4 Designation of Voting Representative.** If a Lot is owned by one person or entity, its rights to vote shall be established by the record title to the Lot. If a Lot is owned by more than one person or entity, the person entitled to cast the votes for the Lot shall be designated by a certificate signed by all of the record Owners of the Lot and filed with the Secretary of the Association. If a Lot is owned by a general or limited partnership, the person entitled to cast the votes for the Lot shall be designated by a certificate of appointment signed by one of the general partners and filed with the Secretary of the Association. If a Lot is owned by a corporation, the person entitled to cast the votes for the Lot shall be designated by a certificate of appointment signed by the President or Vice President of the corporation and filed with the Secretary of the Association. If a Lot is owned in trust, the person entitled to vote for the Lot shall be designated by a certificate of appointment signed by the trustee of record for the trust and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the votes of a Lot may be revoked in writing by any Owner thereof. Provided, however, that no Lot shall vote in excess of the voting rights allocated to that Lot pursuant to the Declaration.

**3.5 Approval or Disapproval of Matters.** Whenever the decision of an Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the votes of such Owner if at an Association meeting, unless the joinder of record Owners is specifically required by the Declaration, the Articles, or by these Bylaws.

**3.6 Restraint Upon Assignment of Shares in Assets.** The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to that Owner's Lot.

#### **4. Members' Meetings.**

**4.1 Annual Members' Meetings.** The annual Members' meeting shall be held each year for the purpose of appointing or electing Directors, if applicable in that year, and of transacting any other business authorized to be transacted by the Members. The Board of Directors shall determine the date, time and place to hold the annual meeting.

**4.2 Special Members' Meetings.** Special meetings of the Members must be held when called by the Board of Directors, or by the holders of at least twenty percent (20%) of the total voting interest of the Association. Business conducted at a special meeting is limited to the purposes described in the notice of the meeting.

**4.3 Notice of All Meetings of Members.** Written notice of a meeting stating the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be provided not less than ten (10) or more than sixty (60) days before the date of the meeting. Notice shall be provided: (a) by posting such notice in a conspicuous place in the Property; (b) by hand delivery; or (c) by first-class mail. Notice shall be provided by or at the direction of the President, the Secretary, or the officer or persons calling the meeting. If the meeting notice is mailed at least thirty (30) days before the date of the meeting, it may be done by a class of United States mail other than first class. If mailed or hand delivered, such notice shall be deemed to be delivered when placed in the Member's mailbox or deposited in the United States mail addressed to the Member at its address as it appears on the books of the Association.

**4.4 Quorum.** A quorum at Members' meetings shall consist of thirty percent (30%) of the total voting interest in the Association, whether represented in person or by proxy. If a quorum is present, the affirmative vote of a majority of votes represented at a meeting in person or by proxy shall constitute the acts of the Members, except when approval by a greater number of Members is required by the Declaration, these Bylaws, the Articles, or by law. When a specified item of business is required to be voted upon by a particular class of Members, if applicable, thirty percent (30%) of the votes of such class of Members shall constitute a quorum for the transaction of such item of business by that class. After a quorum has been established at a Members' meeting, the subsequent withdrawal of Members so as to reduce the number of votes at the meeting below the number required for a quorum shall not affect the validity of any action taken at the meeting or any adjournment thereof.

**4.5 Proxies.** Every Member entitled to vote at a meeting of Members or to express consent or dissent without a meeting, or his duly authorized attorney-in-fact, may do so in person or may authorize another person or persons to act for him by proxy. Every proxy must be dated, must state the date, time and place of the meeting for which it was given and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires ninety (90) days after the date of the meeting for which it was originally given. Every proxy shall be revocable at any time at the pleasure of the Member executing it and shall expire upon the transfer of title to the Lot giving rise to the voting rights to which the proxy pertains. The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the Member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by the Association officer responsible for maintaining the list of Members. If the

proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his place.

**4.6 Adjourned Meetings.** When an annual or special meeting is adjourned to a different date, time or place, the new date, time and place to which the meeting is adjourned must be announced at the meeting at which the adjournment is taken, or notice must be given of the new date, time and place pursuant to Section 4.3 hereof. Any business may be transacted at the adjourned meeting that might have been transacted on the original date of the meeting. If, however, after the adjournment the Board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given in compliance with the Bylaws to Members entitled to vote at such meeting who were not Members as of the previous record date.

**4.7 Order of Business.** The order of business at annual Member's meetings, and as far as practical at all other Member's meetings, shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading and disposal of any unapproved minutes;
- (d) Reports of officers;
- (e) Reports of Committees;
- (f) Appointment of Directors, when applicable;
- (g) Appointment of Nominating Committee;
- (h) Unfinished business;
- (i) New business; and
- (j) Adjournment.

**4.8 Minutes of Meetings.** The Association shall maintain minutes of each meeting of the Members and of the Board of Directors in written form or in another form which can be converted into written form within a reasonable time. The minutes shall be kept in a book available for inspection by Members or their authorized representatives at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. A vote or abstention from voting on each matter voted upon for each Director present at a Board meeting must be recorded in the minutes.

**5. Board of Directors.**

**5.1. Governing Body.** The affairs of the Association shall be governed and managed by the Board of Directors, which shall be appointed or elected as set forth herein.

**5.2. Initial Board.** The initial Board shall be comprised of three (3) Directors appointed by the Developer. Their terms shall be governed as set forth herein, except that each initial Director may be reappointed at the Developer's discretion, if otherwise permitted by these Bylaws.

**5.3. Majority Appointed.** Thereafter, the Developer may continue to appoint at least a majority of the Board until the earlier of:

(a) Three (3) months after ninety percent (90%) of the Lots that will be ultimately operated by the Association have been conveyed to Members other than the Developer (not including builders, contractors or others who purchase a Lot for the purpose of constructing improvements thereupon for resale); or

(b) The time at which such other percentage of Lots has been conveyed to Members other than the Developer (not including builders, contractors or others who purchase a Lot for the purpose of constructing improvements thereupon for resale) in order to comply with the applicable requirements of any governmental chartered entity (HUD/VA) regarding mortgage financing of Lots.

**5.4 Less Than Majority Appointed.** The Developer is entitled to appoint at least one (1) Director to the Board so long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots that will be ultimately operated by the Association. After the Developer relinquishes control of the Association, the Developer may continue to exercise its voting rights for any remaining Lots held by it in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting a majority of the Board of Directors.

**5.5. Right of Members Other Than Developer to Elect Board.** The right of Members of the Association other than the Developer to elect members of the Board pursuant to Sections 5.3 and/or 5.4 shall be exercised at the next scheduled annual meeting of the Members.

**5.6 Number.** The Board at all times shall consist of not less than three (3) nor more than nine (9) Directors. After such a time as the Developer no longer is entitled to appoint a member of the Board pursuant to Section 5.4 above, the number of members may be increased from time to time to a maximum of nine (9) members;

provided, however, the established number of Board members shall always be an odd number. In the event that the number of members of the Board of Directors is changed, such changes in number shall be implemented in such a manner as to have as nearly equal in number as possible the number of Directors whose terms expire in any given year. All directorships shall expire during any given three (3) year period.

**5.7 Term of Office.** Except for the initial Board of Directors which may serve until such time allowed hereunder, the term of office of each Director shall be for staggered terms of three (3) years each. Each Director shall hold office for the term for which he is elected and until his successor shall have been elected and qualified or until his earlier resignation, removal from office or death.

**5.8 Removal.** Any Director may be removed from the Board, with or without cause, by vote or agreement in writing by a majority of all votes of the membership. In the event of the death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

**5.9 Director's Fees.** Directors shall serve without compensation or fees; provided, however, nothing herein shall be deemed to prevent reimbursement of out-of-pocket expenses approved by the Board and incurred on behalf of the Association.

**5.10 Election.** Elections of the Directors must be conducted in accordance with these Bylaws. All members of the Association shall be eligible to serve on the board. Election to the Board of Directors shall be by written ballot as hereinafter provided. At such election, the Members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles. The names receiving the largest number of votes cast by eligible voters for each vacancy shall be elected.

**5.11 Nominations.** Nominations for election to the Board of Directors shall be made by a Nominating Committee which shall be one of the standing committees of the Association. Notwithstanding the foregoing, a Member may nominate himself as a candidate for the Board at a meeting where the election is to be held.

**5.12 Nominating Committee.** The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting.

**5.13 Duties of Nominating Committee.** The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such



nominations may be made from among Members or officers, Directors or agents of the Developer, as the Committee in its discretion shall determine. Separate nominations shall be made for each vacancy to be filled. Nominations shall be placed on a written ballot as provided in Section 5.14 and shall be made in advance of the time fixed in Section 5.14 for the mailing of such ballots to Members.

**5.14 Ballots.** All elections to the Board of Directors shall be made on written ballot which shall:

- (a) describe the vacancies to be filled;
- (b) set forth the names of those nominated by the Nominating Committee for each such vacancy; and
- (c) contain a space for a write-in vote by the Members for each vacancy. Such ballots shall be prepared and mailed by the Secretary to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the day before the meeting at which the vote is to be taken).

**5.15 Number of Ballots.**

(a) Class A. Each Class A Member, if applicable, shall receive as many ballots as it has votes. Notwithstanding that a Member may be entitled to several votes, it shall exercise on any one ballot only one vote for each vacancy shown thereon. The completed ballots shall be returned as follows:

- (1) Each ballot shall be placed in a sealed envelope marked "Ballot" but not marked in any other way;
- (2) Each such "Ballot" envelope shall contain only one ballot;
- (3) The Members shall be advised that, because of the verification procedures of Section 5.16 the inclusion of more than one ballot in any one "Ballot" envelope shall disqualify the return; and
- (4) Such "Ballot" envelope, or envelopes (if the Member or his proxy is exercising more than one vote), shall be placed in another sealed envelope which shall bear on its face the name and signature of the Member or his proxy, the number of ballots being returned, and such other information as the Board of Directors may determine will serve to establish his

right to cast the vote or votes presented in the "Ballot" or "Ballots" contained therein. The ballots shall be returned to the Secretary at the address of the Association.

(b) Class B. Each Class B Member, if applicable, shall receive one ballot upon which all votes held by each Class B Member may be exercised. If there are no separate classes of Members, each Member shall receive one ballot upon which all votes held by that Member may be exercised.

**5.16 Election Committee: Counting of Ballots.** Upon receipt of each return, the Secretary shall immediately place it in a safe or other locked place until the day set for the meeting at which the elections are to be held. On that day, the unopened external envelopes containing the "Ballot" envelopes shall be turned over to an Election Committee which shall consist of three (3) members appointed by the Board of Directors. The Election Committee shall then:

- (a) establish that external envelopes were not previously opened or tampered with in any way;
- (b) open the external envelopes to establish that the number of envelopes therein marked "Ballot" corresponds to the number of votes allowed to the Member or his proxy identified on the external envelope;
- (c) confirm that the signature of the Member or his proxy on the outside envelope appears genuine; and
- (d) if, the vote is by proxy, determine that a proxy has been filed with the Secretary.

Such procedure shall be taken in such manner that the vote of any Member or his proxy shall not be disclosed to anyone, even the Election Committee. The opened external envelopes shall thereupon be placed in a safe or other locked place and the Election Committee shall proceed to the opening of the "Ballot" envelopes and the counting of the votes. If any "Ballot" envelope is found to contain more than one ballot, all such ballots shall be disqualified and shall not be counted. Ballots shall be retained for such period of time after the election as shall be deemed prudent by the Board of Directors.

**5.17 Recording.** Any Member may tape record or videotape meetings of the Board of Directors and meetings of the Members; provided, however, that the Board of Directors may adopt reasonable rules governing the taping of meetings of the Board and the membership.

**6. Meetings of Directors.**

**6.1 Meetings.** A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. Regular and special meetings of the Board are open to all Members except meetings between the Board and its attorney to discuss proposed or pending litigation where the contents of the discussion are governed by the attorney-client privilege.

**6.2 Regular Meetings.** Regular meetings of the Board of Directors shall be held as may be determined by the Board and upon giving notice to the Members as set forth in Section 6.4 hereof, at such place and hour as may be fixed from time to time by resolution of the Board. If the day for such regular meeting is a legal holiday, then the meeting shall be held at the same time on the next day that is not a legal holiday.

**6.3 Special Meetings.** Special meetings of the Directors may be called by the Chairman of the Board, by the President of the Association, or by any two (2) Directors upon giving notice to the Members as set forth in Section 6.4. Additionally, not less than two (2) days' notice of the special meeting shall be given to each Director personally or by first-class mail, telegram, or cablegram, which notice shall state the time, place and purpose of the meeting.

**6.4. Notice to Members.** Notices of all regular or special Board meetings may be posted in a conspicuous place on the Property at least seventy-two (72) hours in advance of any such meeting, except in an emergency. In the alternative, notice may be mailed or delivered to each Member at least seven (7) days prior to the meeting, except in an emergency. Notwithstanding the foregoing, in the event the Association has 100 or more Members, the notice requirement for Board meetings may be satisfied by either publishing said notice in a newspaper widely circulated in the community where the Property is located or by providing each Member with a schedule of Board meetings on an annual basis. The notice for any Board meeting at which an assessment will be levied must include a statement that an assessment will be considered and the nature of the assessment. The notice requirements set forth in this section also apply to meetings of any committee or similar body, including any body vested with the power to approve or disapprove architectural decisions with respect to any Lot.

**6.5. Manner of Voting.** Directors may not vote by proxy or secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

**6.6. Waiver of Notice of Directors.** The transaction of any business at any meeting of the Board of Directors, however called and noticed to the Directors, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present, if it was properly noticed to the Members, and, if either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holdings of such meeting, or an approval of the minutes thereof. All such waivers, consents or approval shall be filed with the Associations' records and made a part of the minutes of the meeting. Other than as set forth in Section 6.4 above

with regard to assessments, neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

**6.7 Defects in Notice to Director or Members, etc. Waived by Attendance.** Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a Director states, at the beginning of the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened. Likewise, attendance of a Member at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a Member states, at the beginning of the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened. Members of the Board of Directors may participate in a meeting of such Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting, including any Members, can hear each other at the same time. Participating by such means shall constitute presence in persons at a meeting

**6.8 Quorum.** A quorum at Directors' meetings shall consist of a majority of all votes of the entire Board of Directors. The acts approved by a majority of those votes represented at a meeting at which a quorum is present shall constitute the act of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration, the Articles, or these Bylaws.

**6.9 Adjourned Meetings.** A majority of the Directors present, whether or not a quorum exists, may adjourn any meeting of the Board of Directors to another time and place. Notice of any such adjourned meeting shall be given to the Directors who were not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other Directors and to the Members as required by Section 6.4.

**6.10 Action by Directors Without a Meeting.** Any action required to be taken at a meeting of the Directors or a committee thereof, may be taken without a meeting, if such action is noticed to the Members as required by Section 6.4 and if a consent in writing setting forth the action so to be taken signed by all of the Directors or all of the members of the committee, as the case may be, is filed in the minutes of the proceedings of the Board or of the committee. Such consent shall have the same effect as a unanimous vote.

**6.11 Presiding Officer.** The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Vice President shall preside, and in the absence of both, the Directors present shall designate one of their number to

preside.

**6.12 Powers and Duties of Board of Directors.** All of the powers and duties of the Association existing under Chapter 617, Florida Statutes, the Declaration, the Articles, and these Bylaws, shall be exercised by the Board of Directors, subject only to approval by Members when such is specifically required.

**7. Officers.**

**7.1 Officers and Election.** The executive officers of the Association shall be a President, who shall be selected from the Board of Directors, a Vice-President, who also shall be selected from the Board of Directors, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find necessary or convenient to manage properly the affairs of the Association.

**7.2 President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of an Association, including but not limited to the power to appoint committees from among the Members from time to time as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association. He shall serve as chairman of all Board and Members' meetings.

**7.3 Vice President.** The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

**7.4 Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the Directors or the President. The duties of the Secretary may be fulfilled by a manager employed by the Association.

**7.5 Treasurer.** The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and provide for collection of assessments; and he shall perform all other duties incident to the office of Treasurer. The duties of the Treasurer may be fulfilled by a manager employed by the Association.

**7.6 Compensation.** The compensation, if any, of the officers shall be fixed by the Board of Directors.

**8. Books and Records.**

**8.1 Official Records.** The Association shall maintain within the State of Florida each of the following, which shall constitute the official records of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the Association is obligated to maintain, repair or replace;
- (b) A copy of the Bylaws of the Association and of each amendment to the Bylaws;
- (c) A copy of the Articles of Incorporation of the Association and of each amendment thereto;
- (d) A copy of the Declaration of Covenants and a copy of each amendment thereto;
- (e) A copy of the current rules of the Association;
- (f) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years;
- (g) A current roster of all Members and their mailing addresses and Lot identification;
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years;
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed must also be considered official records and must be kept for a period of one (1) year; and
- (j) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and account records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures;
2. A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the Member, the date and the amount of each payment on the account, and the balance due;
3. All tax returns, financial statements, and financial reports of the Association; and
4. Any other records that identify, measure, record or communicate financial information.

**8.2. Inspection and Copying.** The official records shall be open to inspection and available for photocopying by Members or their authorized agents during reasonable business hours, at the principal office of the Association, or on the Property, within ten (10) business days after receipt of a written request for access. Such inspection must take place within the presence of an agent of the Association. The Association shall provide copies of any of the official records to any Member or its authorized agent, within ten (10) business days after receipt of a written request for such copies, and may charge a fee for providing such copies, which shall include the costs of copying.

**8.3. Copies.** The Association shall maintain an adequate number of copies of the Declaration, the Articles and the Bylaws, to ensure their availability to Members and prospective Members, and may charge the cost of reproducing and furnishing these documents to those persons entitled to receive them.

**9. Fiscal Management.** The provisions for fiscal management of the Association are governed by the following provisions:

**9.1 Accounts.** The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications and any other classifications as shall be appropriate, when authorized and approved by the Board of Directors. The receipts shall be entered by the amounts of receipts by accounts and receipt classifications, and expenses by the amounts of expenses by accounts and expense classifications.

(a) **Current Expense.** The current expense account shall include all receipts and expenditures to be made within the year for which the expenses are budgeted and may include a reasonable allowance for contingencies and working funds. The balance in this fund at the end

of each year shall be applied to reduce the assessments for current expense for the succeeding year or to fund reserves. This may include but not be limited to:

- (1) Professional, administration and management fees and expenses;
- (2) Taxes on Common Property;
- (3) Expense for utility services and maintenance expense relating to the Common Property;
- (4) Insurance costs;
- (5) Administrative and salary expenses;
- (6) Operating capital; and
- (7) Other expenses.

(b) Reserve for Deferred Maintenance. If required by the Board of Directors, there shall be established a reserve account for deferred maintenance which shall include funds for major maintenance items which are the obligation of the Association and which occur less frequently than annually.

(c) Reserve for Replacement. If required by the Board of Directors, there shall be established a reserve account for replacement which shall include funds for repairs for replacements which the Association is obligated to make resulting from damage, depreciation or obsolescence.

**9.2 Budget.** The Board of Directors shall adopt an operating budget for the Property in advance for each calendar year. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, if any, whether owned by the Association, the Developer or another person. The budget shall be prepared utilizing the categories for current expenses and reserves set forth in Section 9.1 above. The Association shall provide each Member with a copy of the annual budget or a notice that a copy of the budget is available upon request at no charge. The copy must be provided within ten (10) business days after receipt of a written request for such copy.

**9.3 Assessments.** The manner in which expenses of the Association are shared, and the Members proportionate share thereof, are set forth in the Declaration.



Assessments levied pursuant to the annual budget or special assessments must be in the Members proportional share of expenses as described in the Declaration, which share may be different among classes of Members, based upon relevant factors which may include the state of development thereof or level of services received by a class of Members. The Board of Directors shall establish the amount of the assessments based upon the annual budget each year; the Board also shall establish and notify the Members of the frequency and/or due dates of the assessments established under the annual budget. If an annual assessment is not levied as required, an assessment shall be presumed to have been levied in the amount of the last prior assessment, and such assessments shall be due at the same time(s) in the year as the prior year. In the event the annual assessments prove to be insufficient, the budget and assessments may be amended at any time by the Board of Directors.

**9.4 Acceleration of Assessment Installments Upon Default.**

Installments of assessments are due upon receipt by each Owner of the bill therefor. If an Owner shall fall more than fifteen (15) days in arrears in the payment of an installment of the annual assessment, the Board of Directors may provide written demand to the said Owner specifying that, if the overdue installment or installments are not paid within twenty (20) days from the receipt for the said written demand, then the Board of Directors shall be deemed to have declared the sums to be delinquent and to have accelerated the remaining installments of the annual assessment as of the said twentieth (20th) day, without further notice or demand. The unpaid balance of the delinquent installment, and upon acceleration of the unpaid balance of the annual installment, the entire unpaid balance of the annual assessment, shall bear interest from the date due until paid at the highest rate allowed by law, or at such lesser rate as may be adopted and uniformly applied by the Board. In addition, any payment of assessments not made within thirty-five (35) days after the due date thereof shall become a lien upon the Lot upon the recordation by the Association or its agent of a Claim of Lien setting forth the amount due and the description of the Lot intended to be encumbered. The said lien shall also secure all costs of collection including, without limitation, costs of legal action and the Association's reasonable attorneys' fees, including said costs and fees upon appeal, as well as subsequent installments which are thereafter unpaid when due and while the lien remains unsatisfied. The lien may be foreclosed in the same manner as a mortgage upon real estate, or the Association, without waiving the right of foreclosure, may pursue collection directly against the affected Owner.

**9.5 Depository.** The depository of the Association will be such banks as shall be designated from time to time by the Directors and the withdrawal of monies from such accounts shall be only by checks signed by such persons as authorized by the Directors; provided, however, that the provisions of a management agreement between the Association and a manager relative to the subject matter of this section shall supersede the provisions hereof.

**9.6 Financial Reporting.** The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association

shall provide each Member a copy of the annual financial report or a written notice that a copy of such report is available upon request at no charge. Such copy shall be furnished within ten (10) business days after receipt of a written request for the financial report. The financial report shall consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principals; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

(1) The amount of receipts and expenditures by classification; and

(2) The beginning and ending cash balances of the Association.

**10. Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings, when not in conflict with these Bylaws.

**11. Amendment.** Amendments to these Bylaws shall be proposed and adopted in the following manner:

**11.1 Resolution.** The Board of Directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote by the Board of Directors at a meeting of the Directors.

**11.2 Notice.** Within the time and in the manner provided in these Bylaws for the giving of notice of meetings of the Board, written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member of record.

**11.3 Vote.** At such meeting of the Board, a vote of the Directors shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes of the Directors.

**11.4 Multiple Amendments.** Any number of amendments may be submitted and voted upon by the Board at one meeting.

**11.5 Proviso.** No amendment shall make any changes in the qualifications for membership nor the voting rights of Members without approval by at least a two-thirds (2/3) majority of the votes of the Members. No amendment shall be made that is in conflict with chapter 617, Florida Statutes, or with the Declaration or Articles of Incorporation.

F:\USERS\Kristy\Engle Homes\Venetian Bay\Bylaws.wpd