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Merger re
T. Lewis 6/10/03

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June 6, 2003

Personal and Confidential

Thelma Lewis
Department of State
409 East Gaines Street
Tallahassee, Florida 32301

Via Federal Express

Dear Ms. Lewis:

Re: Merger of Mariner Sands Country Club, Inc., into
Mariner Sands Property Owners' Association, Inc.
With its Name Changed to Mariner Sands Country Club, Inc.

Enclosed please find the original and one copy of Articles of Merger of Mariner Sands Country Club, Inc., into Mariner Sands Property Owners' Association, Inc., the surviving corporation. Please file the original and return the copy to me certified. My check in the amount of \$78.75 to cover the \$35.00 filing fee for Mariner Sands Country Club, Inc., the \$35.00 filing fee for Mariner Sands Property Owners' Association, Inc., and \$8.75 for a certified copy is also enclosed. Please file the original and return the certified copy to me.

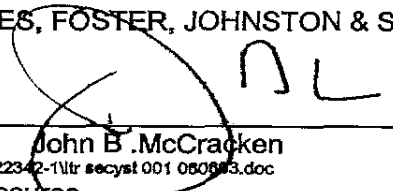
Also enclosed are the original and one copy of the Amended and Restated Articles of Incorporation of Mariner Sands Country Club, Inc. (the foregoing surviving corporation formerly known as Mariner Sands Property Owners' Association, Inc., changing its name to Mariner Sands Country Club, Inc.), as well as my check in the amount of \$43.75 to cover the \$35.00 filing fee and the \$8.75 fee for the certified copy. Please file the original amendment and return the copy to me certified.

You will note that the effective date is July 1, 2003.

If you have any problems with this filing, please telephone me collect.

Sincerely yours,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.

By 
John B. McCracken

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Enclosures

ARTICLES OF MERGER

of

MARINER SANDS COUNTRY CLUB, INC.

A Florida Not for Profit Corporation

into

MARINER SANDS PROPERTY OWNERS ASSOCIATION, INC.

A Florida Not for Profit Corporation, the Survivor

with its name changed to:

MARINER SANDS COUNTRY CLUB, INC.

A Florida Not for Profit Homeowners' Association

EFFECTIVE DATE

7-1-03

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TALLAHASSEE, FLORIDA

Mariner Sands Country Club, Inc. ("Club") and Mariner Sands Property Owners Association, Inc. ("POA"), after approval by their members, execute and file these Articles of Merger pursuant to F.S. 617.1105 as follows:

1. Club shall merge into POA, which shall be the survivor and shall assume and be liable for all of Club's assets and liabilities. The Equity Members of Club are members of POA and, upon the effective date of the merger, shall exchange their Membership Certificates in Club for Golf-Equity Certificates or Equity Certificates of POA. Holders of Golf-Equity Certificates shall have the right, pursuant to the terms and conditions of the By-Laws and Rules and Regulations of POA, to use and enjoy the Golf Facilities, which, after the filing and the recording of these Articles of Merger, together with the other properties of Club, shall be owned and titled in the name of POA.

2. Club Members approved these Articles of Merger and the attached Plan of Merger by a vote of 4,678 to 250 at a Special Joint Meeting of Members held April 29, 2003.

POA Members approved these Articles of Merger and the attached Plan of Merger by a vote of 2,860 to 535 at a Special Joint Meeting of Members held April 29, 2003.

The number of votes cast by the Members of both Club and POA was sufficient for approval of the attached Plan of Merger and these Articles of Merger.

3. The merger shall be effective at 12:01 a.m., July 1, 2003.

4. The name of the survivor shall be Mariner Sands Country Club, Inc., a Florida not for profit homeowners' association.

MARINER SANDS COUNTRY
CLUB, INC.

MARINER SANDS PROPERTY
OWNERS ASSOCIATION, INC.
(n/k/a Mariner Sands Country Club, Inc.)

By

Richard Ridgway, President

Dated: May 20, 2003

By

Richard Ridgway, President

Dated: May 20, 2003

F.S. 617.1101
Plan of Merger of
MARINER SANDS COUNTRY CLUB, INC.
into
MARINER SANDS PROPERTY OWNERS ASSOCIATION, INC.
With the Survivor Renamed
MARINER SANDS COUNTRY CLUB, INC.
A Florida Not for Profit Homeowners' Association

1. Mariner Sands Country Club, Inc., a Florida not for profit corporation ("Club"), shall merge into Mariner Sands Property Owners Association, Inc., a Florida not for profit homeowners' association ("POA"), and POA, as the survivor, shall be renamed Mariner Sands Country Club, Inc., a Florida not for profit homeowners' association.

2. POA shall assume and be liable for all of Club's assets and liabilities, including the action taken at the Special Meeting held on March 22, 2002, and the debt incurred thereunder, which debt shall be repaid by the Golf Members. The Equity Members of Club are Members of POA and, upon the effective date of the merger, the Equity Certificates of the Golf Members of Club shall be transferred from the records of Club to the records of POA for Golf-Equity Certificates in like denomination of POA, and the Equity Certificates of the other Equity Members of Club shall be transferred from the records of Club to the records of POA for Equity Certificates in like denomination of POA. Holders of Golf-Equity Certificates shall have the right, pursuant to the terms and conditions of the Amended By-Laws and the Rules and Regulations adopted by POA, to use and enjoy the Golf Facilities of POA, that, after filing and recording of the Articles of Merger, shall, together with the other properties of Club, be titled in the name of and owned by POA. Other Members of POA shall have limited rights to use and enjoy the Golf Facilities as set forth in POA By-Laws.

3. POA shall issue Golf-Equity Certificates and Equity Certificates, the denomination of each of which shall be the amount of the refundable equity contribution of the respective Club Equity Certificate, which shall be refundable as provided in the By-Laws of POA, and shall have preferences on dissolution of POA as set forth in the Articles of Incorporation, the Amended and Restated Mariner Sands Community Covenants and the By-Laws of POA. Initial Contributions, as determined by the Board of Governors of POA, shall be imposed by POA on Members joining POA on and after 12:01 a.m., July 1, 2003. Amenity Fees shall be imposed by POA on all Members pursuant to Chapter 720, F.S., commencing July 1, 2003, and will be designated for operations and maintenance of Common Areas. Golf-Equity Certificates of POA shall be issued to new Members who are approved as Golf Members commencing July 1, 2003.

4. The Articles of Incorporation of POA shall be amended and restated as set forth in Amended and Restated Articles of Incorporation of Mariner Sands Country Club, Inc. (f/k/a Mariner Sands Property Owners Association, Inc.) attached as Exhibit "A"

5. The By-Laws of POA shall be amended and restated as set forth in the Amended and Restated By-Laws of Mariner Sands Country Club, Inc. (f/k/a Mariner Sands Property Owners Association, Inc.) attached as Exhibit "B".

6. The Amended and Restated Mariner Sands Community Covenants, as amended, shall be further amended as set forth in the Amended and Restated Mariner Sands Community Covenants attached as Exhibit "C".

7. This Plan of Merger as required by F.S. 617.1103(1)(a) was passed by the Board of Governors of Club and POA on March 12, 2003, by resolutions directing that the Plan of Merger be submitted for a vote of the members of Club and POA at a Special Joint Meeting of the Members of Club and POA on April 29, 2003, at 2:00 p.m., at the Mariner Sands Chapel in Stuart, Florida.

8. Written notice of the Special Joint Meeting of Members set forth above was timely mailed to all Members of Club and to all Members of POA.

9. Copies of this Plan of Merger shall be made available to any Member of Club or POA at the POA office in Stuart, Florida, on request.

MARINER SANDS COUNTRY
CLUB, INC.

By 
Richard Ridgway, President

MARINER SANDS PROPERTY
OWNERS ASSOCIATION, INC.
(n/k/a Mariner Sands Country Club, Inc.)

By 
Richard Ridgway, President

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
MARINER SANDS COUNTRY CLUB, INC.
f/k/a Mariner Sands Property Owners Association, Inc.
A Florida Not for Profit Homeowners' Association
Adopted April 29, 2003
Effective July 1, 2003**

THE UNDERSIGNED, Mariner Sands Country Club, Inc. (the "Association"), hereby files the following Amended and Restated Articles of Incorporation which have been approved by its Board of Governors at a meeting held on March 12, 2003 and by vote of the Members of the Association at a Special Meeting of the Membership held on April 29, 2003, pursuant to the requirements of these Articles of Incorporation and Chapter 617, Florida Statutes.

ARTICLE 1- NAME

The name of this corporation is MARINER SANDS COUNTRY CLUB, INC. The corporation is sometimes referred to herein as the "Association".

ARTICLE 2- DEFINITIONS

All terms used herein which are defined in the Amended and Restated Mariner Sands Community Covenants, as amended and recorded in the Public Records of Martin County, Florida (the "Declaration"), shall have the same meanings when used herein.

**ARTICLE 3- PRINCIPAL OFFICE, REGISTERED OFFICE, AND
REGISTERED AGENT**

The principal place of business and registered office of the Association is:

6500 Mariner Sands Drive
Stuart, Florida 34997.

The Registered Agent of the Association at the above address is:

Larry C. Gerstner

ARTICLE 4- OBJECTS, PURPOSES AND POWERS

Section 4.1 This Association is a corporation not-for-profit organized for non-profitable purposes and activities, no part of its net earnings shall inure to the benefit of any private shareholder or Member of the Association. The Association is a Florida Homeowners' Association, which shall operate pursuant to Chapter 720, Florida Statutes.

Section 4.2 The objects and purposes for which this Association is organized are to act as a Florida homeowners' association pursuant to Chapter 720, Florida Statutes and:

4.2.1 To establish, maintain, operate and provide all community services of every kind and nature required or desired by the Members including without limitation those services and functions described in the Declaration.

4.2.2 To provide for enforcement of the Declaration.

4.2.3 To engage in such other activities as may be to the mutual benefit of the Members.

4.2.4 To own, operate and manage property conveyed to it in accordance with the Declaration.

4.2.5 To do all things necessary and proper to carry out and accomplish the above objects and purposes and such other objects and purposes as are deemed necessary or proper by its Board of Governors.

Section 4.3 In furtherance of the aforesaid objects, purposes and powers, the Association shall have all of the powers of a Corporation Not for Profit and of a Florida Homeowners' Association organized and existing under the laws of the State of Florida, and all the powers reasonably necessary to implement the powers of the Association which powers shall include but are not limited to, the power:

4.3.1 To make, levy and collect assessments, and to expend the proceeds of such assessments and charges for the benefit of its Members.

4.3.2 To contract with others to provide the services, benefits and advantages desired.

4.3.3 To make, establish and enforce reasonable rules and regulations governing the use of the property owned by the Association.

4.3.4 To maintain, repair, replace and operate its property.

4.3.5 To contract for the management of the property owned by it and to delegate to such contractors all powers and duties of the Association.

4.3.6 To employ personnel to perform the services authorized by these Articles.

4.3.7 To purchase insurance upon its property for the protection of the Association and its Members.

4.3.8 To reconstruct improvements on and to its property after casualty or other loss.

4.3.9 To make additional improvements on and to its property.

4.3.10 To acquire and enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including but not limited to marinas, lakes and other recreational facilities, whether or not contiguous. Such acts would require an affirmative vote of sixty-six and two-thirds

percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so.

4.3.11 To dedicate all or any portion of its property or any interest therein to public use. Such an act would require an affirmative vote of seventy-five percent (75%) of those members of the Association eligible to cast ballots.

4.3.12 To enforce by legal action the provisions of these Articles, the By-Laws, and the Declaration of the Association.

4.3.13 To issue Golf-Equity Certificates and Equity Certificates and charge Initial Contributions and Amenity Fees as set forth in the By-Laws, the Declaration, and the Florida Statutes.

ARTICLE 5- MEMBERS

Section 5.1 The Members of the Association shall consist of all owners of Residential Parcels, but shall not include mortgagees or other holders of security interests only. Notwithstanding the foregoing, or anything set forth elsewhere in the Governing Documents, if more than two persons are the owners of a single Residential Parcel, no more than two of them shall be permitted to exercise the membership rights of a Member, except that a child who is living with a Member parent on a Residential Parcel shall enjoy the membership privileges of the parent through age 23. On and after 12:01 a.m., July 1, 2003, all new Members shall be required to pay a nonrefundable Initial Contribution and the owner of each Residential Parcel shall be required to pay an annual Amenity Fee for the operations and maintenance of Common Property (except the Golf Facilities and Fitness Center) that shall be in an amount determined by the Board of Governors from time to time. There shall be a class of Members also known as Golf Members who are Members in Good Standing who hold Golf-Equity Certificates as described in the Declaration and the By-Laws.

Section 5.2 Membership in the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to a Residential Parcel.

Section 5.3 The owner of each Residential Parcel as described in the By-Laws shall have one (1) vote. Only Golf Members shall be entitled to vote on matters or participate on committees relating to the Golf Facilities.

When more than one (1) person holds an ownership interest or interests in any Residential Parcel, the vote for such Residential Parcel shall be exercised as the owners of all such interests determine among themselves, but in no event shall more than one (1) owner cast votes with respect to any Residential Parcel. In the event of disagreement among such persons and an attempt by two (2) or more of them to cast the vote of a Residential Parcel, such vote shall not be recognized and the Residential Parcel shall not be counted for any purpose until the dispute is resolved.

Section 5.4 Members holding Golf-Equity Certificates who are current in payment of assessments, dues and other obligations for the Golf Facilities shall also be Golf Members. Golf Members shall have one (1) vote on matters relating to the Golf

Facilities that, under the terms of the Declaration or By-Laws, require approval by Golf Members only.

ARTICLE 6- TERM

The Association shall exist perpetually.

ARTICLE 7- BOARD OF GOVERNORS

The business and affairs of the Association shall be managed by a Board of Governors consisting of nine (9) Governors who shall be elected, as provided in the By-Laws. Only Members of the Association shall be qualified to be members of the Board of Governors and at least six (6) members of the Board of Governors shall be Golf Members.

ARTICLE 8- OFFICERS

The Officers of the Association shall consist of a President, one or more Vice Presidents, a Secretary and a Treasurer. The Officers of the Association shall be elected by the Board of Governors of the Association in accordance with the provisions of the By-Laws of the Association.

ARTICLE 9- INDEMNIFICATION

Every Governor, Officer, committee member, and employee designated by the Board of Governors 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 to which he may be a party or in which he may become involved, by reason of his being or having been a Governor, Officer, committee member or employee so designated by the Board of Governors of the Association, or any settlement thereof whether or not he is a Governor, Officer, committee member or employee so designated by the Board of Governors at the time such expenses are incurred, except in such cases wherein the Governor, Officer, committee member or employee so designated by the Board of Governors, is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Governors approves such settlement and reimbursement as being in 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 Governor, Officer, committee member or designated employee may be entitled.

ARTICLE 10- DISPOSITION OF ASSETS UPON DISSOLUTION

No Member, Governor or Officer of the Association or other private individual shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the Association, except that Members holding Golf-Equity Certificates or Equity Certificates which have not been redeemed shall, in the event of dissolution, after payment of all creditors and prior to any distribution described hereafter, receive the (i) refundable equity portion due under the terms of their respective Golf Equity Certificates and Equity Certificates, (ii) plus any assessment added to such Equity

Certificates' value, (iii) plus any Refundable Membership Deposit paid by the respective Members. Thereafter, the Members holding Golf Equity Certificates which are not on the Refund List and which have not been downgraded, shall, on an equal pro-rata basis, be deeded or paid the value of the Golf Facilities formerly owned by the predecessor corporation known as Mariner Sands Country Club, Inc.. Unless agreed to the contrary by the affirmative vote of seventy-five percent (75%) of those Members eligible to cast ballots, upon dissolution of the Association, after payment of creditors and Members holding Golf-Equity Certificates or other Equity Certificates, and the distribution of the remaining Golf Facilities assets, as aforesaid, the remaining assets of the Association shall be granted, conveyed and assigned to an appropriate public body, agency, or agencies, utility or utilities or any one or more of them or to any one or more non-profit corporations, associations, trusts or other organizations to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No disposition of the Association's assets shall be effective to divest or diminish any right or title of any Member vested in him under recorded covenants and restrictions applicable to such assets unless made in accordance with the provisions of such covenants and restrictions.

ARTICLE 11- AMENDMENT OF ARTICLES

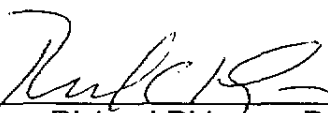
These Articles may be amended by the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so; provided however, that any provision in these Articles requiring an affirmative vote of a higher percentage may not be amended unless such higher percentage of affirmative votes is obtained.

ARTICLE 12- BY-LAWS

The Association shall adopt By-Laws governing the conduct of the affairs of the Association. The By-Laws may be altered, amended, or rescinded as provided in Section 19.1 of the By-Laws by the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so. Amendments to the By-Laws of the Association that relate to the use and enjoyment of the Golf Facilities may only be approved by Golf Members.

IN WITNESS WHEREOF, the undersigned, Mariner Sands Country Club, Inc., files these Amended and Restated Articles of Incorporation, which were approved by vote of the Members of the Association by the vote required by the Articles of Incorporation at a duly called and noticed meeting held April 29, 2003 to be effective at 12:01 a.m., July 1, 2003.

MARINER SANDS COUNTRY CLUB, INC.

By 
Richard Ridgway, President

CERTIFICATE DESIGNATING PLACE OF
BUSINESS OR DOMICILE FOR THE SERVICE
OF PROCESS WITHIN THIS STATE, NAMING
AGENT UPON WHOM PROCESS MAY BE SERVED

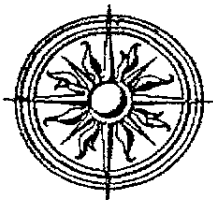
In pursuance of Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

That Mariner Sands Country Club, Inc., having been heretofore organized under the laws of the State of Florida, has named Larry C. Gerstner, located at the Registered Office of the corporation at 6500 Mariner Sands Drive, Stuart, Martin County, Florida, as its Registered Agent to accept service of process within this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-stated corporation at the place designated in this Certificate, I hereby agree to act in this capacity, and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.


Larry C. Gerstner, Registered Agent



Mariner Sands

AMENDED AND RESTATED BY-LAWS OF MARINER SANDS COUNTRY CLUB, INC.

A Not-for-Profit Homeowners' Association
Under the Laws of the State of Florida

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**AMENDED AND RESTATED
BY-LAWS OF
MARINER SANDS COUNTRY CLUB, INC.**

A Not-for-Profit Homeowners' Association
Under the Laws of the State of Florida

ARTICLE 1

GENERAL PROVISIONS

1.1 **Name.** The name of the corporation is the Mariner Sands Country Club, Inc., herein called the "Association". It is organized under the laws of the State of Florida as a not-for-profit homeowners' association.

1.2 **Office.** The office of the Association shall be 6500 Mariner Sands Drive, Stuart, Florida, or such other place as shall be selected by a majority of the Board of Governors.

1.3 **Fiscal Year.** The fiscal year of the Association shall be from July 1 through June 30.

1.4 **Seal.** The corporate seal of the Association shall consist of two concentric circles, between the edges of which shall be engraved the words: MARINER SANDS COUNTRY CLUB, INC., a Florida not-for-profit homeowners' association, and across the center thereof the words: Corporate Seal, all as shown by an imprint of such seal in the margin of the original By-Laws. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE 2

DEFINITIONS

2.1 **Terms.** The terms defined in the Amended and Restated Mariner Sands Community Covenants, (the "Declaration"), shall have the same definitions when used herein.

2.2 **Gender.** The use of a gender specific word (e.g., "he") shall be deemed to include the other gender (e.g., "she") and the neutral (e.g., "it").

2.3 **Member.** The Members shall be those persons described in Article 5 of the Articles of Incorporation. The term "Member", as used herein, shall mean a natural person or legal entity shown on the most current records of the Association as holding a membership in the applicable category; provided, however, that where the context so requires (e.g., casting votes, serving on a committee or exercising use rights), "Member" shall mean the natural person(s) designated to exercise the

membership rights of a Member which is not a natural person. Notwithstanding the foregoing, or anything set forth elsewhere in the Governing Documents, if more than two persons are the owners of a single Residential Parcel, no more than two of them shall be permitted to exercise the membership rights of a Member, except that a child who is living with a Member parent in a Residential Parcel shall enjoy the membership privileges of the parent through age 23. Golf Members shall be those Members in Good Standing who hold or purchase Golf-Equity Certificates.

2.4 Association. Shall mean Mariner Sands Country Club, Inc., its successors and assigns. The Association is a Florida not-for-profit corporation and, pursuant to Chapter 720, F.S., is the Florida homeowners' association for the Property.

2.5 MS Club. Shall mean the former Mariner Sands Country Club, Inc., a not-for-profit corporation, that was merged into the Association on July 1, 2003.

2.6 Common Areas. Shall mean those portions of the Property that are dedicated, conveyed to or owned by the Association, including the property formerly owned by MS Club that consists of, among other things, the clubhouse, tennis facilities, swimming pool and lockers and pool bar, except for the Golf Facilities and the Fitness Center which are Limited Common Areas, the uses of which are limited by the Governing Documents.

2.7 Golf Facilities. Shall mean the parcels designated on any plat of the Property for golf course purposes which are more specifically described on Exhibit "AA" attached hereto and made a part hereof by reference. The Golf Facilities are sometimes referred to herein as Mariner Sands Golf Courses and are Limited Common Areas.

2.8 Fitness Center. Shall mean the exercise facility, including the Body Works and Spa, owned by the Association that is a Limited Common Area available to Members, subject to current membership requirements and upon payment of applicable fees and assessments as determined by the Board of Governors.

2.9 Golf-Equity Certificate. Shall mean an equity certificate issued to a Member or a Non-Resident Golf Member, who has made a capital payment or an equity payment, or both, to the Association, or to the MS Club, that entitles him to a Golf Membership and gives such Member rights to use and enjoy the Golf Facilities and establishes refund rights.

2.10 Equity Certificate. Shall mean a certificate issued by the Association to a Member who does not hold a Golf-Equity Certificate, but who has made a capital payment or an equity payment, or both, to the Association, or to the MS Club, that establishes refund rights.

2.11 Golf Member. Shall mean a Member or a Non-Resident Golf Member who holds or purchases a Golf-Equity Certificate and thereby has a Golf Membership which entitles him to use and enjoy the Golf Facilities of the Association, subject to the Golf Facilities rules and regulations, and who is current in his obligations to pay assessments, dues and charges related to the Golf Facilities.

2.12 Initial Contribution. Shall mean the assessment determined by the Board of Governors from time to time and charged to persons who become Members on or after July 1, 2003 as more fully described in Article 9, Section 9.9 of the Amended and Restated Mariner Sands Community Covenants, except as provided in Section 9.10 thereof, which assessment shall be deposited in the Common Areas Capital Disbursement Fund.

2.13 Amenity Fee. Shall mean the annual assessment fixed by the Board of Governors from time to time and charged to Members for the use, maintenance, and operation of Common Areas. The Amenity Fee is also referred to as an Assessment in the Governing Documents.

2.14 Non-Resident. Shall mean an individual given certain membership rights by the Board of Governors and/or the Governing Documents although he does not own a Residential Parcel or have a right to vote.

2.15 Governing Documents. Shall mean the Declaration, the Articles of Incorporation and the By-Laws of the Association, as amended from time to time.

2.16 Member in Good Standing. Shall mean a Member of whatever category who/which: is not in arrears in the payment of assessments, dues, charges or other obligations to the Association and is currently not suspended in accordance with Article 13. The Members in Good Standing shall have those voting rights as set forth in Article 5 of the Articles of Incorporation and the By-Laws. Votes may be cast in accordance with the Governing Documents.

2.17 Residential Parcel. The term "Residential Parcel" shall mean a platted lot or condominium unit capable of being conveyed as a parcel of real property and located within the Property (being the property subject to the Community Covenants administered by the Association).

2.18 Property. Shall mean the real property, which includes all the Residential Parcels owned by the Members, together with the Commercial, Recreational Facilities, Common Areas, Limited Common Areas (including Golf Facilities and Fitness Center) owned by the Association.

ARTICLE 3

MEMBERSHIP

3.1 Members. Members have the right to use and enjoy the Common Areas and the Fitness Center (subject to current membership requirements and upon payment of applicable fees and assessments). Members may use the Golf Facilities six (6) times a year, subject to course availability and the payment of applicable guest fees.

3.2 Golf Members. Golf Members have the right to use and enjoy the Golf Facilities. The total number of Golf Memberships, each of which is evidenced by the ownership of a Golf-Equity Certificate, shall not exceed five hundred forty (540). A

limited number, as determined by the Board of Governors, of Non-Resident Golf Members shall be permitted and such number shall be included in the cap of 540 Golf Memberships. If a Golf-Equity Certificate is not available for purchase, a Member may request to be placed upon the Association's Golf-Equity Certificate Waiting List.

3.3 Application for Membership. Candidates for Golf Membership or Non-Resident membership shall submit applications prescribed by the Membership Committee. An affirmative vote of two-thirds (2/3) of the members of the Membership Committee and of the Board of Governors, respectively, shall be required for approval and election.

Golf Membership requires the purchase of a Golf-Equity Certificate for an amount equal to the current purchase price pursuant to the provisions of Article 3.

3.4 Eligibility and Limitation. Golf Memberships are available to Members who are single persons or married couples, who are elected to membership in accordance with the provisions of the By-Laws. If the ownership of a Residential Parcel is in a corporation or other statutory entity or a trust or equivalent legal arrangement, no more than two individuals, or a married couple, if designated by the entity or trust as having the right of utilization of the Residential Parcel, are each eligible for separate Golf Memberships. Single persons (not more than two in number) who are joint owners of a Residential Parcel are each eligible for separate Golf Memberships, subject to availability as limited by this Article. A child of a Golf Member who is living with a parent shall enjoy the Membership privileges of the parent through age twenty-three (23). Thereafter, such child shall cease to enjoy parental Membership privileges.

The new spouse of a Golf Member shall be eligible to apply for Golf Membership in the Association as outlined above. No additional capital contribution or initiation fee will be required, provided that the spouse has been approved for membership. Legal documentation must be presented when the Association is requested to issue a new or modified Certificate. The Board of Governors may provide for a partial initial payment of the purchase price for Golf-Equity Certificates with the deferred balance of the purchase price to be paid in annual installments as approved from time to time by the Board of Governors. The purchase price of the Golf-Equity Certificate issued in connection with such memberships shall be fully refundable, partially refundable or entirely non-refundable (as determined at the time of purchase by the Board of Governors), as provided herein.

3.5 Grandfather Provision. Members (i) who were not members of the MS Club as of March 12, 2003, or (ii) who became members of the MS Club or contracted to purchase a Residential Parcel between that date and June 30, 2003, shall not be required to pay Initial Contributions for use and enjoyment of the Common Areas acquired by the Association on July 1, 2003. Each Member as of June 30, 2003, who resigned his membership in the MS Club on or after March 12, 2003 and was not a member of MS Club as of June 30, 2003, shall be required to pay an Initial Contribution to the Association as of July 1, 2003. Such Initial Contribution shall be in an amount determined by the Board of Governors, in its sole discretion.

3.6 Non-Resident Annual Social Memberships. Non-Resident Annual Social Members may be elected annually subject to the approval of the Board of Governors. Such members shall have the right to use the clubhouse and the pool bar. These memberships do not include golf, tennis, pool or Fitness Center privileges.

3.7 Non-Resident Annual Tennis Memberships. Non-Resident Annual Tennis Members may be elected annually subject to the approval of the Board of Governors. Such members shall have the right to use the tennis facilities, the clubhouse and pool bar. They will not be required to pay court fees. These memberships do not include golf, pool or Fitness Center privileges.

3.8 Non-Resident Annual Tennis/Limited Social Memberships. Annual Non-Resident Tennis/Limited Social memberships may be available to a single individual or a married couple, subject to the approval of the Board of Governors annually. Such members shall have the privilege to use the tennis facilities of the Association including the pool bar and will not be required to pay court fees. During the period of May 1 through October 15, they may use the clubhouse of the Association. These memberships do not include golf, pool or Fitness Center privileges. Non-Resident Annual Tennis/Limited Social members are not permitted to bring guests.

3.9 Non-Resident Summer Tennis Memberships. Non-Resident Summer Tennis Memberships may be available to a single individual or a married couple during the period of May 1 through October 15, subject to the approval of the Board of Governors annually. Such members have the right to use the tennis facilities of the Association, including the pool bar and will not be required to pay court fees. These memberships do not include golf, clubhouse, pool or Fitness Center privileges. Non-Resident Summer Tennis members are not permitted to bring guests, and they are limited to two summer memberships.

3.10 Founder Memberships. Founder memberships have been issued to six (6) persons designated by Mariner Sands Associates. Founder Members, their spouses and dependent children, if living at their parents' residence, shall have the same right to use the Association's facilities as a Golf Member. Founder Memberships shall terminate upon the earlier of the death or resignation of both the Founder Member and his or her spouse.

Founder Members shall be vested with non-assessable lifetime memberships to use and enjoy the Common Areas and the Golf Facilities, shall not be required to purchase a Golf-Equity Certificate, pay an initiation fee, dues or assessments. Founder Members shall pay the same fees and clubhouse charges as apply to Golf Members; provided, however, that they shall not be required to pay that portion of the Amenity Fee which the Board of Governors determines is allocable to the maintenance and operations of the facilities formerly owned by the MS Club.

3.11 Voting Powers. Founder Members, Non-Resident Golf Equity Members and Annual Members shall not vote at any election of Governors or for any other purpose.

ARTICLE 4

MEETINGS OF MEMBERS

4.1 **Annual Meeting.** The regular annual meeting of the Members of the Association shall be held on the Second Thursday of November each year at the Registered Office of the Association or at such other location in the State of Florida designated by the Board of Governors, at 2:00 p.m., or such other time fixed by the Board of Governors for the purpose of electing Governors and the transacting of Association business. If the day fixed for the meeting is a legal holiday in the State, such meeting shall be held on the next succeeding business day.

The order of business at the Annual Meeting shall be as follows:

- a) Determination of a quorum;
- b) Reading of the minutes of the preceding meeting;
- c) Report of the Board of Governors;
- d) Report of the Treasurer;
- e) Election of Governors;
- f) Election of Independent Certified Public Accountants;
- g) Other business specified in the notice;
- h) Report of the Elections Committee; and
- i) Adjournment.

4.2 **Notice.** Notice of any meetings of the membership shall be given to the Members by the Secretary stating the date, time and place of the meeting. Notice may be given to the Members either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary, and notices of meetings may be mailed to him at such address. Notice of any regular or special meeting shall be mailed no less than twenty days (20) nor more than forty-five (45) days in advance of the meeting, and shall set forth the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve an election governed by Article 7, notice of such meeting shall be given or sent as therein provided.

The Annual Meeting notice shall contain the names of the Nominees for Governor and enumerate any business to be transacted at the meeting in addition to the business described in Article 4.1. Accompanying the notice shall be copies of Comparative Financial Statements for the most recently completed fiscal year together with notes and a certificate of Independent Certified Public Accountants pertaining thereto, a comparison of actual results with budget with explanatory notes of any significant variations for both operating and capital budgets for the same period, operating and capital budgets for the current fiscal year, and the text of all resolutions proposed for adoption by the Members pursuant to any provision of these By-Laws together with the recommendation of the Board of Governors as to each proposed resolution. Members having at least twenty-five percent (25%) of the votes eligible to be cast by Members of the Association may propose an item for the Annual Meeting

agenda by notifying the Secretary at least sixty (60) days prior to the Annual Meeting of the complete proposal, including the text of all resolutions proposed for adoption.

4.3 Quorum. The presence, either in person, by ballot, or by written proxy, of Members having a majority of the votes then entitled to be voted shall constitute a quorum at any meeting of the Members.

4.4 Voting by Members. The procedures for action requiring membership vote shall be as follows:

4.4.1 There shall be no cumulative voting.

4.4.2 Members may vote in person, by secret ballot or by proxy in writing filed with the Secretary. Ballots may not be voided or retrieved after the Elections Committee commences counting ballots.

4.4.3 Election of Board of Governors - The nominees having received the highest number of votes, as reported by the Elections Committee, shall be elected provided that the required number of Golf Members is elected. Subject to the foregoing, if any two or more nominees receive an identical vote and if the winner among such nominees would be elected, the winning nominee shall be decided by lot.

4.4.4 Amendments to Articles of Incorporation and By-Laws - per the provisions of Article 19.

4.4.5 Disposing of property, incurring debt, or capital expenditures - per the provisions of Article 5, Section 5.9 of these By-Laws and Article 10 of the Articles of Incorporation.

4.4.6 Special Assessments - Per the provisions of Article 16.

4.4.7 Unless otherwise specified, all resolutions proposed for adoption by the Members shall pass on the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the votes cast by those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so.

4.4.8 Only Members in Good Standing as of four (4) business days prior to the date of the meeting shall be eligible to vote.

4.5 Voting by Golf Members. With respect to the Golf Facilities, only Golf Members shall vote on the following, which are the only matters upon which Golf Members shall vote as such:

4.5.1 Expenditures, in the aggregate, which total more than ninety percent (90%) of depreciation of the Golf Facilities in any one (1) fiscal year for capital additions, replacements or improvements to the Golf Facilities.

4.5.2 Amendments to the By-Laws of the Association that relate to the use and enjoyment of the Golf Facilities.

4.5.3 Matters involving dissolution as described in Article 10 of the Articles of Incorporation and Assessments as set forth in Article 16 below.

4.5.4 Provisions of the By-Laws applicable to Members' meetings, notice for and quorums at such meetings, voting and proxies shall be applicable to any meetings and votes of Golf Members.

4.6 Proxies. At all meetings of Members, each Member entitled to vote may vote in person or by proxy. All proxies shall be in writing filed with the Secretary of the Association. To be valid, a proxy must be dated, state the date, time and place of the meeting for which it was given and 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. A proxy is revocable at any time at the pleasure of the person who executed it. If the proxy form expressly so provides, any proxy holder may appoint, in writing, a substitute to act in his place.

4.7 Special Meetings. Special meetings of the membership for any purpose may be called at any time by a majority of the votes of the Board of Governors, except that no such specially called meeting shall be held during the periods May 1 to November 1 or December 15 to January 3 unless, in the opinion of a majority of the Board of Governors, an emergency requires such meeting. In addition, special meetings of the voting membership must be called upon the written request of the Members who have a right to vote twenty-five percent (25%) of the total votes of the membership of the Association. The notice of any special meeting shall contain all proposals to be considered at the special meeting of Members and shall include the full text of such proposal and a statement of the reasons therefore, and no other business may be transacted at that meeting. The Board of Governors shall include with any notice of a meeting called as a result of such proposal its recommendation with respect thereto. Special meetings called as the result of a written petition of the Members must be noticed within thirty (30) days of receipt of the proposal by the Secretary and verification of the signatures of the petition by the Board of Governors.

ARTICLE 5

GOVERNMENT AND MANAGEMENT

5.1 Board of Governors. Except as otherwise provided herein, the government and administration of the affairs and property of the Association shall be vested in a Board of Governors. The Board of Governors shall be elected by the Members of the Association. The Board of Governors shall be responsible for the administration of the Association. The Board of Governors shall consist of nine (9) persons. Each Member of the Board of Governors shall be a record owner of a Residential Parcel. All Members are eligible to serve on the Board of Governors, but at least six (6) of such Members shall also be Golf Members.

5.2 Terms of Office. The Board of Governors shall consist of three classes, each class composed of three persons with each class to be elected for a term of three

years or until their successors are elected. The classes shall be staggered so that only three persons shall be elected in a given year, at least two (2) of whom must be Golf Members in Good Standing. A "Term" is an elective term or an appointive term of at least two years.

5.3 Powers and Duties of the Board of Governors.

5.3.1 Powers. The Board of Governors shall have the powers set forth in the Articles of Incorporation. Further, the Board of Governors shall have the power to:

5.3.1.1 Elect officers.

5.3.1.2 Appoint committees and assign duties.

5.3.1.3 Employ a general manager and delegate authority as is considered necessary for the proper operation of the Association.

5.3.1.4 Adopt, alter, amend or repeal rules and regulations governing the Association and use of all its facilities by Members, Golf Members and their guests.

5.3.1.5 Manage the affairs of the Association subject to the policy that each year revenues of the Association shall equal or exceed all expenses (including depreciation) as recorded in the annual financial statements and audited by the Association's independent public accountant. If there is a loss in any fiscal year, it shall be made up by an assessment of the Members and/or Golf Members, as the case may be, prior to the next Annual Meeting.

5.3.1.6 Determine the amount of fees, dues, assessments and/or other charges applicable to the use and maintenance of the recreational facilities (facilities which include, but are not limited to, the clubhouse, swimming pool and lockers, pool bar and tennis facilities), Golf Facilities, and Fitness Center and determine the assessments, dues and charges to the Members and the Golf Members.

5.3.1.7 Engage or discharge employees, enter into contracts, buy and sell equipment, make credit arrangements, borrow money to meet current operating needs, issue other instruments of indebtedness and invest surplus funds.

5.3.1.8 Issue Golf-Equity Certificates and Equity Certificates.

5.3.1.9 Establish from time to time the Initial Contribution as the non-refundable fee payable by Members who join the Association on and after July 1, 2003, and the Amenity Fees and Assessments.

5.3.1.10 Do everything permitted by not-for-profit corporations and Florida homeowners' associations by law and by the Governing Documents, and to determine the interpretation or construction of the Governing Documents or any part thereof, which may be in conflict or of doubtful meaning, and its decision shall be final.

5.3.1.11 Implement the changes resulting from any amendments to the Governing Documents.

5.3.1.12 Maintain two Capital Disbursement Funds. One such fund shall be the Common Areas Capital Disbursement Fund to be used for the purchase of property and equipment, plus a reasonable contingency as determined by the Board of Governors, for the Common Areas. The source of funds for such Fund shall be cash from Initial Contributions, Member Assessments equivalent to annual depreciation of Common Areas property, proceeds from the sale of used Common Areas equipment, capital assessments, interest generated by such Fund and additional transfers as may be voted by the Board of Governors to maintain a reasonable contingency. The second such fund shall be the Golf Facilities Capital Disbursement Fund to be used for the purchase of property and equipment, plus a reasonable contingency as determined by the Board of Governors, for the Golf Facilities. The source of funds for such Fund shall be the non-refundable portions of Golf-Equity certificates, Golf Member assessments equivalent to annual depreciation of Golf Facilities property, proceeds from the sale of used Golf Facilities equipment, capital assessments, interest generated by such Fund and additional transfers as may be voted by the Board of Governors to maintain a reasonable contingency in such Fund.

5.3.1.13 Maintain a Certificate Redemption Fund to be used to redeem certificates which are on the Refund List in accordance with Article 12 hereof and Membership Deposit Agreements. The source of funds for this Certificate Redemption Fund shall be the refundable portions of the proceeds to the Association from the issuance or reissuance of Golf-Equity Certificates, and transfers as may be determined by the Board of Governors, plus interest generated by the Fund. The Board of Governors may determine the refundable portion of Golf-Equity Certificates when issued; provided, however, that the refundable proceeds from the issuance or reissuance of a Golf-Equity Certificate to a new Member who purchases a Residential Parcel of a selling Member in Good Standing who holds a Golf-Equity Certificate or an Equity Certificate shall be utilized to redeem such selling Member's Golf-Equity Certificate or Equity Certificate, as the case may be, and the balance of the refundable amount, if any, shall be transferred to the Certificate Redemption Fund and used to redeem the oldest inactive Certificates on the Refund List. The non-refundable portion, if any, shall be deposited into the Golf Facilities Capital Disbursement Fund. Inactive Golf-Equity Certificates shall be redeemed and retired until the number of Active plus Inactive Golf-Equity Certificates outstanding equals the authorized level of 540 Golf Memberships as provided in Article 3 Section 3.2. Thereafter, the Association shall not be required to redeem additional Golf-Equity Certificates until a Golf-Equity Certificate is issued or reissued as a replacement. Should this Fund accumulate additional funds above anticipated needs, such funds may be used for capital expenditures authorized by the Board of Governors.

5.3.1.14 Recommend to the Members for approval at the Annual Meeting, following consideration of the recommendation of the Audit Committee, a firm of Independent Certified Public Accountants to be retained to audit the books and records of the Association for the following fiscal year.

5.3.1.15 Have the sole authority to issue Golf-Equity Certificates and Equity Certificates and to establish from time to time the purchase price, the non-refundable fee payable by new Members, and the amounts and terms relating to each new such Certificate.

5.3.1.16 Take action without a meeting in the event of an emergency if a consent in writing, setting forth the action to be taken, signed by all of the Governors is filed in the Minutes of the proceedings of the Board of Governors. Such consent shall have the same effect as a unanimous vote.

5.3.1.17 Enforce the Governing Documents and Rules and Regulations through a limitation of Members' and Golf Members' rights as set forth in Article 13 and Article 15.

5.3.1.18 Adopt and enforce General Rules for the community and the Common Areas, House Rules, Golf Facility Rules and Regulations, Tennis Rules, Swimming Pool Rules, Fitness Center Rules, Annual Member Rules, and Guest Rules for the Property, the Common Areas, and the Golf Facilities.

5.3.1.19 Adopt Rules and Regulations for a limited number of Non-Resident Tennis and Social Members for membership on an annual basis.

5.3.2 Duties. It shall be the duty of the Board of Governors to:

5.3.2.1 Keep a complete record of all its acts and corporate affairs, including those records specified by Florida Statute 720.303, as amended, make reports thereon to the Members at the annual meeting, and to allow for inspection and copying of records as specified in Florida Statute 720.303, as amended.

5.3.2.2 Supervise all officers, agents and employees of the Association.

5.3.2.3 Prepare, or cause to be prepared, budgets required by Florida Statute 720.303, as amended, fix the amount of the Amenity Fee and Assessment against each Residential Parcel as well as the purchase price of Golf-Equity Certificates and assessments and charges for Golf Members, at least thirty (30) days in advance of the date any payment of such assessments or charges is due.

5.3.2.4 Prepare a roster of the Residential Parcels and assessments applicable thereto that shall be kept in the office of the Association.

5.3.2.5 Issue, or cause an appropriate officer to issue upon demand by any person, a certificate setting forth whether all assessments against a Residential Parcel have been paid and, if not, identifying the amount of any unpaid assessment and the period to which such unpaid assessment relates. Such certificate shall be conclusive evidence to the person to whom it is addressed for payment of any assessment therein stated to have been paid.

5.3.2.6 Obtain insurance in the name of the Association covering the Common Areas, the Golf Facilities, and the Fitness Center and covering

such risks and with such deductible amounts as the Board of Governors shall determine.

5.3.2.7 Hold at least eight (8) regular meetings a year.

5.3.2.8 Enforce the Governing Documents and Rules and Regulation for use of the Common Areas, Golf Facilities and the Fitness Center.

5.4 **Voting of Governors.** Anything to the contrary herein notwithstanding, on any matter to be voted upon by the Board of Governors, each Governor shall be entitled to cast one vote.

5.5 **Vacancies.** Any vacancy on the Board of Governors created by the resignation, removal, death or disability of a Governor, may be filled by the majority of the remaining Governors or by the Members if the removal is per Florida Statute 617.0808; provided, however, that if any such vacancy is caused by the resignation, removal, death or disability of a Governor who was a Golf Member, such vacancy shall be filled by a Golf Member. Such appointed Governor shall hold office for the duration of the term of the Governor replaced.

5.6 **Governor Absences; Removal.** In the event that any member of the Board of Governors shall be absent from three (3) consecutive regular meetings of the Board of Governors, the Board of Governors may, at the meeting during which said third absence occurs, declare the office of said absent Governor to be vacant, and the provisions relating to the filling of a vacancy of the Board of Governors as set forth in this Article 5 shall become operative. Governors may also be removed as provided in Florida Statute 617.0808.

5.7 **Governor Ceasing to be Golf Member.** If any Governor ceases to be a Golf Member, he may continue to serve as a Governor provided there are at least six (6) remaining Governors who are Golf Members and there are at least two Governors in each class who are Golf Members. If this is not the case, such Governor's office shall be deemed vacant and the provisions relating to the filling of a vacancy on the Board of Governors as set forth in this Article shall become operative with the proviso that the vacancy shall be filled by a person who is a Golf Member.

5.8 **Re-Election.** No Governor is eligible for re-election or re-appointment to the Board of Governors until two (2) years after completion of the most recent term. Such limitation shall only be applicable to consecutive terms for a Governor and nothing herein shall be deemed to limit or restrict a Governor from serving a future term, provided that such terms shall not be consecutive. A term is an elective or an appointive term of at least two (2) years. However, a Governor who is filling a vacancy on the Board of Governors for a period of less than two years may be elected to a three year term after expiration of the term filled by the vacancy on the Board of Governors.

5.9 **Restrictions.** The Board of Governors shall not:

5.9.1 Receive a salary or any other compensation whatsoever, but shall be entitled to reimbursement for all expenses reasonably incurred in performing any duties pursuant to the By-Laws.

5.9.2 Without the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of the votes cast by those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so:

5.9.2.1 Transfer, sell, mortgage, pledge, hypothecate or otherwise dispose of or encumber more than \$200,000 of real or personal property of the Association in any one fiscal year, or incur any debt with a maturity beyond one year;

5.9.2.2 Incur short term debts which in the aggregate exceed \$250,000 above the Association's accounts receivable;

5.9.2.3 Spend more than ninety percent (90%) of depreciation of Common Areas property in any one (1) fiscal year for capital additions, replacements or improvements to the Common Areas; and

5.9.3 Without the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of the votes cast by those Golf Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so, spend more than ninety percent (90%) of depreciation of Golf Facilities property in any one (1) fiscal year for capital additions, replacements or improvements to the Golf Facilities.

ARTICLE 6

GOVERNORS MEETINGS

6.1 Time and Place. Meetings of the Board of Governors may be held at any place within the State of Florida. The Board of Governors shall hold its Organizational Meeting no more than six (6) days following the Annual Meeting of the Members. The principal purpose of the Annual Organizational Meeting shall be to elect officers of the Association. Regular meetings of the Board of Governors may be held at such time and place as shall from time to time be determined by the Board of Governors. The Board of Governors shall hold a minimum of eight (8) regular meetings per year.

6.2 Notice. Notice of meetings of the Board of Governors is required by Florida Statutes. Such Notice shall be posted on the Association official bulletin board at least forty-eight (48) hours in advance of a meeting except in an emergency.

6.3 Assessment Notices. Notice that assessments will be considered and the nature of the assessment will be provided for any meeting at which it is proposed that the Board of Governors levy an assessment.

6.4 Special Meetings. Special meetings of the Board of Governors shall be held when called by the President, or by those Governors entitled to cast a majority of the votes of the Governors, after not less than forty-eight (48) hours posting of notice and notice to each Governor, except in the case of an emergency.

6.5 Open Meetings. Meetings shall be open to all Members, except for meetings between the Board and its attorney with respect to proposed or pending

litigation where the content of the discussion would otherwise be governed by the attorney-client privilege.

6.6 Secret Ballots. No Governor shall vote by proxy or secret ballot, except that secret ballots may be used in the election of officers.

6.7 Quorum. The presence at a meeting, in person or by telephone, of those Governors entitled to cast a majority of the votes of the Board of Governors shall constitute a quorum of the Board of Governors. The act of the Governors entitled to cast a majority of the votes of the Governors at a meeting at which a quorum is present shall be the act of the Board of Governors. Any member of the Board of Governors may participate in meetings by telephone and, therefore, be counted as present for quorum purposes, provided that there shall be a speaker phone or similar device used so that all physically present at the meeting may hear such Governor, and vice versa.

6.8 Adjourned Meetings. If at any meeting of the Board of Governors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. Notice of the time or times of reconvening shall be given to all Governors and shall be posted. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

6.9 Conformance. All of the foregoing powers and restrictions shall be in accord with all other provisions of the By-Laws and the Articles of Incorporation.

ARTICLE 7

NOMINATION AND ELECTION OF GOVERNORS

7.1 Nominating Committee. Nominations for a full slate of Governors for election to the Board of Governors by the Members shall be made by the Nominating Committee. The Nominating Committee shall nominate only Golf Members for two-thirds (2/3) (or more, if applicable) of the positions open each year. The Chairperson of the Nominating Committee shall be appointed by the President and shall be a current member of the Board of Governors. The Nominating Committee shall consist of a total of five (5) Members in Good Standing, at least three (3) of whom shall also be Golf Members in Good Standing, a minimum of one (1) of whom shall be a Governor, and a minimum of three (3) of whom shall be non-Governors. Four (4) members of the Nominating Committee shall constitute a quorum. Once having served on the Nominating Committee, a Member shall not be eligible to again serve on a Nominating Committee for a period of two years from the expiration of his most recent appointment. Members of the Nominating Committee shall be appointed by the Chairperson of the Nominating Committee and approved by the Board of Governors not later than April 1 of each year.

7.2 Nominations. The Nominating Committee shall nominate at least the number of candidates necessary to fill vacancies of the Board of Governors. The Nominating Committee shall mail its slate of candidates to each Member and post the slate in public at the Association Office available to all voting Members of the

Association on or before September 1. At least twenty (20) days prior to the election meeting, a slate of Nominees for Governor, including nominations by petition (as provided below), if any, shall be mailed to each Member.

In addition to candidates nominated by the Nominating Committee, nominations for the Board of Governors may be made by petition signed by Members representing a minimum of twenty-five percent (25%) of the Association votes eligible to be cast for the election of Governors. Petitions must be filed with the Secretary of the Association at least forty-five (45) days before the date of the meeting at which the Governors are to be elected. Upon the Secretary's verification of a nomination petition, the Secretary shall post the names of those nominated by membership petition in the same manner and place as candidates selected by the Nominating Committee. The names of those nominated by membership petition, if any, shall be included in proxy ballots and mailings and the source of nomination (Nominating Committee or nomination by petition) shall be identified for each candidate.

7.3 Elections Committee. A three (3) person Elections Committee shall be appointed by the President prior to any meeting at which ballots are to be cast. Such Elections Committee shall supervise the balloting and the drawing of lots and certify the results of the election to the Board of Governors. Election of Governors shall be by secret ballot (for those voting in person and included with a proxy for those not attending the meeting in person) which lists the Members nominated. Nominees nominated at the meeting may be written in. Except as otherwise set forth in the By-Laws, the form and structure of the ballot and the regulation of the balloting shall be under the control of the Board of Governors. No cumulative voting shall be allowed and ballots which vote for less than all vacancies in the Board shall be invalid.

Each ballot/proxy envelope shall be signed by the Member casting the ballot and it shall be returned to the Secretary of the Association. The Elections Committee may verify proxies and commence counting the ballots three (3) business days prior to the annual or special meeting. Ballots shall not be retrievable or voided once counting commences. The Elections Committee shall adopt a procedure which shall:

Establish that, if the vote is by proxy, the proxy has been filed with the Secretary as provided and that such proxy is valid. A tabulation procedure shall also be established by the Elections Committee in such a manner that the vote of any Member or his proxy shall not be disclosed to anyone, including the Elections Committee.

If any ballot shall be found to contain more than the number of votes which the Member signing such ballot is entitled to cast, all votes on such ballot shall be disqualified and shall not be counted and the Residential Parcel for which such ballot was cast shall not be counted for any purpose. The results of the election shall be announced at the meeting of the Members.

ARTICLE 8

ELECTION OF OFFICERS

8.1 **Officers.** The officers shall be a President, a Vice President, a Secretary and a Treasurer. All Officers shall be Governors. The Board of Governors may appoint assistant officers, who need not be Governors or Members and assign their duties.

8.2 **Majority Vote.** The officers shall be chosen by majority vote of the Governors. At the request of any Governor, the vote for officers shall be by secret ballot.

8.3 **Term.** All officers shall hold office at the pleasure of the Board of Governors.

8.4 **Removal and Vacancies.** Any officer may be removed from office by a two-thirds (2/3) vote of the Board of Governors. A vacancy in any office caused by death, resignation, removal or otherwise, shall be filled by the Board of Governors for the unexpired portion of the term so vacated.

ARTICLE 9

DUTIES OF OFFICERS

9.1 **President.** The President shall be the Chief Executive Officer and preside at all meetings of the Board of Governors, Members and or Golf Members, and shall enforce the observance of the provisions of the By-laws, orders and resolutions of the Board of Governors, and sign all notices, checks, leases, mortgages, deeds and all other written instruments as may be incidental to the orders and resolutions of the Board of Governors. The President shall appoint all Standing Committee Chairpersons, subject to the approval of the Board of Governors.

9.2 **Vice President.** The Vice President shall perform and carry out all the duties of the President in his absence. Should the President and Vice President be absent from any meeting of the Board of Governors, a Chairperson for that meeting shall be chosen by a majority vote of the Board of Governors present at such meeting.

9.3 **Secretary.** The Secretary shall be responsible for and be in charge of the seal, the trademarks, and By-laws, record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. He shall keep or cause to be kept the records of the Association. He shall record or cause to be recorded in a book kept for such purpose the names of all Members of the Association, together with their addresses as registered by such Members, and shall supply the Treasurer with any changes therein. He shall issue or cause to be issued all notices of meetings and perform such other duties as may be required by the By-Laws or the Board of Governors.

9.4 **Treasurer.** The Treasurer shall be Chief Financial Officer of the Association and Chairperson of the Finance Committee. The Treasurer shall be responsible for the establishment of written internal controls, enforcement of policies

defining capital versus operating expense and the purchase of all insurance policies with coverage and limits as directed by the Board of Governors. The Treasurer shall be responsible for, and be in charge of, the accounts and financial records of the Association and of the receipt, deposit, safekeeping and disbursement of funds and securities of the Association. Subject to the direction and approval of the Board of Governors, the Treasurer shall prepare or oversee the preparation of a capital budget and an operating budget on a month-by-month basis. Each month the Treasurer shall present to the Board of Governors a report of the financial condition and results of operations of the Association since the previous report. A line-by-line variance to budget shall be presented for both the operating account and the capital account together with a full year forecast. Quarterly, the Treasurer shall send to the Members a balance sheet and a condensed report of operating results compared to budget and to the prior year and a report of capital expenditures compared to budget.

At the Annual Meeting, the Treasurer shall provide the following written reports:

9.4.1 A Balance Sheet as of the end of the previous fiscal year and a report of operating results and capital expenditures for the previous fiscal year compared to budget; and

9.4.2 Operating and capital budgets for the current fiscal year.

The Treasurer shall make investments of Association funds only in short-term securities of the U.S. Government, agencies of the U.S. Government or in accounts in financial institutions not to exceed the amounts insured by an agency of the U.S. Government and shall give a surety bond for faithful performance in the amount directed by the Board of Governors, such surety bond premium to be paid for by the Association. Any other person or persons having access to monies or bank accounts of the Association shall be similarly bonded.

ARTICLE 10

COMMITTEES

10.1 Standing Committees. The Board of Governors shall have the following standing committees which shall have the limited authority set forth herein. All Committees, other than the Executive and Audit Committees, are advisory to the Board of Governors.

10.1.1 Executive Committee. The Executive Committee shall consist of the President (as Chairperson), Vice-President, Secretary and Treasurer. The Executive Committee shall have the authority of the Board of Governors between Board meetings. Actions of the Executive Committee shall require unanimous approval of all committee members. Any action of the Executive Committee shall be reported to the Board of Governors and may be overturned by the Board of Governors by a vote of a majority of the Board of Governors.

10.1.2 Nominating Committee. The Nominating Committee shall be appointed as provided in, and have the authority conferred by, Article 7 of the By-Laws.

10.1.3 Audit Committee. The Audit Committee shall consist of a Chairperson and at least two (2) other persons, none of whom is a Governor nor a member of any other committee, and shall be appointed by the President, subject to the approval of the Board of Governors. The committee shall make a timely recommendation each year to the Board of Governors of a firm of Independent Certified Public Accountants to serve for the following fiscal year, shall review the scope of the annual audit, all services to be rendered and related fees, and determine the satisfactory independence of the recommended Independent Certified Public Accountants. The committee shall also review all draft reports of Independent Certified Public Accountants, all Management Letters of recommendation and all Internal Audit reports, if any, forwarding its views and recommendations thereon promptly to the Board of Governors. The committee may meet in executive session at any time with the Independent Certified Public Accountants or Internal Auditor to review any findings of financial or accounting improprieties or irregularities and take such action thereon as it deems appropriate.

10.1.4 Finance Committee. The Finance Committee shall consist of the Treasurer who shall be its Chairperson, and not less than four (4) nor more than eight (8) additional persons. It shall have general supervision of the accounts of the Association and in conjunction with the General Manager and the department heads, shall prepare the budgets and forecasts of the financial requirements of the Association. The committee shall be entrusted with the duty of formulating plans for financing the additions and improvements of all buildings, grounds and major equipment with respect to both present and future needs and requirements. All committees, ad hoc or standing, whose plans involve the making of major changes or additions to buildings, property or equipment shall submit their plans first to the Board of Governors and thereafter to the Finance Committee. After review of such plans, the Finance Committee shall submit its recommendations to the Board of Governors with respect to the financing of same. The budget for the next fiscal year shall be approved by the Board of Governors on or before June 1 prior to the commencement of such fiscal year.

10.1.5 Compensation Committee. The Compensation Committee shall consist of the President (as Chairperson), Vice President, Secretary, Treasurer and such additional Governors as appointed by the President. The committee shall have the authority to review and establish employee compensation, benefit programs and other related matters.

10.1.6 Membership Committee. The Membership Committee shall consist of not less than four nor more than six Golf Members each of whom shall have been a Golf Member for at least three years. The Chairperson shall be a member of the Board of Governors. No less than three members of the committee shall have been members of the Board of Governors. The Committee shall receive and consider all applications for membership and report its recommendations to the Board of Governors. The Chairperson of the Membership Committee shall furnish the Board of Governors,

on request, the names of candidates for classes of membership. Members of the Membership Committee may not propose persons for membership.

10.1.7 Elections Committee. The Elections Committee shall be appointed as provided herein and have the authority conferred by Article 7, Section 7.3 of the By-Laws.

10.1.8 Golf Facilities Committees. The Green Committee and the Golf Committee, as well as such Ad Hoc Committees as the Board of Governors may deem advisable, shall oversee the maintenance, improvements and use of the Golf Facilities, as directed by the Board of Governors. Only Golf Members shall be qualified to serve on such committees.

10.2 Committee Selection. Except for the Audit Committee and the Elections Committee, each Standing Committee shall consist of a Chairperson, who shall be a Governor, and two (2) or more Members. The Chairperson of each committee shall be selected by the President who shall present his selection to the Board of Governors for confirmation. The Chairperson of each committee shall present to the Board of Governors for confirmation, persons selected to serve on such Committee. No person shall serve on the same committee for more than three consecutive years, except for the Green Committee. Such person shall, however, be eligible to serve again on such committee after two years have elapsed from the expiration of his most recent term. With respect to the Green Committee, the length of service shall be subject to the determination of the Board of Governors from time to time.

10.3 Ad Hoc Committees. The Board of Governors may appoint additional committees for the functions and purposes determined from time to time by the Board of Governors. By way of example and without limitation, such committees may include a Marketing Committee, Comprehensive Planning and/or Grievance Committee.

Committee members shall be appointed as soon as reasonably possible after each annual meeting and shall serve until the close of the next annual meeting and their successors are appointed and confirmed.

10.4 Review of Complaints. It shall be the duty of each committee to receive complaints from Members on any matter involving the Association functions, duties and activities in the committee's field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to the Board of Governors.

ARTICLE 11

USE OF CORPORATE INTANGIBLE PROPERTY

11.1 Trademark. No Member or Member's associate, affiliate, partner, company, proprietorship or corporation shall use any trademark, seal of the Association, or the name, design, logo, composite image or colorable imitation thereof for any commercial or charitable purpose, without the prior express written permission of the Board of Governors.

11.2 Resident Lists. It is the policy of the Association that the membership lists shall be used by Members of the Association for personal use only and further, the lists shall not be used for mass mailings of a commercial, political or charitable nature and shall not be used by non-Members for any reason.

ARTICLE 12

PROPERTY SALE, RESIGNATION, TRANSFER AND REDEMPTION OF CERTIFICATES

12.1 Limitations. The owner of a Golf-Equity Certificate or Equity Certificate shall not sell, assign or otherwise transfer such Certificate other than to the Association. Except as provided in this Article 12, upon occurrences such as the consummation of the sale of a Residential Parcel, resignation as a Golf Member or the death of a Member, the Member's old Certificate shall become an Inactive Certificate and may qualify for reissue or a refund as provided under Section 12.4.

If a purchaser of a Residential Parcel wishes to acquire a Golf-Equity Certificate, the Member may apply for Golf Membership in accordance with Article 3.

12.2 Sale of Property. If a holder of a Golf-Equity Certificate or Equity Certificate ceases to be a Residential Parcel owner, such Member's privileges terminate but not the Member's financial obligations for outstanding indebtedness to the Association. If the purchaser of such a Member's Residential Parcel desires to become a Golf Member, such selling Member's Golf-Equity Certificate or Equity Certificate shall be redeemed and such selling Member shall be refunded the applicable amount of refund for his Golf-Equity Certificate or Equity Certificate as provided herein.

12.3 Resignation of Golf Members. Any Golf Member may resign by filing written notice with the Secretary. The effective date of such resignation shall be the last day of the fiscal year in which such notice is received by the Secretary. The Golf Member shall be obligated to pay all fines, dues, operating assessments, capital assessments or other charges incurred and unpaid on the effective date of resignation, with the exception that (a) the Golf Member shall not be responsible for any capital assessment voted upon subsequent to the date of the Golf Member's filing of the written notice of resignation and (b) in the event of resale pursuant to Section 12.2 of this Article, in which event dues shall be payable only until the end of the month during which the Residential Parcel and membership are sold.

Equity Certificates must be surrendered simultaneously with notice of resignation. Such Equity Certificates shall be placed on a list (the "Downgrade List"), but will not be added to the Refund List until the holder thereof sells his Residential Parcel, at which time the conditions described in Article 12.4.2 shall apply.

Any former Golf Member may apply to the Board of Governors for reinstatement. Any person who resigned or downgraded his membership in MS Club prior to July 1, 2003, or a Member who has downgraded his Golf Membership may be reinstated by vote of two-thirds (2/3) of the members of the Board of Governors upon such terms and conditions as the Board of Governors may deem appropriate. If a person who has his

Certificate on the Refund List is approved for reinstatement, his Certificate is automatically removed from the Refund List.

Persons whose certificates were on the Refund List of MS Club on June 30, 2003 shall retain the right to receive refunds as provided below in Section 12.4.

12.4 Refunds and Adjustments.

12.4.1 The Association's obligation to pay such refunds shall be limited in time and amount to the refundable portion of amounts received by the Association from the sale of reissued Certificates. The refund to be paid is the lesser of the resale price of an equivalent Certificate at the time the refund is paid, or the "Adjusted Cost" of the Member's Certificate. "Adjusted Cost" is defined as: the Member's original refundable purchase price plus any assessment paid and added to the Equity Certificate value, plus any Refundable Membership Deposit paid by the Member. Any refund amount due to the Member shall be reduced by the Member's outstanding indebtedness to the Association and the remainder shall first be applied to any obligation of the Association to repay any Refundable Membership Deposit. The Refundable Membership Deposit is an unconditional obligation of the Association to make repayment.

12.4.2 Upon a Certificate becoming Inactive, if a refund is due (the Member has sold his Residential Parcel), the Member's Inactive Certificate shall be placed on a list (the "Refund List") in the same sequence in which inactive status occurred and refunds (as defined above) will be made starting at the top of the Refund List and working down.

12.4.3 An Equity Member shall receive a full refund (as defined above) for the active membership Certificate held at the time his Residential Parcel is sold to a new Golf Member who simultaneously consummates the purchase of a new Golf-Equity Certificate. The amount to be paid to the selling Member shall not exceed the initial refundable payment made by the new Member and the selling Member's Certificate shall go on the Refund List for any balance as described in 12.4.1.

12.4.4 In the foregoing circumstances, if the new Member does not choose to become a Golf Member, the selling Member's Certificate, which has now become Inactive, shall be placed on the Refund List and will be handled in accordance with the foregoing provisions.

12.5 Upgrade. When a Member wishes to upgrade his Certificate, the Member shall pay an amount equal to the differential between the current cost of a new Golf Certificate and the face value of the old Certificate. The old Certificate would be retired and a new Golf-Equity Certificate issued for the Golf Membership. Downgraded Equity Certificates may not be upgraded without the payment of an additional contribution as determined by the Board of Governors.

12.6 Downgrade. When a Golf Member elects to downgrade his Golf Membership, his Golf-Equity Certificate shall become Inactive and the Association's records adjusted to reflect the Member's new status. The effective date of such downgrade shall be the last day of the fiscal year in which such written notice is received by the Secretary. The Member's Inactive refundable certificate shall not be

added to the Refund List until the Member sells or transfers his Residential Parcel and is no longer a Member of the Association, at which time, the refundable portion of the inactive certificate shall go on the Refund List.

12.7 Death. Upon the death of a married Golf Member or Non-Resident Golf Member who owns a Golf-Equity Certificate, the Certificate shall be reissued upon request and without fee to the surviving spouse. Upon the death of a single Golf Member, the decedent's legatee(s) or heir(s), one single person or one married couple, if he acquires or they acquire title to a Residential Parcel and is or are approved for membership, shall have the right to acquire the deceased Member's Golf-Equity Certificate *without the payment of an additional capital contribution or initiation fee*; provided, however, that, upon the death of a single Non-Resident Golf Member, the membership shall terminate and the Golf-Equity Certificate shall be placed upon the Refund List.

Legatee(s) or heir(s), no more than one (1) single person or a married couple, must make application to the Association no later than thirty (30) days after his or their right to the possession of the Golf-Equity Certificate and Residential Parcel has been established. Before such application shall be considered, all dues, assessments and other charges on the account of the deceased Member must have been paid in full.

12.8 Legal Separation. In the event owners of a Residential Parcel hold a joint Equity Certificate and become legally separated or divorced, the Association shall regard the party awarded title to or use of the Residential Parcel which supports the Equity Certificate as the rightful owner of said Certificate. In the case of Non-Resident Golf Members who are legally separated or divorced, in the absence of any court decree, property settlement or separation agreement, the individuals involved must designate which of them will retain the Golf Membership. Legal documentation must be *presented when the Association is requested to issue a new or modified Certificate.*

12.9 Assignment Rights Limited. Notwithstanding any provisions of these or previous By-Laws, Members shall have no rights to assign Equity Certificates which are not set forth in this Article 12.

12.10 Children. Upon the written request of a Golf Member, the Board of Governors shall transfer his Golf-Equity Certificate to a child of the Golf Member provided such child is a Member and has been approved for golf membership, without the payment of any additional capital contribution. This provision applies for one generation only.

ARTICLE 13

LIMITATION OF RIGHTS

13.1 The Association, through its Board of Governors, shall enforce the Governing Documents and Rules and Regulations for the use of the Common Areas, the Golf Facilities and the Fitness Center and may limit Members' rights as follows:

13.1.1 The Association may suspend, for a reasonable period of time, the rights of a Member or a Member's family, tenants, guests, or invitees to use Common

Areas, Golf Facilities or the Fitness Center for violation of the Governing Documents and the Rules and Regulations governing the use of the Common Areas, the Golf Facilities and the Fitness Center, and may levy reasonable fines, not to exceed \$100.00 per violation, against any Member or any tenant, guest, or invitee of such Member. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, and such fines may exceed \$1,000.00.

13.1.2 A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee appointed by the Board of Governors consisting of at least three (3) Members, none of whom shall be an officer, Governor, or employee of the Association, or the spouse, parent, child, brother, or sister of any such officer, Governor or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

13.1.3 The requirements of this subsection do not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay assessments or other charges when due.

13.1.4 Suspension of Common Areas or Golf Facilities use rights shall not impair the right of an owner or tenant of a Residential Parcel to have vehicular and pedestrian ingress to and egress from the Residential Parcel, including, but not limited to, the right to park.

13.1.5 The Association may suspend the voting rights of a Member for the non-payment of regular annual assessments that are delinquent in excess of ninety (90) days.

ARTICLE 14

TENANTS AND GUESTS

14.1 Privileges of the Board of Governors. The Board of Governors may extend guest privileges to any person or persons for such time and upon such conditions as it may deem appropriate.

14.2 Guests. A Member in Good Standing may extend his privileges to use the Common Areas to his guests in accordance with the By-Laws and the rules and regulations of the Association. A Golf Member in Good Standing may extend the privileges of the Golf Facilities to his guests in accordance with the By-Laws and the Rules and Regulations of the Association and the Golf Facilities. Each Member and each Golf Member shall be responsible for the appropriate daily fees and all other charges incurred by his guests. All guests shall be registered at the respective pro shops by the Member or Golf Member in advance of using the respective facilities.

14.3 Tenants. Members have the right to designate the tenants of their Residential Parcels as the beneficial users of their privileges to use the Common Areas. Golf Members have the right to designate the tenants of their Residential Parcels as the

beneficial users of their membership in the Golf Facilities. Upon approval of the tenants of their Residential Parcels by the Membership Committee and the Board of Governors, the designees shall be accorded the use of Common Areas or Golf Facilities, as the case may be, but only upon payment of a temporary membership fee and all other applicable guest fees. Tenants may be granted special temporary golf privileges, regardless of the membership held by the Member, upon approval by the Membership Committee and the Board of Governors, and upon payment of a temporary membership fee, account deposit and all other applicable guest fees. Tenants shall be granted temporary golf member privileges for no more than two (2) rental terms.

During the period which a tenant has been granted Member or Golf Member status, the Member or Golf Member landlord shall enjoy the use of the Common Areas privileges only. Member or Golf Member landlords shall be responsible for all charges incurred by their tenants that are unpaid thirty (30) days after the due date. Each Member or Golf Member landlord is also responsible for the deportment of his tenant.

ARTICLE 15

DISCIPLINE, FINES, SUSPENSION AND EXPULSION OF GOLF MEMBERS

15.1 Misconduct. The Board of Governors may discipline, fine, suspend or expel any Golf Member for infractions of the By-Laws or Rules and Regulations of the Association or for acts or conduct which, in the opinion of the Board of Governors, are injurious, disorderly or prejudicial to the interests of the Association. Written charges of misconduct may be advanced by the Board of Governors, a Standing Committee or a group of five (5) or more Golf Members, and filed with the Secretary who shall notify the Board of Governors within five (5) days of such alleged misconduct.

15.2 Notice and Hearing. No Golf Member shall be fined, suspended or expelled until the Golf Member is notified in writing of the right to a timely hearing before the Board of Governors. Within fifteen (15) days of such notice, the Golf Member may request a hearing.

If a hearing is held, the accused Golf Member shall offer an explanation to the Board of Governors. If the Golf Member fails to satisfactorily explain or justify his conduct, the Board of Governors may vote to impose a fine, suspend or expel the Golf Member from Golf Membership.

15.3 Appeals. The Golf Member may appeal the decision to expel (unless such decision to expel arises out of indebtedness to the Association) by giving written notice, with the reasons therefore, to the Secretary within ten (10) days of the vote of expulsion. The appeal shall be heard before a committee appointed by the Board of Governors consisting of at least three (3) Golf Members, none of whom shall be an Officer, Governor, or employee of the Association or the spouse, parent, child, brother or sister of any such officer, Governor or employee, within forty-five (45) days after the notice of appeal has been filed with the Secretary. If the committee does not confirm the expulsion, it may not be imposed.

ARTICLE 16

EQUITY CERTIFICATE COSTS, MEMBERSHIP DEPOSITS, INITIATION FEES, DUES AND ASSESSMENTS

16.1 Determination. The Board of Governors shall review from time to time and may change the purchase price and the amounts and terms relating to the purchase of Golf-Equity Certificates, the Amenity Fee, and the Initial Contribution. Any change shall be communicated to the membership within fifteen (15) days of its effective date. The Board of Governors shall also establish each year the amount of Amenity Fee, for Members and dues for Golf Members. Such Amenity Fees and dues shall be payable in advance in quarterly installments on a schedule established by the Board of Governors. Such fees payable by a new Member shall be prorated from the first day of the month in which the new Member joins to the next quarterly installment payment date.

16.2 Special Assessments. The Association may levy and collect a special assessment on Members and/or Golf Members to pay in whole or in part the cost of any major repair or replacement of a capital improvement for Common Areas, Fitness Center or Golf Facilities, as the case may be, without concurrence of the Members and/or Golf Members. A "major repair" means any repair made to an existing capital improvement which exceeds \$1,000 and the useful life of which is greater than one year. Replacement of a capital improvement means any replacement of an existing capital improvement. The Association may levy and collect a special assessment for the acquisition of a new capital improvement for Common Areas or Golf Facilities, as the case may be, provided the same is approved by an affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members and/or Golf Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so. Assessments levied under this Section shall be in addition to the capital spending authorized by budget.

16.2.1 The amount of any assessment for capital additions, replacements or improvements may be levied as a fully refundable membership deposit or may be added to the purchase price of each Golf-Equity Certificate, provided in either case, it is approved by an affirmative vote of Members or Golf Members, as the case may be, as set forth in Section 16.2 above.

16.2.2 Any capital assessments levied as a refundable deposit shall be evidenced by a written agreement between the Member or the Golf Member and the Association, pursuant to which the Association agrees to refund to the Member or the Golf Member the refundable membership deposit on the first to occur of (a) the earlier refund of the purchase price or (b) the date certain established in the agreement.

16.3 Payment. After application by a Member for a Golf-Equity Certificate, the Secretary of the Association shall provide him with a copy of the By-Laws and the Rules and Regulations of the Golf Facilities. Upon approval for membership, such Member shall remit to the Treasurer the full purchase price, or the initial payment, as the case may be, of the Golf-Equity Certificate, any membership deposit, and prorated dues.

16.4 Privileges. A person who contracts to purchase a Residential Parcel shall, upon payment of any Membership Deposit, Initial Contribution, Amenity Fee or dues, thereby accept the By-Laws and rules and regulations of the Association and agrees to be bound thereby. A Golf Member, upon the purchase of a Golf-Equity Certificate, and the payment of any membership deposit and/or assessments, thereby accepts the By-Laws and Rules and Regulations of the Golf Facilities and agrees to be bound thereby. On these conditions the Golf Member is entitled to the advantages, privileges and use of the Golf Facilities.

ARTICLE 17

Indebtedness of Members

17.1 Payment. All indebtedness of Members shall be due and payable to the Association no later than the month succeeding such indebtedness. If a Member's account is not paid within thirty (30) days following the month in which such indebtedness is due or incurred, the account is delinquent. A Member who is delinquent for over thirty (30) days may be suspended from the privileges of the Association, until such indebtedness is satisfied and the Board of Governors approves reinstatement. Delinquent balances are subject to a penalty charge of \$10.00 or eighteen percent per annum on the unpaid balance, (or the highest rate allowed by law) whichever is higher.

17.2 Additional Remedies. If a Member's account remains unpaid ninety (90) days following the month in which such indebtedness was incurred or a Member repeatedly becomes delinquent, the Member or Golf Member may be suspended or expelled from the Association or the Golf Facilities, as the case may be, at the sole discretion of the Board of Governors. Any Member or Golf Member suspended or expelled from membership shall remain liable to the Association for all his indebtedness.

ARTICLE 18

CONTRACTS, CHECKS, DEPOSITS AND FUNDS

18.1 Authorization. The Board of Governors, subject to the limitations imposed by Article 5 Section 5.9, in addition to the officers so authorized by these By-Laws, may authorize an officer or agent of the Association, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association. Such authority may be general or specific.

18.2 Signatures. All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or agent of the Association in such manner as may be determined by the Board of Governors. In the absence of such determination, such instruments shall be signed by the Treasurer and countersigned by the President or Vice-President.

18.3 Bank Accounts. All funds shall be deposited to the credit of the Association in banks, trust companies or other depositories, as the Board of Governors shall direct.

18.4 Gifts. The Board of Governors may vote to accept, on behalf of the Association, contributions, gifts, bequests, or devises upon terms and conditions determined by the Board of Governors.

ARTICLE 19

AMENDMENTS

19.1 These By-Laws may be amended, revised, repealed or new By-Laws may be adopted by the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so. Nevertheless, those provisions of these By-Laws which are governed by the Articles of Incorporation may not be amended except as provided in the Articles of Incorporation and any matter which is governed by the Declaration may not be amended except as provided in the Declaration. Amendments may be proposed by the Board of Governors or by written petition duly signed by Members representing at least twenty-five percent (25%) of the Residential Parcels. Each proposal for Amendment shall include the full text of the Amendment and a statement of the reasons therefore. Proposals for Amendment shall be submitted in writing to the Secretary a minimum of sixty (60) days before the date of the meeting at which a vote on the proposal(s) is scheduled to take place. The recommendation of the Board of Governors shall be included with each proposal for Amendment submitted to Members for vote. Notwithstanding the foregoing, any provision in these By-Laws requiring an affirmative vote of a higher percentage may not be amended unless such higher percentage of affirmative votes is obtained.

ARTICLE 20

CONFLICTS

20.1 In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE 21

INSPECTION OF BOOKS AND PAPERS

21.1 The Official Records of the Association as described in Florida Statute 720.303, as amended, shall be available for inspection by any Member during ordinary business hours.

ARTICLE 22

PARLIAMENTARY RULE

22.1 Roberts Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Governing Documents.

ARTICLE 23

REPEALER AND TRANSITION

The By-laws recited above comprise all of the By-laws of the Association and any By-laws or Amendments to By-laws heretofore enacted are superseded by these By-laws. These By-Laws were approved by a unanimous vote of the Board of Governors of the Association and of MS Club, which was also known as Mariner Sands Country Club, Inc., on March 12, 2003. Notice of an April 29, 2003, Special Joint Meeting of the Members of the Association and MS Club to approve these By-Laws was given to the Members of both such corporations. These By-Laws were approved by the Members at such Special Joint Meeting and are effective 12:01 a.m., July 1, 2003.

Exhibit "AA"

The golf course (G.C.) described in Mariner Sands Plat No.1 as recorded in Plat Book 6 Page 47 in the public records of Martin County, Florida and that portion of the Recreational Tract as described in Mariner Sands Country Club, a Replat of Mariner Sands Plat No.1 as recorded in Plat Book 8 Page 21 in the public records of Martin County, Florida which is described as and related to the Clubhouse Pro Shop, golf cart parking outside of the Clubhouse Pro Shop and a portion of the cart storage barn.

The golf course (G.C.) described in the Plat of Ironwood, a Replat of a portion of Plat No. 1 as recorded in Plat Book 8 Page 40 in the public records of Martin County, Florida.

That portion of the unplatted property as described in Mariner Sands Plat No. 2 as recorded in Plat Book 8 Page 50 in the public records of Martin County, Florida which is reserved for Golf Course purposes.

The golf course (G.C.) described in Mariner Sands Plat No. 3 as recorded in Plat Book 9 Page 18 in the public records of Martin County, Florida.

The golf course (G.C.) and that portion of the unplatted property as described in Mariner Sands Plat No. 4 as recorded in Plat Book 9 Page 60 in the public records of Martin County, Florida which is reserved for Golf Course purposes.

The golf course (G.C.) described in Mariner Sands Plat No. 5 as recorded in Plat Book 10 Page 48 in the public records of Martin County, Florida.

That portion of the unplatted property as described in the Plat of the Winged Foot Cottages as recorded in Plat Book 9 Page 92 in the public records of Martin County, Florida which is reserved for Golf Course purposes.

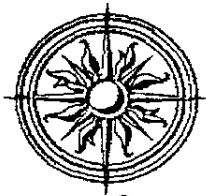
The golf course (G.C.) and that portion of the unplatted property as described in Mariner Sands Plat No. 6 as recorded in Plat Book 9 Page 91 in the public records of Martin County, Florida which is reserved for Golf Course purposes.

The golf course (G.C.) and that portion of the unplatted property as described in Mariner Sands Plat No. 7 as recorded in Plat Book 10 Page 21 and a Replat of a portion of Mariner Sands Plat No. 7 as recorded in Book 10 Page 38 in the public records of Martin County, Florida which is reserved for Golf Course purposes.

The golf course (G.C.) described in Mariner Sands Plat No. 9 as recorded in Plat Book 10 Page 68 in the public records of Martin County, Florida.

The golf course (G.C.) described in Mariner Sands Plat No. 10 as recorded in Plat Book 10 Page 71 in the public records of Martin County, Florida.

Note: The above legal descriptions will be augmented by a survey prior to recordation in the public records.



Mariner Sands

**MARINER SANDS
COUNTRY CLUB, INC.**

**AMENDED AND RESTATED
COMMUNITY COVENANTS**

July 1, 2003

EXHIBIT "C"

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**AMENDED AND RESTATED
MARINER SANDS COMMUNITY COVENANTS**

This Amended and Restated Mariner Sands Community Covenants (the "Amendment") is made this 20th day of MAY, 2003, by Mariner Sands Country Club, Inc. (the "Association") (f/k/a Mariner Sands Property Owners Association, Inc.).

WITNESSETH:

WHEREAS, the Association has previously adopted the Third Amended and Restated Mariner Sands Community Covenants dated November 12, 1998, and recorded in Official Record Book 1378, Page 2094, of the Public Records of Martin County, Florida, and the First Amendment to Third Amended and Restated Mariner Sands Community Covenants dated November 9, 2000, and recorded at Official Record Book 1547, page 2588, Public Records of Martin County, Florida (the "Covenants"); and

WHEREAS, Mariner Sands Country Club, Inc., a Florida not for profit corporation, has merged into the Association and the Association, as survivor, has been renamed Mariner Sands Country Club, Inc., a Florida not for profit homeowners' association; and

WHEREAS, this Amendment was adopted by the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of the Members, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so, as provided in Article 9, Section 9.1 of the Covenants at a special meeting of the Members held, April 29, 2003, to be effective July 1, 2003;

NOW, THEREFORE, the Covenants as amended and restated are further amended as follows:

ARTICLE 1

DEFINITIONS

1.1 Commercial Parcel. Any portion of the Property, excluding any Recreation Parcel, subject to this Declaration and designated by the Association for a commercial or business use of any type, whether or not improved.

1.2 Declaration. Amended and Restated Mariner Sands Community Covenants.

1.3 Association. Mariner Sands Country Club, Inc., its successors and assigns. The Association is a Florida not-for-profit corporation and, pursuant to Chapter 720, F.S., is the Florida homeowners' association for the Property.

1.4 MS Club. The former Mariner Sands Country Club, Inc. a not-for-profit corporation that was merged into the Association on July 1, 2003.

1.5 Member. A person who is a record owner of a Residential Parcel.

1.6 Gender. The use of a gender specific word (e.g., "he") shall be deemed to include the other gender (e.g., "she") and the neutral (e.g., "it").

1.7 Property. The real property, which includes all the Residential Parcels owned by the Members, together with the Commercial and Recreational Parcels, the Common Areas and the Limited Common Areas (including the Golf Facilities and the Fitness Center) owned by the Association.

1.8 Common Areas. Those portions of the Property that are dedicated, conveyed to or owned by the Association, including the property formerly owned by M S Club (that consists of among others the clubhouse, the tennis facilities, swimming pool and lockers and the pool bar), except the Golf Facilities and the Fitness Center which are Limited Common Areas, the uses of which are limited by the Governing Documents.

1.9 Parcel(s). The Residential, Commercial, and Recreation Parcels.

1.10 Resident. Any person or persons occupying a residence or living unit on a Residential Parcel.

1.11 Residential Parcel. Each parcel within a portion of the Property subjected to this Declaration designated for improvements by construction of a single family residence, town house, patio home, villa, apartment, or cottage.

1.12 Recreation Parcel. Each portion of the Property subjected to this Declaration for recreational use of any nature, whether or not improved, including but not limited to: golf courses, tennis courts, clubhouse, pro shops, Fitness Center, swimming pool and lockers, maintenance facilities and other ancillary uses. Any parcel designated on any plat of the Property for golf course use shall be used only for golf course purposes including all of the normal and usual activities associated with the operation of a golf course.

1.13 Board of Governors. Shall mean the elected body charged with the administration of the Association, as provided by the not-for-profit corporation laws of the State of Florida.

1.14 ARB. Shall mean the Architectural Review Board of the Association.

1.15 Golf Facilities. Shall mean the parcels designated on any plat of the Property for golf course purposes which are more specifically described on Exhibit "AA" attached hereto and made a part hereof by reference. The Golf Facilities are sometimes referred to herein as Mariner Sands Golf Course and are Limited Common Areas.

1.16 Golf-Equity Certificate. Shall mean an equity certificate issued to a Member or a Non-Resident Golf Member, who has made a capital payment or an equity payment, or both, to the Association, or to the MS Club, that entitles him to a Golf Membership and gives such Member rights to use and enjoy the Golf Facilities and establishes refund rights.

1.17 Equity Certificate. Shall mean a certificate issued by the Association to a Member who does not hold a Golf-Equity Certificate, but who has made a capital payment or an equity payment, or both, to the Association, or to the MS Club, that establishes refund rights.

1.18 Golf Member. Shall mean a Member or Non-Resident Golf Member who holds or purchases a Golf-Equity Certificate and thereby has a Golf Membership which entitles him to use and enjoy the Golf Facilities of the Association, subject to the Golf Facilities rules and regulations, and who is current in his obligations to pay Assessments, dues and charges related to the Golf Facilities.

1.19 Initial Contribution. Shall mean the Assessment determined by the Board of Governors, from time to time, and charged to Members joining the Association on or after July 1, 2003 as more fully described in Article 9.9 herein.

1.20 Amenity Fee. Shall mean the annual Assessment fixed by the Board of Governors, from time to time, and charged to Members for the use, and the maintenance, improvement and operation, of Common Areas other than the Golf Facilities and the Fitness Center. The Amenity Fee is also referred to as an Assessment in the Governing Documents.

1.21 Non-Resident. Shall mean an individual given certain membership rights by the Board of Governors or the Governing Documents, although he does not own a Residential Parcel or have a right to vote.

1.22 Governing Documents. Shall mean the Declaration, the Articles of Incorporation and the By-Laws of the Association, as amended from time to time.

ARTICLE 2

MUTUALITY OF BENEFIT AND OBLIGATION

This Declaration is made for the mutual and reciprocal benefit of each and every Parcel and is intended to create mutual equitable servitude upon each of said Parcels in favor of the other such Parcels: to create reciprocal rights between the respective owners of said Parcels; and to create privity of contract and estate between the grantees of said Parcels, their heirs, successors and assigns.

ARTICLE 3

ASSESSMENTS AND AMENITY FEES

3.1 Creation of Lien for Assessments and Amenity Fees. All Residential Parcels shall be subject to a continuing lien for Assessments and Amenity Fees levied by the Association in accordance with the provisions of the Covenants and for any other charges owed by a Member to the Association under this Declaration, the By-Laws of the Association relating to Assessments, Amenity Fees, charges, Fitness Center or Golf Facilities charges. The annual Assessments and charges, and, when properly authorized in accordance with Section 3.4, Special Assessments, together with interest thereon and the costs of collection thereof (including reasonable attorney's fees), as hereinafter provided, shall be the personal obligation of the Members, and a charge on and shall be a continuing lien upon the Residential Parcels against which each such Assessment or charge is made. All Residential Parcels 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 Residential Parcels, including, but not limited to, the continuing lien herein described and in accordance with Sections 8.9.3 and 9.4

3.2 Purpose of Assessments and Amenity Fees. The Assessments and Amenity Fees levied by the Association may be used for the purpose of providing services and activities for the benefit of the Members; providing security for residents and their property; maintaining and repairing the Common Areas to include without limitation the clubhouse, tennis courts, swimming pool and lockers and pool bar; maintaining the lakes and roadway areas within the Property and street lighting thereon, the overall water and drainage system, and other areas and structures beneficial or useful to the Parcels and Residential Parcels; providing for the payment of taxes and insurance on all property of the Association, and the repair, replacement and additions thereto; and providing for the cost of labor, insurance, equipment, materials, management and supervision thereof, for other purposes beneficial to the Members as determined by the Board of Governors from time to time which are not provided by the respective associations for subdivisions and condominiums within the Property, and for the purpose of carrying out the functions, purposes, responsibilities and duties of the Association. The Board of Governors shall determine which services are to be provided from time to time and the extent of the service to be provided.

3.3 Amounts of Assessments and Amenity Fees. Assessments and Amenity Fees shall be determined by the Board of Governors by dividing the estimated expenses of the Association by the number of Residential Parcels subject to this Declaration.

3.4 Special Assessments. The Association may levy and collect a special assessment on Members and/or Golf Members to pay in whole or in part the cost of any major repair or replacement of a capital improvement for Common Areas, Fitness Center or Golf Facilities, as the case may be, without concurrence of the Members and/or Golf Members. A "major repair" means any repair made to an existing capital

improvement which exceeds One Thousand and No/100th Dollars (\$1,000.00) and the useful life of which is greater than one year. Replacement of a capital improvement means any replacement of an existing capital improvement. The Association may levy and collect a special assessment for the acquisition of a new capital improvement for Common Areas or Golf Facilities, as the case may be, provided the same is approved by an affirmative vote of sixty-six and two-thirds (66-2/3%) of those Members and/or Golf Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so. Assessments levied under this Section shall be in addition to the capital spending authorized by budget.

3.4.1 The amount of any assessment for capital additions, replacements or improvements may be levied as a fully refundable membership deposit or may be added to the purchase price of each Golf-Equity Certificate, provided, in either case, it is approved by an affirmative vote of Members or Golf Members, as the case may be, as set forth in Section 3.4 above.

3.4.2 Any capital assessments levied as a refundable deposit shall be evidenced by a written agreement between the Member or the Golf Member and the Association, pursuant to which the Association agrees to refund to the Member or the Golf Member the refundable membership deposit on the first to occur of (a) the earlier refund of the purchase price or (b) the date certain established in the agreement.

3.5 Equality of Assessments and Amenity Fees - Manner of Calculation.

3.5.1 Residential Parcel Assessments. Each improved Residential Parcel shall be assessed equal Assessments, whether annual or special. Unimproved Residential Parcels shall be assessed at the assessment rate of an Improved Residential Parcel. The annual Assessment payable by each Residential Parcel shall not be increased or decreased during any fiscal year because of the addition of new Members, additional Residential Parcels, or additional Common Areas. When additional property is submitted to this Declaration, the Assessment payable by each Residential Parcel so added shall be the same as that payable by existing Residential Parcels.

(a) Notwithstanding the foregoing, in the event a Residential Parcel is subdivided pursuant to Section 8.9.3 hereof, the adjacent Residential Parcels which are increased in size as a result of the subdivision shall be responsible for payment of their pro rata portion of the Unimproved Residential Parcel assessment which would have been levied against the subdivided Residential Parcel. The percentage of said assessment to be paid by each adjacent Residential Parcel shall be equal to the percentage of the subdivided Residential Parcel each adjacent Residential Parcel acquires.

3.5.2 Chapel Assessments. The Parcel referred to as Mariner Sands Chapel and the improvements on said Parcel shall not be subject to assessments from the Association.

3.5.3 Association Property. No real property owned by the Association or its subsidiaries shall be subject to assessments under this Declaration.

3.6 Annual Assessments and Amenity Fees. The Board of Governors shall determine the annual Assessment and Amenity Fee for the current year, levy the annual Assessment and Amenity Fee against each Residential Parcel responsible for the payment of the same, and as soon as practicable notify the Members owning the Residential Parcels of the amount and the date on which the Assessments and Amenity Fees shall be payable. Thereafter, each year the Board of Governors shall establish the annual assessments and Amenity Fees, the date on which the same shall be paid, including whether payable in advance, monthly, semiannually or in such other installments as it deems appropriate. Where there is a condominium association representing any group of Members, the Association may at its option, collect the Assessment and Amenity Fee payable by each Residential Parcel from the association to which such Members belong instead of collecting the same from the Members individually. The Association shall, without charge, on written request of any Member or his mortgagee, furnish a statement signed by an officer or duly authorized agent setting forth the Assessments levied against the Residential Parcel and whether same have been paid.

3.7 Effect of Nonpayment of Assessments and Amenity Fees; Remedies of the Association. Any Assessment or Amenity Fee not paid within thirty (30) days after the due date is subject to a penalty charge of \$10.00 or 18% per annum (or the highest rate allowed by law), on the unpaid balance, whichever is higher. The Association may record a lien and bring an action to foreclose the lien against the affected Residential Parcel. Actual, reasonable legal fees and/or court costs will be charged to the Member(s) account. No Member may waive or otherwise avoid liability for the Assessments or Amenity Fees by non-use of the Common Areas or by abandonment of the Residential Parcel owned by him.

3.8 Subordination of Lien to Mortgages. The Lien of any Assessment or charge authorized herein with respect to any Residential Parcel is hereby made subordinate to the lien of any recorded mortgage made by a generally recognized institutional lender on such Residential Parcel, so long as all Assessments and charges levied against such Residential Parcel falling due on or prior to the date such mortgage is recorded, have been paid. The sale or transfer of any Residential Parcel pursuant to a mortgage foreclosure proceeding or a proceeding in lieu of foreclosure shall extinguish the lien for Assessments falling due prior to the date of such sale, transfer or foreclosure.

3.9 Sub-Association. Within the Property subject to this Declaration, certain Sub-Associations are governed by additional restrictions. The Members within such Sub-Associations are subject to this Declaration and governance by the Association, in addition to any such Sub-Association restrictions. In the event of any conflict between this Declaration and the Sub-Association restrictions, this Declaration shall control except as provided in Section 9.8. The Association may, either at the request of the Sub-Association or due to the failure of the Sub-Association to comply with standards of

this Declaration, maintain portions of Sub-Association Common Areas and assess the Members of the Sub-Association for the maintenance expenses.

3.10 Initial Contribution. Except as set forth in Article 9 hereof, all persons who become Members on or after July 1, 2003 shall be charged an Initial Contribution as determined by the Board of Governors, from time to time, that shall be paid to the Association at the closing when the Member becomes an owner of a Residential Parcel. Initial Contributions shall not be refundable.

3.11 Golf Facilities. Golf Members only shall pay Assessments, dues and related charges for the use, maintenance, improvements, replacements and additions for the Golf Facilities. Golf Members must own or purchase a Golf-Equity Certificate from the Association. Articles 3.6 and 3.8 shall be applicable to Assessments, dues and charges related to the Golf Facilities that shall be collectible as set forth in Article 3.7, subject to the limitations set forth in Article 3.8.

ARTICLE 4

MEMBERS' AND GOLF MEMBERS' PROPERTY RIGHTS

4.1 Members' Easement of Enjoyment and Residents' Privilege to Use. Every Member shall have a nonexclusive right and easement in common with others for the use and enjoyment of the Common Areas, Golf Facilities and the Fitness Center (subject to current membership requirements and upon payment of applicable fees and assessments), and such easement shall be appurtenant to and shall pass with the Residential Parcel owned by such Member. All Members shall have a nontransferable privilege to use and enjoy the Common Areas for as long as they are Members; provided, however, that the Golf Facilities and Fitness Center are limited Common Areas and Members shall have easements of enjoyment and privileges to use such facilities as limited by the Governing Documents.

4.2 Reservation of Rights in the Association. All the rights, easements and privileges granted in Section 4.1 are expressly subject to:

4.2.1 The right of the Association to adopt and promulgate reasonable rules and regulations pertaining to the use of the Common Areas and the Golf Facilities and the Fitness Center and relating to the preservation of the Property of the Association, the safety and convenience of the users thereof, and which shall promote the best interests of the Association and the Members and Golf Members, provided however, no such rules and regulations may be in conflict with this Declaration or the Bylaws of the Association, and provided further that the Association shall have the right to enforce such rules and regulations including the right to discipline, fine or levy a special assessment for any breach thereof.

4.2.2 The right of the Association to charge reasonable admission and other fees for the use of any Association asset, facility or other improvement situated on any Common Areas and the Golf Facilities and the Fitness Center;

4.2.3 The right of the Association to suspend the right to use any of the Association facilities by a Member or Golf Member for any period during which an Assessment against his Residential Parcel remains unpaid or for the infraction of any of its published rules and regulations;

4.2.4 The right of the Association at any time to encumber all or any part of the Common Areas if authorized by the Members by an affirmative vote of sixty-six and two-thirds percent (66-2/3) of those casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so;

4.2.5 The right of the Association at any time to encumber all or any part of the Golf Facilities if authorized by the Golf Members by an affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so.

4.2.6 The right of the Association to grant easements and rights-of-way as it shall deem necessary, convenient, or appropriate for the proper servicing and maintenance of the Common Areas, the Golf Facilities and the Fitness Center;

4.2.7 The easements and restrictions described in Section 4.3.

4.3 Restrictions and Easements. The Association hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas and the Limited Common Areas so long as the Association shall own any portion of the Property. The easements granted by the Association shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Common Areas and the Limited Common Areas by Members.

4.4 Easements of Enjoyment and Privilege of Use of Golf Facilities. Members shall have limited rights to use and enjoy the Golf Facilities as described in the By-Laws of the Association. Golf Members and their guests may use and enjoy the Golf Facilities as limited by the By-Laws and the Rules and Regulations of the Golf Facilities.

4.5 Limitation of Rights.

4.5.1 The Association may suspend, for a reasonable period of time, the rights of a Member or a Golf Member or either of their families, tenants, guests, or invitees, or any one or more of them, to use Common Areas, or Golf Facilities for violation of the Governing Documents and the Rules and Regulations governing the use of the Common Areas and the Limited Common Areas including the Golf Facilities and Fitness Center, and may levy reasonable fines, not to exceed \$100.00 per violation, against any Member or Golf Member or their families, tenants, guests, or invitees. A fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing. Such fines may exceed \$1,000.00.

4.5.2 A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing

before a committee appointed by the Board of Governors consisting of at least three (3) Members, none of whom shall be an officer, governor, or employee of the Association, or the spouse, parent, child, brother, or sister of such officer, governor or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

4.5.3 The requirements of this subsection do not apply to the imposition of suspensions or fines upon any Member or Golf Member because of his failure to pay Assessments or other charges when due.

4.5.4 Suspension of Common Areas and/or Golf Facilities use rights shall not impair the right of an owner or tenant of a Residential Parcel to have vehicular and pedestrian ingress to and egress from the Residential Parcel, including, but not limited to, the right to park.

4.5.5 The Association may suspend the voting rights of a Member and/or a Golf Member for the non-payment of regular annual Assessments that are delinquent in excess of ninety (90) days.

ARTICLE 5

MEMBERSHIP AND VOTING RIGHTS

5.1 Membership Appurtenant. Every owner of a Residential Parcel shall, by virtue of such ownership, be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, the ownership of a Residential Parcel. Notwithstanding the foregoing, or anything set forth elsewhere in the Governing Documents, if more than two persons are the owners of a single Residential Parcel, no more than two of them shall be permitted to exercise the membership rights of a Member, except that a child who is living with a Member parent on a Residential Parcel shall enjoy the membership privileges of the parent through age 23.

5.2 Voting Rights. When entitled to vote, each Residential Parcel shall be entitled to one (1) vote. No additional votes or voting rights shall be acquired by a Residential Parcel which has been increased in size as a result of the subdivision of an adjacent Residential Parcel pursuant to Section 8.9.3 hereof. When more than one person holds an ownership interest or interests in any Residential Parcel, the vote for such Residential Parcel shall be exercised as the owners of all such interest determine among themselves, but in no event shall more than one vote be cast with respect to any Residential Parcel. In the event of disagreement among such persons and an attempt by two or more of them to cast a vote of a Residential Parcel, such vote shall not be recognized and the Residential Parcel shall not be counted for any purpose until the dispute is resolved. With respect to each Residential Parcel owned by an entity other than a natural person or persons, the Member shall file with the Secretary of the Association a notice designating the name of an individual who shall be authorized to cast the vote of such Member. In the absence of such designation, the owner of such

Residential Parcel shall not be entitled to vote on any matters coming before the Membership.

5.3 Golf Member Voting Rights. With respect to the Golf Facilities, only Golf Members may vote upon the following:

5.3.1 Expenditures, in the aggregate, which total more than ninety percent (90%) of depreciation of the Golf Facilities in any one (1) fiscal year for capital additions, replacements or improvements to the Golf Facilities;

5.3.2 Amendments to the Governing Documents of the Association which relate to the use and enjoyment of the Golf Facilities.

5.4 Approval of Major Actions. A The affirmative vote of seventy-five percent (75%) of the Board of Governors and a seventy-five percent (75%) of the Members of the Association then entitled to vote shall be required to authorize or approve the following actions:

5.4.1 Merger or consolidation of the Association with another entity.

5.4.2 Sale, lease, exchange, transfer or other disposition of the Common Areas, Golf Facilities and/or the Fitness Center.

5.4.3 Change in the permitted use of the Golf Facilities.

5.4.4 Dissolution of the Association.

ARTICLE 6

THE ADDITION OF COMMON AREAS

6.1 Permissible Conditions or Restrictions on Additional Common Areas. Property conveyed to the Association as additional Common Areas may be improved or unimproved land and may be subject to permanent or periodic flooding and may be land which is under water. Any additional Common Areas will be subject to easements for the construction, installation, maintenance, repair, use and access of roadways, service roads, or utilities, sewer, and other public service facilities, subject to other rights-of-way, encumbrances, easements, restrictions and agreements of record.

6.2 Specific Restrictions on Use of Common Areas. Anything to the contrary contained in this Declaration notwithstanding, no commercial facility or improvement shall be constructed or maintained on any portion of the Common Areas, or Additional Common Areas, or on any areas designated as Common Areas on any subdivision plat of the Property, unless the same is approved by an affirmative vote of sixty-six and two-thirds percent (66 2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so.

ARTICLE 7

SUBMISSION OF ADDITIONAL PROPERTY

7.1 Submission of Additional Property. Additional portions of the Property may be subjected to the provisions of this Declaration by an instrument executed by the Association and the owner thereof in the manner required for the execution of deeds. Upon the recording of such instrument in the records of Martin County, such additional property shall be subject to this Declaration and the owners thereof shall be Members.

7.2 Submission of Property Not Within Mariner Sands. Additional property within the vicinity of the Association, but which is not part of the Association as described herein, may be subjected to the provisions of this Declaration by an affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so. Upon the recording of such instrument in the county where such property is located and Martin County, such property shall be a part of the Association and shall be subject to this Declaration and the owners thereof shall be Members.

ARTICLE 8

ARCHITECTURAL CONTROLS, RESTRICTIONS AND EASEMENTS

8.1 ARB. The Board of Governors may delegate all or any part of its authority granted under this Declaration to the ARB consisting of not less than five (5) persons, a majority of whom shall be Members of the Association, appointed by the Board of Governors. The ARB membership shall include, a Florida Licensed Architect and a Florida registered Landscape Architect. If the Board of Governors does not delegate its authority under this Article 8 to the ARB, then all references to the ARB herein shall be to the Board of Governors. It is the ARB's intent to create and maintain a subdivision in harmony with its surroundings and the natural elements of the land. In accordance with this intent, the ARB has developed an extensive list of criteria contained in a document entitled "Architectural Review Criteria", available at the office of the Association. All plans, specifications and materials must be in accordance with this document. The ARB shall have the ability to amend this document from time to time as it deems necessary and proper.

8.2 Duties of the ARB. The ARB shall approve or disapprove in writing the plans for an improvement, when submitted on the proper form, within fifteen (15) days after the meeting of the ARB. If the plans are not approved within such period, they shall be deemed to have been disapproved.

8.3 Approval of Plans. All plans for construction of improvements, including the proposed location on the Residential Parcel, construction materials, and outward appearance including color and texture of exterior materials, whether initial construction

or changes or additions to an existing improvement, shall require the approval in writing by the ARB before any work is commenced. Any change in the outward appearance of any improvement including but not limited to repainting, landscaping, adding decorative sculptures, wrought iron grills, or the like, shall also require approval in writing by the ARB before any work is commenced. Refusal of approval of plans, specifications or location may be based upon any grounds, including purely aesthetic and safety considerations, which the ARB, deems sufficient.

8.4 Architectural Criteria. The ARB shall promulgate such architectural criteria and rules and regulations as it deems necessary and proper, setting forth guidelines and procedures to be followed by any applicant seeking its approval as required in Section 8.2 hereof, which, in any event, shall not be in conflict with the provisions of this Declaration and which shall afford to each applicant a reasonable and adequate opportunity to present his plans. The rules and regulations shall include, but not necessarily be limited to, an adequate application form together with such reasonable fees for processing applications as the ARB may deem necessary. All plans submitted to the ARB shall be prepared and sealed by a Florida Registered Architect. Also, the ARB may in its sole discretion require any plans submitted for its approval to be prepared by additional applicable professionals; for example, a Florida Registered Landscape Architect.

8.5 Approval of Contractors. The ARB in its sole discretion, must approve any contractor who performs construction work within the Property, and the ARB may revoke such approval if a contractor violates this Declaration, the Architectural criteria promulgated by the ARB, or the Rules and Regulations of the Association.

8.6 Plan Specifications. The plans submitted to the ARB for approval shall include all plans and specifications necessary for construction and shall meet the following standards:

8.6.1 Be not less than 1/8" = 1' scale.

8.6.2 Show the elevation of the ground on all sides of the proposed structure as it will exist after grading.

8.6.3 Show the outlines of all foundations, setbacks, trees over 4" in diameter measured 2' above ground and the species thereof, drives, fences, outbuildings and garages, existing and proposed.

8.6.4 Include a list of proposed materials and samples of exterior materials and finishes which cannot be described to the ARB's satisfaction.

8.6.5 One complete set of all plans, specifications and related items shall be provided to the ARB for its records.

8.7 Design Criteria. It is the ARB's intent to create and maintain a subdivision in harmony with its surroundings and the natural elements of the land. In accordance with this intent, the following materials will generally be acceptable, subject to approval

by the ARB in each specific application: (a) textured stucco, (b) wood siding, (c) stone, brick or simulated brick (d) wood shakes, (e) tile roofing in natural, subdued tones, and (f) paint or stains in earth tones or subdued colors

8.8 Structure Criteria. The following structure criteria shall apply to all Residential Parcels within the Platted Property.

8.8.1 Any dwelling or other structure on any Residential Parcel which is destroyed in whole or in part must be rebuilt or completely removed within one (1) year. All debris must be removed and the lot restored to a sightly condition within sixty (60) days.

8.8.2 Window air conditioners shall not be visible from the street.

8.8.3 Overhead electrical wiring shall not be permitted.

8.8.4 Exterior radio, television, satellite dish, or other antennas shall not be permitted if visible from the street, golf course, or any other Residential Parcel unless approved by the ARB in compliance with all applicable FCC rules.

8.8.5 All plumbing and heating vents protruding from roofs shall be painted the same color as the roof. No wind powered roof ventilators shall be permitted but electrically powered roof ventilators will be allowed if mounted on the back side of the roof.

8.8.6 Swimming pools shall be permitted. However, the siting of the pool on a Residential Parcel must be approved by the ARB prior to construction.

8.8.7 Since the establishment of inflexible building setback lines for location of homes on Residential Parcels tends to force construction of homes both directly behind and directly beside other homes with detrimental effects on privacy, view, and preservation of specimen trees, no specific setback lines other than the following minimum setback requirements shall be required:

- (a) Front:
 - One Story 20 feet
 - Two Stories 25 feet
- (b) Rear 10 feet
- (c) Sides 15 feet

In order to assure that location of homes will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each home and that the structures will be located with regard to the topography of each individual Residential Parcel, the ARB reserves unto itself, its successors and assigns, the right to control absolutely and to solely decide the precise site and location of any home or other structure upon all lots within the Platted Property. Such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site.

8.8.8 There shall be no silver finish metal doors, frames (including glass sliding doors), or windows of any kind on the front, rear or sides of any home; however, a factory painted or anodized finish may be used. The color of such finish may be black, brown, white or other natural earth tones.

8.8.9 All fences including fences for backyards and swimming pools, and shrub lines must be approved by the ARB prior to construction. Any shrub line or fence on the rear of any Residential Parcel which is adjacent to a lake or the golf course shall not be allowed to exceed 3' in height without consent of the ARB.

8.8.10 The first or main floor area of each residential dwelling exclusive of porches, garages, mechanical and storage areas shall contain not less than 1,800 square feet; this applies to one and one-half story structures and not less than 1,200 square feet in the case of two story structures, with a ceiling height of not less than eight (8) feet in all enclosed, heated, habitable areas, excepting a dropped ceiling height of 7'6" in kitchens and baths.

8.8.11 The ARB has established a standard mail box design for the Association and requires it to be used by all Members.

8.8.12 Plans for landscaping must be submitted to the ARB for approval as a part of the architectural drawings. Under normal circumstances, ten percent (10%) of construction costs will be considered the minimum sum which must be allotted for the landscaping of each Residential Parcel. Construction costs shall include the cost of constructing the garage, patio, pool, and all other improvements. Landscaping for each Residential Parcel shall include the planting of not less than five (5) trees (other than palm trees), each of which is not less than ten (10) feet tall; however, such trees which are saved during construction shall be credited toward this requirement. Preservation of existing vegetation may, at the sole discretion of the ARB, be taken into consideration in establishing the minimum sum which must be allotted for landscaping. All Residential Parcels shall have sod in the front and side yards and at least ten (10) feet of the backyard, and underground sprinkling systems for watering purposes. Residential landscaping should enhance the privacy of the dwellings; however, it is the intent of the community to maintain the greenbelt and common property areas without strict definition of property lines, and it is hoped that the Members will adhere to this intent. It is intended that the Property be developed with recognition of the natural elements of the land.

8.8.13 Driveways shall be circular or shall have turn around capacity so as to permit ingress and egress without backing on to or off of the roads in the Property. Effective July 1, 2003, aggregate or gravel driveways shall not be installed.

8.8.14 No changes in the elevation of the land shall be made on a Residential Parcel, tract or lot, without the consent of the ARB, nor any fill used to extend the property beyond the lot on any lake or canal.

8.8.15 A Member cannot use ground water for heating and cooling unless such use is in accordance with all required County, State and Federal regulations for such heating and cooling systems.

The ARB shall adopt structure criteria for the other portions of the Property at the time they are subjected to this Declaration pursuant to Article 7 hereof.

8.9 Miscellaneous Restrictions.

8.9.1 There shall be no change to the natural condition of any lake front without prior approval of the ARB. Docks of any type are prohibited.

8.9.2 Boating within the confines of the Property is prohibited.

8.9.3 No Residential Parcel shall be subdivided so as to reduce its size, provided however, that a Residential Parcel may be subdivided as set forth herein. A Residential Parcel may be subdivided with the written approval of the ARB, if and only if, the purpose and effect of the subdivision is to increase the size of the Residential Parcel(s) adjacent to the Residential Parcel to be subdivided. No structure, except as otherwise provided, shall be erected, altered, placed, or permitted to remain on any Residential Parcel other than one, detached, single-family residence dwelling not to exceed two (2) stories and a private garage for not more than three (3) cars. This shall not prohibit the construction of one residence upon two (2) or more lots, or upon one (1) lot and a portion of an adjacent lot which has been subdivided pursuant to this section. Detached auxiliary buildings, including dog houses or storage buildings, are not permitted without prior approval of the ARB.

8.9.4 The Property, including any dwellings and appurtenances and all other improvements placed thereon, shall, at all times, be maintained in a neat and attractive condition. In order to enforce the maintenance standards, the Board of Governors, after two (2) days written notice to any member, may enter upon any Residential Parcel for the purpose of remedial maintenance which may include items such as mowing, pruning, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the ARB detracts from the overall beauty and safety of the Property. Entrance upon such Residential Parcel for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. The Board of Governors may charge the Member a reasonable cost of such services, which charge shall constitute a lien upon such Residential Parcel enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of the Board of Governors to mow, clear, cut or prune any Residential Parcel nor to provide garbage or trash removal services.

8.9.5 The Association reserves the right and an easement over any Parcel adjoining the Golf Facilities to make and maintain selected plantings of trees and other vegetation within thirty (30) feet of the line or lines which define the Golf Facilities in order to establish and maintain a buffer zone between the Golf Facilities and the

Residential Parcels. Such maintenance and landscaping may include but not be limited to removal of underbrush, trees less than four inches (4") in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer and mowing the easement area. The Association will provide the owner of any Residential Parcel subject to this easement with a description of the work to be done at least fourteen (14) days in advance of the actual work so that the mutual interest and desires of the Member and the Association, its successors and assigns, may be properly coordinated.

8.9.6 Garbage shall be kept in sanitary containers in a clean and sanitary condition, in complete conformity with sanitary regulations. Each Member, upon construction of a residence, shall contract for garbage collection on a "rear yard pick up" basis and all garbage containers shall be stored in a service yard as specified in Article 8 of this Declaration. The only exception to this provision may be the Foxcross Association where garbage collection may be on a "curb pickup" basis. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted as to any Residential Parcels. Landscaping debris may be placed at the curb no earlier than the morning of the garbage pickup.

8.9.7 No animals, except usual household pets, shall be kept on any Residential Parcel. No more than two (2) four-footed pets shall be kept in any Residential Parcel unless otherwise specified by individual Sub-Association documents. If any Member has more than two four-footed pets on July 1, 2003, those pets shall be grandfathered. Furthermore, when walking pets, the Member is responsible to clean up after his animals and is not permitted to allow his pets on other Members' property. Pets are not permitted on Golf Facilities or in Ashley Park. Pets are restricted to walking on streets and other designated areas as defined by the Board of Governors.

8.9.8 No noxious, offensive or illegal activities shall be carried on upon any Residential Parcel nor shall anything be done on any Residential Parcel which may be or may become an annoyance or nuisance to the neighborhood. Except as otherwise approved in accordance with this Declaration, no commercial activity shall be carried out on any Residential Parcel.

8.9.9 No mechanical equipment, including air conditioning or electrical generators or outdoor hot tubs/spas, shall be located in a manner that is offensive by means of sight, odor or noise. It is the intent of this provision that all equipment be placed or screened so as not to be visible from any road, adjacent property, waterway, or golf course.

8.9.10 The water and sewage system provided by Martin County Utilities for service of the Property shall be used by all Members. Each Member shall connect his water line to the water distribution main serving his Residential Parcel and his sewer line to the sewage collection line serving his Residential Parcel and shall pay all connection charges, periodic charges, and the like in connection therewith. Each Member shall maintain and repair his water and sewer lines up to the point of delivery and collection. No individual water supply system shall be permitted except, with the Board of Governors written consent, for irrigation purposes and other non-domestic use.

No water shall be obtained from any lake, canal or water body without written permission from the Board of Governors. No septic tank or drain field shall be allowed on any Residential Parcel without written permission of the Board of Governors.

8.9.11 All signs, billboards and advertising structures of any kind are prohibited on Residential Parcels including but not limited to, those installed by the Member, a realtor, contractor, or subcontractor, except with the written permission of the Board of Governors or except as may be required by legal proceedings, it being understood that the Board of Governors will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the property owner. If such permission is granted, the Board of Governors reserves the right to restrict size, color, content and location of such sign. No sign shall be nailed or attached to trees. The Board of Governors reserves the rights to adopt reasonable rules regarding signs on Commercial Property or Residential Parcels.

8.9.12 No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above any roadway shall be placed or permitted to remain on any corner Residential Parcel within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Residential Parcel within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. Except as herein provided, no trees shall be permitted to remain within such distance of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight-lines. Any such tree of a rare or unusual species may be permitted to remain in place upon application to and written permission from the Board of Governors and approval by the appropriate city, county or state official or department. No structures including walls, fences, paving or planting shall be erected upon any part of the property which will interfere with the rights of ingress and egress provided in Section 8.10.1, Easements check reference

8.9.13 No pickup truck, motorcycle, truck, boat, boat trailer, house trailer, camper, recreational vehicle, covered automobile or similar vehicle shall be parked or stored on any road, street, driveway, yard or Residential Parcel overnight except in garages. Vehicles in violation shall be towed away at the owner's expense and disposed of in accordance with the laws of Martin County and the State of Florida.

8.9.14 Any automobile which remains parked in the same place on any street or in any parking area or any individual Residential Parcel within the Property for five (5) consecutive days shall be deemed abandoned and shall be towed away at the owner's expense and disposed of in accordance with the laws of Martin County and the State of Florida.

8.9.15 No tree or shrub mass may be removed without the specific prior approval of the ARB, which will in the course of its deliberations, consider the effect on neighboring properties before authorizing such approval. Violation of this covenant shall

subject the owner of the Residential Parcel to liquidated damages, in the sum of \$80 per inch of diameter measured at a point two feet (2') above the average height of the ground at the base for each tree removed without specific authorization, which damages shall be payable to the Association. In certain situations the ARB may require that a tree be planted to replace one which has been removed. Shrub mass removed will be replaced with shrub mass of similar size, the cost of which will be paid for by the Member. Violation of this covenant may require a special assessment for non-compliance per Section 8.12.

8.9.16 Exterior clothes lines and above ground oil or fuel storage containers are prohibited.

8.9.17 When construction of any building is begun work thereon must be prosecuted diligently, and must be completed, including landscaping, within one year except where such completion is impossible or would result in great hardship to the Member or builder due to strikes, fires or other natural calamities. Houses and other dwelling structures shall not be occupied until exterior construction is complete including minimum landscaping unless approved by the Board of Governors in writing.

8.9.18 Homes shall be designed to include a screened service yard for enclosing electric service meters, air conditioning compressors, garbage containers, and similar equipment. The service yard should not be located further than seventy-five (75) feet from the street, and should provide exterior entrance for service personnel.

8.9.19 All vehicles are required to obey all traffic regulations throughout the community including, but not limited to, the stop signs and the posted speed limit.

8.10 Easements. An easement to permit every act necessary and proper to the playing of golf on the golf course adjacent to Residential Parcels is hereby reserved on behalf of the Association, Members, Golf Members and guests, as limited by the Governing Documents of the Association. These acts shall include, but not be limited to, (i) ingress and egress; (ii) the recovery of golf balls, provided such golf balls can be recovered without damaging the property or landscape plantings; (iii) the flight of golf balls over and upon Residential Parcels; (iv) the use of necessary and usual equipment upon such golf course; and (v) the usual and common noise level created by the playing of the game of golf; together with all other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the operation of a country club.

8.10.1 The Association reserves a right-of-way and easement to erect, maintain and use utilities, electric and telephone service wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ditches, swales or areas, or other public conveniences or utilities, on, in and over a strip of land ten (10) feet in width along the front property line of each Residential Parcel and on, in and over any area designated as an easement area on the recorded plat of any part of the Property, whether or not the designation as a Drainage Easement may be used for gas lines, rights of way, telephone poles, or any other public convenience.

8.10.2 The Board of Governors unto itself, its successors and assigns, reserves a perpetual right on and over and under all properties to dispense pesticides and take other action which in the opinion of the Board of Governors is necessary or desirable to control insects and vermin. The provisions of this paragraph shall not be construed as an obligation on the part of the Association to provide such services.

8.10.3 Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drain ways for surface water wherever and whenever such action may appear to the Association to be necessary to maintain reasonable standards of health, safety and appearance. These easements include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other action reasonably necessary to install utilities and to maintain reasonable standards of health and appearance, but shall not include the right to disturb any improvements erected on a Residential Parcel that are not located within the specific easement area designated on the plat or in this Declaration. Except as provided herein, existing drainage shall not be altered so as to direct the flow of water onto adjacent Residential Parcels or into sanitary sewer lines.

8.10.4 The Association reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any Parcels owned by the Association. The easements granted by the Association shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Residential Parcel.

8.10.5 The Association reserves for itself, an exclusive easement for the installation and maintenance of radio and television cables within the rights-of-way and easement areas referred to hereinabove.

8.11 Reservation. In each instance where a structure has been erected, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Article 8, or in such manner that the same encroaches on any easement area or setback line, the Association reserves the right to release the Residential Parcel from the restriction which it violated and to grant an exception to permit the encroachment by the structure over the setback line or on the easement area, so long as the Association, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health, safety and appearance of the Property and the Members.

8.12 Special Assessment for Non-Compliance. In addition to all other lawful remedies provided in this Declaration, the Board of Governors, in its sole discretion, may levy a Special Assessment upon a Member for any breach of this Declaration, which Special Assessment may include actual costs incurred by the Association in remedying such breach together with an administration charge of ten percent (10%) of the costs incurred by the Association but no less than fifty dollars (\$50.00). No administrative surcharge shall be considered a penalty but is a liquidated remedy. Included in the Notice shall be the date and time of the next Board of Governors Meeting at which the Member shall present testimony as to why the Special

Assessment should not be imposed. The non-compliance shall be presented to the Board of Governors at the time and place provided in the Notice, at which meeting a hearing shall be conducted for purposes of obtaining testimony as to the levying of a Special Assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board of Governors shall be submitted to the Member not later than twenty-one (21) days after the hearing. The amount of the Special Assessment shall not exceed the sum which would be necessary to correct or rectify the infraction or infractions including, but not limited to, legal, engineering and other costs incurred by the Association. A Special Assessment as provided in this Section shall be due and owing not later than ten (10) days after the written decision of the Board of Governors is submitted to the Member. Any Special Assessment levied in accordance with this Section may be enforced by the Association in the same manner as the enforcement of a Special Assessment provided for in Article 3 of this Declaration.

8.13 Meetings of the ARB. All meetings of the ARB shall be subject to the following:

8.13.1 Notice of all meetings of the ARB shall be posted in a conspicuous place on the Property at least 48 hours in advance of the meeting, except in an emergency.

8.13.2 Meetings of the ARB must be open to all Members except for meetings between the ARB and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege.

8.13.3 Members of the ARB may not vote by proxy or secret ballot.

ARTICLE 9

GENERAL PROVISIONS

9.1 Duration. This Declaration shall run with and bind the land subject thereto and shall remain in effect and inure to the benefit of and be enforceable by the Association and the Members or either of them, their respective legal representatives, heirs, successors and assigns, and can be changed, modified, amended, altered or terminated only by a duly recorded written instrument executed by the President and Secretary of the Association upon affirmative vote by sixty-six and two-thirds percent (66-2/3%) of those Members casting ballots, with a minimum of fifty percent (50%) of those eligible to cast ballots having done so; provided however, that any provision in this Declaration requiring an affirmative vote of a higher percentage may not be amended unless such higher percentage of affirmative votes is obtained.

9.2 Notices. Any notice required to be sent to any person pursuant to any provision of this Declaration will be effective if such notice has been hand delivered to the registered owner or deposited in the United States Mail, postage prepaid, addressed to the person for whom it is intended at his last known place of residence, or to such

other address as may be furnished to the Secretary of the Association. The effective date of the notice shall be the date of mailing or hand delivery.

9.3 Severability. Whenever possible each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not effect any other provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

9.4 Enforcement. In the event of a violation or breach of any of the restrictions contained herein by any Member or his guest or agent, the Association and any Member, or any of them shall have the right to proceed at law or in equity to compel compliance with the terms of this Declaration or to prevent the violation or breach. In addition, the Association, its successors or assigns, shall have the right whenever there is being constructed or renovated on any Residential Parcel, any structure or sign which is in violation of these restrictions, to enter upon such property to prevent such violation or where such violation exists, to summarily abate or remove the same at the expense of the owner and any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations or restrictions shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement.

9.5 Disputes and Construction of Terms. In the event of any dispute arising under this Declaration, or in the event of any provision of this Declaration requiring construction, the issue shall be submitted to the Board of Governors. The Board of Governors shall give all persons having an interest in the issue an opportunity to be heard after reasonable notice and the Board of Governors shall, when appropriate, render its decision in writing, mailing copies thereof to all parties who noted their interest.

9.6 Right to Alter Roadways and Paths. The Association reserves the sole and absolute right at any time to redesignate, relocate or close any part of the roadways and paths on the Property without the consent or joinder of any party so long as no Member is denied reasonable access to a public roadway by such redesignation, relocation or closure. In the event a road or pathway is redesignated, relocated or closed, the easement granted to each Member over the road or path as it previously existed shall terminate.

9.7 Right of First Refusal to Purchase. The Association reserves and each Member grants to the Association or its assigns, nominees, grantees or designees, the exclusive right of first refusal to purchase the Residential Parcel, together with all improvements thereon, of any Member on the terms and conditions set forth hereinafter. If any Member should receive from a third party a bona fide offer to purchase his Residential Parcel (and improvements, if constructed) at a price and upon terms and conditions acceptable to said Member, said Member shall immediately give written notice (the "Notice") to the Association of such offer setting forth the price, terms and

conditions together with a statement that same is acceptable to the selling Member. Within thirty (30) days after receiving the Notice, the Association shall have the right to elect in writing to purchase said Residential Parcel, (and improvements, if any) on the same terms and conditions as set forth in the Notice. If the Association fails to elect to so purchase within said period, the Member shall be free to sell to said third party on the terms and conditions set forth in the Notice. If the Association does not exercise its right of first refusal to purchase as set forth herein, it shall, at the request and expense of the Member, furnish such Member with a written statement in recordable form evidencing its election not to exercise its right of first refusal set forth herein. This paragraph shall not apply to any generally recognized institutional mortgage lender who acquires a Residential Parcel by foreclosure or by deed in lieu of foreclosure.

9.8 Approval of Leases. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Residential Parcels and improvements thereon, the leasing of Residential Parcels by any Member shall be subject to the following provisions, which provisions each Member covenants to observe. No Member may dispose of a Residential Parcel or any interest in a Residential Parcel by lease without the approval of the Board of Governors. No Residential Parcel may be leased for a period of less than six (6) months unless otherwise permitted by individual Sub-Association documents. Under no circumstances may the Residential Parcel be leased for less than one (1) month. A Member intending to make a bona fide lease of his Residential Parcel or any interest in it shall give the Association notice of such intention, in writing, together with the name and address of the intended lessee and such other information concerning the intended lessee as the Association may reasonably require. Within thirty (30) days after receipt of the notice of intent to lease and accompanying information given by the Member, the Association shall deliver or mail to the Member a written statement of its approval or disapproval of the proposed transaction. If any Sub-Association within the Property has imposed rules or regulations pertaining to leases, then the aforesaid restrictions shall not be applicable and the rules and regulations of the Sub-Association shall govern such leases.

9.9 Initial Contributions. In addition to all other Assessments and charges to be paid by Members pursuant to this Declaration, on or after July 1, 2003, each purchaser of a Residential Parcel shall be required to pay an Initial Contribution to the Association at the time of the closing of the purchase of such Residential Parcel, except as provided in Section 9.10 below. The amount of the Initial Contribution shall be determined from time to time by the Board of Governors, in its sole discretion, and is subject to change without notice. The Initial Contributions shall be deposited in the Common Areas Capital Disbursement fund.

9.10 Contribution for Additional or Transferred Parcels. Any purchaser of a new Residential Parcel, who is already a Member of the Association and who has previously paid the Initial Contribution set forth in Section 9.9 above, or who owned a Residential Parcel on June 30, 2003, shall not be required to pay an additional Initial Contribution. Such a purchaser of a Residential Parcel(s) shall, however, be liable for Amenity Fees and all other charges, and shall be required to make an additional payment (the "Transfer Fee") to the Association at the time of the closing of the

purchase of the new Residential Parcel(s). The Board of Governors shall determine the amount of the Transfer Fee from time to time. The Transfer Fees may be used by the Association for such purposes as the Board of Governors may determine from time to time, at its sole discretion.

9.11 Statutory Requirements. The Association shall comply with notice, open meeting, transcription of minutes, records, budget, funding and other requirements or limitations set forth in Chapter 720, Florida Statutes, as may be amended from time to time.

IN WITNESS WHEREOF, Mariner Sands Country Club, Inc., has caused this Amended and Restated Covenants to be executed by its President and Secretary upon the affirmative vote of sixty-six and two-thirds percent (66-2/3%) of those Members of the Association casting ballots, with a minimum of fifty percent (50%) of those eligible to cast votes having done so at a Special Meeting of the Members on the 29th day of April, 2003 with notice having been given.

Signed, sealed and delivered
in the presence of:

Sign

Print

Sign

Print

MARINER SANDS
COUNTRY CLUB, INC.

By:

Name: RICHARD C. RIDGWAY

Title: President

Attest:

Name: WILLIAM JULIAN

Title: Secretary

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me this 20th day of May, 2003, by Richard Ridgway, as President and William Julian, as Secretary, of MARINER SANDS COUNTRY CLUB, INC. They are personally known to me.

(Seal)



Nancy E. Craig
NOTARY PUBLIC STATE OF FLORIDA

My Commission Expires:

EXHIBIT "A"

A tract or parcel of land lying in Sections 29, 30, 31 and 32, Township 38 South, Range 42 East, Martin County, Florida, more particularly described as follows:

Commencing at the Northwest corner of said Section 31, thence run S 0°31'39" W along the West line of said Section 31 for a distance of 2649.62 feet; thence run S 88°54'51" E for a distance of 1200.12 feet; thence run S 0°29'19" W for a distance of 975.88 feet to the Northeasterly right-of-way line of State Road No. 5 (U.S. No. 1); thence run S 57°47'05" E along said Northeasterly right-of-way line for a distance of 2530.49 feet to a point of a curvature; thence run Southeasterly along said Northeasterly right-of-way line, along the arc of a curve to the right of radius 5829.58 feet, Delta Angle of 1°41'04", for a distance of 171.38 feet to an intersection with the North line of the Gomez Grant; thence run N 67°28'11" E along said North line for a distance of 143.85 feet; thence run N 65°44'39" E along said North line for a distance of 1113.53 feet; thence run N 67°35'39" E along said North line for a distance of 665.11 feet; thence run N 66°09'34" E along said North line for a distance of 2823.98 feet to an intersection with the Southwesterly right-of-way line of State Road No. A-1-A (as now maintained and in use); thence run N 30°03'06" W along said Southwesterly right-of-way line for a distance of 28097.63 feet to a point of curvature; thence run Northwesterly & Northerly along said Southwesterly right-of-way line, along the arc of a curve to the right of radius 200.00 feet, Delta Angle of 31°47'20" for a distance of 110.96 feet to an intersection with the Southwesterly line of the Florida East Coast Railway Company right-of-way; thence run N 30°03'06" W along said Southwesterly right-of-way line for a distance of 446.70 feet to a point of curvature; thence run Northwesterly along said Southwesterly right-of-way line, along the arc of a curve to the left of radius 1860.08 feet, Delta Angle of 39°13'51", for a distance of 1273.61 feet to a point of tangency; thence run N 69°16'57" W along said Southwesterly right-of-way line for a distance of 2716.44 feet; thence run S 0°09'23" W for a distance of 170.12 feet; thence run N 69°18'22" W for a distance of 380.00 feet; then run S 0°11'44" W for a distance of 825.82 feet; thence run S 89°47'31" E for a distance of 250.02 feet, thence run S 0°12'29" W for a distance of 697.20 feet to an intersection with the North line of said Section 31; thence run N 88°51'36" W along said North line of Section 31 for a distance of 2537.72 feet to the point of beginning containing 719.26 acres more or less. Excepting therefrom a parcel known as the Ashley Cemetery containing 1 acre more or less.

LESS and EXCEPT:

The property conveyed to the State of Florida for Lateral Drainage Ditches described in that certain Deed from St. Lucie-Jupiter Development Corporation to the State of Florida recorded in Official Records Book 368, Pages 934-937 of the Public Records of Martin County, Florida.

Exhibit "AA"

1. Tracts RC-1, RC-2 Mariner Sands Country Club Plat as recorded in Plat Book 8, Page 21 of the Public Records of Martin County, Florida. LESS AND EXCEPT: the tennis facilities (tennis courts, tennis pro shop, pool bar and tennis maintenance building); the swimming facilities (pool, restroom/shower building and pool decks); the clubhouse (less the 2,128 square foot golf pro shop); clubhouse parking and landscape areas (less golf pro shop parking); and the 3,872 square foot fitness center.

And,

2. Being Tracts GC-2, GC-3, GC-4, GC-5, GC-6, GC-7, GC-8, GC-9, FR-1 and FR-3 Mariner Sands Plat No. 1, as recorded in Plat Book 6, Page 47 of the Public Records of Martin County, Florida.

And,

3. That portion of GC-3 lying West of and contiguous with Lots 21, 22, 23, 24, 32, 33, 34, 35, 36, 37 and Tract GA-5 as shown on Plat of Ironwood, a replat of a portion of Mariner Sands Plat No. 1 as recorded in Plat Book 8, Page 40 of said Public Records in Martin County, Florida. LESS: That portion of said Tract GC-3 as shown on said Plat of Ironwood, lying within Tract MF-1 as shown on said Plat of the Fairways. LESS: A parcel of land as recorded in Official Records Book 675, page 2118, Public Records of Martin County, Florida being more particularly described as follows: Beginning at the Southwest corner of Lot 35 of said Plat of Ironwood as recorded in Plat Book 8, page 40 Public Records of Martin County, Florida, thence N20 20'17"W along the West line of said Lot 35 a distance of 60.00 feet to the Northwest corner of said Lot 35; thence Westerly at right angles to the West line of Lot 35 a distance of 10.00 feet; thence Southerly and parallel with the West line of Lot 35 a distance of 60.00 feet; thence Easterly at right angles to the immediately preceding course, a distance of 10.00 feet to the Point of Beginning. LESS: A parcel of land as recorded in the Official Records Book 675, Page 2120 Public Records of Martin County, Florida, being more particularly described as follows: Beginning at the Southwest corner of Lot 35 of said Plat of Ironwood as recorded in Plat Book 8, page 40 Public Records of Martin County, Florida; thence S 20 20'17" E along the West line of Lot 36 of said Plant of Ironwood, a distance of 75.00 feet to the Southwest corner of said Lot 36; thence N 27 55'58"W a distance of 75.66 feet; thence N 69 39'43" E a distance of 10.00 feet to the Point of the Beginning.

And,

4. That portion of Tract GC-5 as shown being contiguous to Lot 8 on said Plat of Ironwood. LESS: That portion of Tract GC-5 of said Mariner Sands Plat No.1, lying within Lots 9, 20 and 21 of said Plat of Ironwood.

And,

5. That Parcel shown as addition to Tract GC-3 as shown on Plat of the Fairways, as recorded in Plat Book 9, Page 33 of said Public Records of Martin County, Florida.

And,

6. That portion of Tract GC-7 as shown lying at the Southwest corner of Tract MF-3 of A Replat of A Portion of Mariner Sands Plat No. 1 as recorded in Plat Book 8, Page 23 of said Public Records of Martin County, Florida.

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- And,
7. Being all of Tract GC-11 and Tract GC-12 in Mariner Sands Plat No. 3 as recorded in Plat Book 9, Page 18 of the Public Records of Martin County, Florida.
- And,
8. Being all of Tract GC-13 in Mariner Sands Plat No. 4 as recorded in Plat Book 9, Page 60 of the Public Records of Martin County, Florida.
- And,
9. Being all of Tract GC-15 in Mariner Sands Plat No. 5 as recorded in Plat Book 9, Page 91 of Public Records of Martin County, Florida.
- And,
10. Being all of Tract GC-14 in Mariner Sands Plat No. 6 as recorded in Plat Book 10, Page 48 of the Public Records of Martin County, Florida.
- And,
11. Being all of Tract GC-15 in Mariner Sands Plat No. 7 as recorded in Plat Book 10, Page 21 of the Public Records of Martin County, Florida.
- And,
12. Being all of Tract GC-17, GC-18 and GC-19 in Mariner Sands Plat No. 9 as recorded in Plat Book 10, Page 68 of the Public Records of Martin County, Florida.
- And,
13. Being all of Tracts GC-20 and GC-21 in Mariner Sands Plat No. 10 as recorded in Plat Book 10, Page 71 of the Public Records of Martin County, Florida.
- And,
14. A portion of Tract CA-1 according to the Plat of Mariner Sands Country Club as recorded in Plat Book 8, Page 21, of the Public Records of Martin County, Florida, more particularly described by Quit Claim Deed dated the 19th day of June 1984 as recorded in Official Record Book 608, Page 1709.

EXHIBIT "B"
MARINER SANDS PLATTED PROPERTY

All lots, parcels and tracts described and shown on the following Mariner Sands plats:

Mariner Sands Plat No. 1

(Blocks A-M) (Tracts MF-1, MF-2, MF-3, CM-1)

Plat Book 6, Page 47, Public Records of Martin County, Florida

Mariner Sands Country Club

(a replat of a portion of Plat No. 1) (Tract MF-2, RC-1, R/GA-1)

Plat Book 8, Page 21, Public Records of Martin County, Florida

A Replat of a Portion of Mariner Sands Plat No. 1

Plat Book 8, Page 23, Public Records of Martin County, Florida

Plat of Ironwood

(a replat of a portion of Plat No. 1)

Plat Book 8, Page 40, Public Records of Martin County, Florida

Mariner Sands Plat No. 2

(Blocks N-Q)

Plat Book 8, Page 59, Public Records of Martin County, Florida

Mariner Sands Plat No. 3

(Blocks R-T)

Plat Book 9, Page 18, Public Records of Martin County, Florida

Mariner Sands Plat No. 4

(Blocks Y & Z)

Plat Book 9, Page 60, Public Records of Martin County, Florida

Mariner Sands Plat No. 5

(Block V)

Plat Book 10, Page 48, Public Records of Martin County, Florida

Mariner Sands Plat No. 6

(Blocks U & W)

Plat Book 9, Page 91, Public Records of Martin County, Florida

Mariner Sands Plat No. 7

(Lots 1-39 on Oakmont Place)

Plat Book 10, Page 21, Public Records of Martin County, Florida

A Replat of a Portion of Mariner Sands Plat No. 7

Plat Book 10, Page 38, Public Records of Martin County, Florida

Mariner Sands Plat No. 8

(Tracts A&B adjacent to Congressional Way)

Plat Book 10, Page 47, Public Records of Martin County, Florida

Mariner Sands Plat No. 9

(Pacific Drive) (Lots 1-51)

Plat Book 10, Page 68, Public Records of Martin County, Florida

Mariner Sands Plat No. 10

(Block X)(Ashley Park & Ashley Cemetery)

Plat Book 10, Page 71, Public Records of Martin County, Florida

Plat of Congressional Place

(Lots 1-24, Tracts GA1, GA2)

Plat Book 10, Page 68, Public Records of Martin County, Florida

Plat of Winged Foot Cottages

Plat Book 9, Page 92, Public Records of Martin County, Florida