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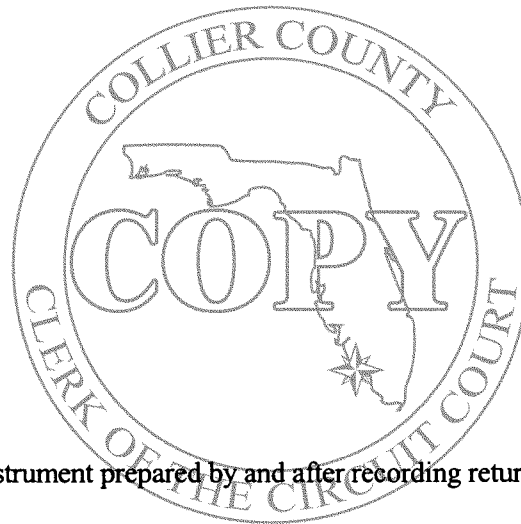
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NAPLES FL 34103 3587

**DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS**

**FOR**

**MILANO SECTION IV**



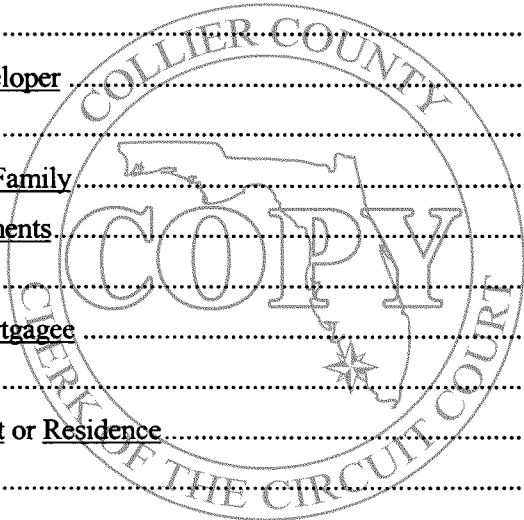
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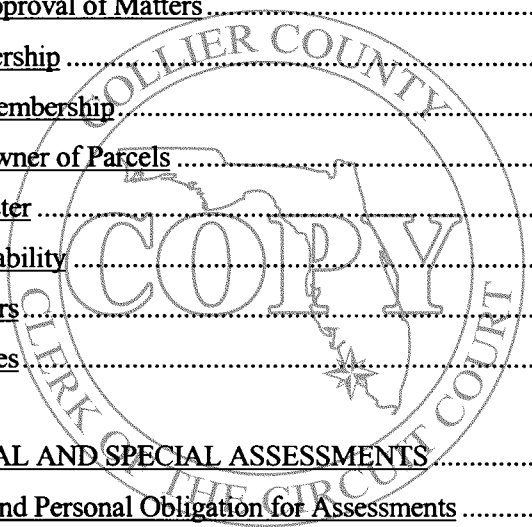
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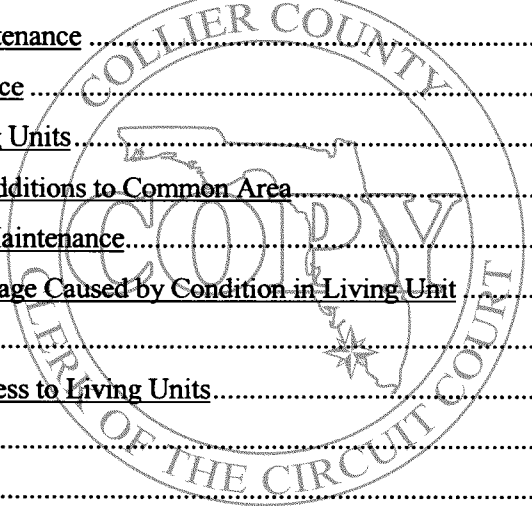
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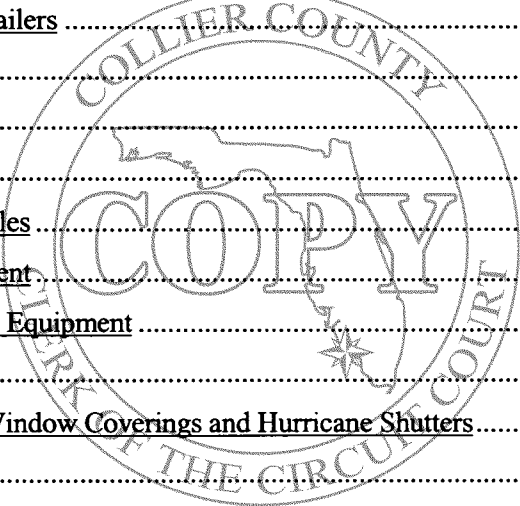
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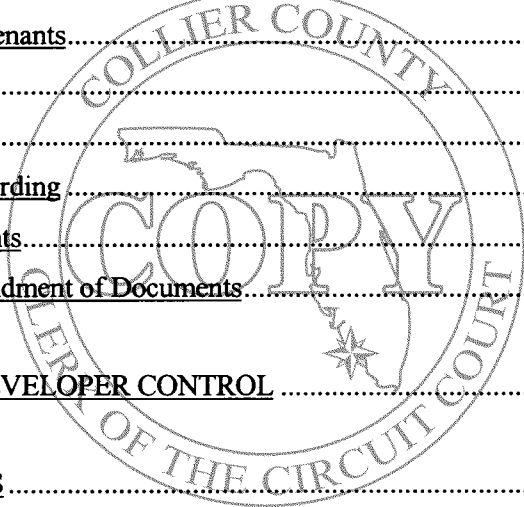
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**MILANO SECTION IV**

**PULTE HOME CORPORATION**, a Michigan corporation, the present fee title owner of the property legally described in Exhibit "A-1" hereto, hereinafter called Developer, to its grantees, successors and assigns and all future owners of Parcels located in Milano Section IV, as more particularly described in Exhibit "A-1" attached hereto and made a part hereof, hereby makes the following Declaration of Covenants, Conditions and Restrictions.

It is the intent of the aforesaid Developer to ultimately develop the real property, as described in Exhibit "A", as a planned unit development named "Milano Section IV" consisting of 64 residential units, located within the larger planned unit development known as "Milano". Upon recording of this Declaration, Developer hereby submits the real property described in Exhibit "A-1" to the terms and conditions of this Declaration. Developer reserves the right to amend this Declaration in order to submit additional portions of the real property described in Exhibit "A" to the terms of this Declaration. Developer shall not be obligated to submit any additional portions of the real property described in Exhibit "A" to the terms of this Declaration, nor is Developer obligated to submit them in any particular order. However, in the event Developer does not submit any additional portion of the real property described in Exhibit "A" to this Declaration, Developer hereby reserves the right, on behalf of its successors and assigns, to grant the owners of residential units in the real property described in Exhibit "A" which is not submitted to this Declaration the right to use the Common Area of the Association and to have the same easement rights with respect to the real property that is subjected to this Declaration. For the purpose of enhancing and protecting the value, attractiveness and desirability of the residential units constituting such development, Developer hereby declares that all of the real property described and each part thereof shall be developed as a planned unit development and shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof and the Association.

1. **DEFINITIONS.** The terms used in this Declaration and its recorded exhibits shall have the definitions set forth in Chapter 720, Florida Statutes (2005), unless otherwise defined below (it being the intent hereof that future amendments to Chapter 720, Florida Statutes (2005) not be retroactively applied to impair substantive rights of Developer set forth herein):

1.1 "Act" shall mean and refer to Chapter 720, Florida Statutes (2005).

1.2 "Architectural Reviewer " means and refers to the entity responsible for review and approval of construction and alterations to improvements, as more particularly described in Section 5 herein.

1.3 "Association" shall mean and refer to Milano Section IV Residents' Association, Inc., a Florida corporation not for profit.

1.4 "Board" means and refers to the Board of Directors of the Association.

1.5 "Common Area" means and refers to all real property which is now or hereafter owned by the Association or dedicated for use or maintenance by the Association or its members by a recorded plat or this

Declaration. At the present time, the Developer does not anticipate that there will be any Common Area. Therefore, references to "Common Area" throughout this Declaration and its exhibits should be read as "Common Area, if any".

1.6 "Declarant" or "Developer" means and refers to PULTE HOME CORPORATION, a Michigan Corporation authorized to do business in the State of Florida. Whenever either term is used in this Declaration, the Articles or Bylaws of the Association, it shall always be deemed to include any successor in interest to the Developer's development rights and obligations.

1.7 "Declaration" means and refers to this Declaration of Covenants, Conditions and Restrictions for Milano Section IV, and any amendments hereto.

1.8 "Family" or "Single Family" shall refer to one natural person (as opposed to an artificial entity); or a group of two or more natural persons living together each of whom is related to each of the others by blood, marriage, legal custody or adoption; or not more than two persons not so related, who reside together as a single housekeeping unit, along with their children, if any.

1.9 "Governing Documents" means and refers to the Milano Documents and the Milano Section IV Documents. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority stated above.

1.10 "Guest" or "Guests" means any person or persons physically present in, or occupying a Living Unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.11 "Institutional Mortgagee" means the mortgagee or assignee of a first mortgage against a Parcel or Living Unit, which mortgagee or assignee is a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Parcel or Living Unit which mortgage is guaranteed or insured (as evidenced by a recorded instrument) by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private agency engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns. An "Institutional Mortgage" is a first mortgage held by an Institutional Mortgagee encumbering a Living Unit.

1.12 "Lease" means the grant by a Living Unit owner of a temporary right to occupy the owner's Living Unit for valuable consideration.

1.13 "Living Unit", "Unit" or "Residence" means and refers to any or all the residences which will be constructed on the Parcels, each intended for use and occupancy as a residence for a single family.

1.14 "Parcel" or "Parcels" means one or more of the 64 platted parcels of land contained within the land contained within Exhibit "A" hereto into which the Neighborhood will be subdivided, upon each of which a Living Unit has been or is intended to be constructed. Wherever herein the term "Parcel" is used, it shall be interpreted as if followed by the words "and Living Unit constructed thereon" except where the context clearly requires otherwise.

1.15 [reserved].

1.16 [reserved].



1.17 "Member" means and refers to all persons who are members of the Association as provided in the Milano Section IV Documents.

1.18 "Neighborhood" or "Properties" means and refers to all real property which is subject to this Declaration and includes both Common Area and Parcels. "Neighborhood" or "Properties" shall also have the same meaning as the term "Community" as defined in Chapter 720, Florida Statutes (2005).

1.19 "Occupant" or "Occupy" when used in connection with a Living Unit, means any person who is physically present in the Living Unit on two or more consecutive days, including staying overnight.

1.20 "Owner" means and refers to any person or persons, entity or entities, who are the record owner of the fee simple title to any Parcel in Milano Section IV.

1.21 "Primary Occupants" means the two (2) natural persons approved for occupancy, together with their family, in accordance with Section 12 herein.

1.22 "Rules and Regulations" means and refers to the administrative rules and regulations governing use of the Common Area and procedures for administering the Association and the Neighborhood, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

1.23 "Single Family Residence" means and refers to a Living Unit which is restricted to occupancy only by the owner or primary occupants and their family, guests and tenants as further provided herein.

1.24 "Tenant" or "Tenants" means and refers to one who leases or rents from an Owner and holds temporary possession of a Living Unit.

1.25 "Milano Section IV Documents" means and refers to this Declaration, and the Articles of Incorporation, Bylaws, the Rules and Regulations, Architectural Planning Criteria and the Resolutions of the Association.

1.26 "Milano Section IV" means and refers to and shall be the name of the Neighborhood.

1.27 "Milano" means that certain planned unit development in which this Neighborhood is located, as more particularly described in the Declaration of Covenants, Conditions and Restrictions for Milano recorded in O.R. Book 3644 Pages 2413 et seq., Public Records of Collier County, Florida ("Milano Declaration"), including any Exhibits and Supplements and amendments thereto, all as amended and supplemented from time to time. "Recreation Association" means Milano Recreation Association, Inc., a not-for-profit homeowners' association responsible for the operation of Milano. "Milano Documents" means the Declaration of Covenants, Conditions and Restrictions for Milano, Articles of Incorporation, Bylaws, any Supplemental Declaration thereto, Rules and Regulations, Architectural Standards, Resolutions and any other exhibits, all as amended from time to time. Each Parcel Owner becomes a member of the Recreation Association and that membership is appurtenant and inseparable from ownership.

## 2. RECREATION ASSOCIATION.

2.1 Recreation Association. Each Parcel Owner in Milano Section IV takes title subject to, and agrees to comply with the Milano Documents as amended from time to time. Each Parcel Owner becomes a

member of the Recreation Association and that membership is appurtenant to and inseparable from ownership.

2.2 Voting in Recreation Association Matters. Owners in Milano Section IV shall vote in Recreation Association matters in the manner set forth in the Milano Documents.

3. ASSOCIATION: MEMBERSHIP: VOTING RIGHTS. The administration, management and ownership of the Common Area shall be by the Milano Section IV Residents' Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

3.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "B".

3.2 Bylaws. The initial Bylaws of the Association shall be the Bylaws as attached as Exhibit "C".

3.3 Delegation of Management. The Association may contract for the management and maintenance of the Neighborhood and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Area, with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Governing Documents.

3.4 Membership. Every person or entity who is a record Owner of a fee interest in any Parcel located upon the Neighborhood, shall be a Member, except that if a Parcel is subject to an agreement for deed, the purchaser in possession shall be considered the Owner for purposes of determining voting and use rights.

(A) Class A. Class A Members shall be all those Owners as defined in Section 1, with the exception of the Class B Member. Class A membership shall become effective upon the occurrence of the last to occur of the following

- (1) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Parcel.
- (2) Approval of the Association as provided for elsewhere herein.
- (3) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- (4) Delivery to the Association, if required, of a written designation of the primary occupants.

(B) Class B. The Class B Member shall be the Developer or any successor to the Developer's development rights.

Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

3.5 Voting Interests. The Class A Members of the Association are entitled to one (1) vote for each Parcel owned by them. The total number of Class A votes shall not exceed the total number of Parcels

subject to this Declaration. The vote of a Parcel is not divisible. The right to vote may not be denied because of delinquent assessments. If a Parcel is owned by one natural person, his right to vote shall be established by the record title. If a Parcel is owned jointly by two or more natural persons who are not acting as trustees, that Parcel's vote may be cast by any one of the record Owners. If two or more Owners of a Parcel do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a Parcel is not a natural person or is a trustee, the vote of that Parcel shall be cast by any officer, director, partner or trustee, as the case may be. The Class B Member shall be entitled to a number of votes equal to the total number of Parcels owned by the Class A Members plus one vote; provided that subsequent to Transition, as referenced in Section 15 hereof, the Class B Member shall be entitled to one vote for each Parcel owned by it.

3.6 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person who could cast the vote of such Parcel if present in person at an Association meeting, unless the joinder of all record Owners is specifically required.

3.7 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new owners membership becoming effective as provided above; and the membership of the prior Owner shall thereby be automatically terminated.

3.8 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3.9 Association As Owner of Parcels. The Association has the power to purchase Parcels and Living Units, and to acquire and hold, lease, mortgage, and convey them, by act of a majority of the Board of Directors.

3.10 Membership Roster. The Association shall maintain a current roster of names and mailing addresses of Owners and Primary Occupants. A copy of the up to date roster shall be available to any Owner upon request.

3.11 Limitation on Liability. Notwithstanding the duty of the Association to maintain and repair the Common Area, the Association shall not be liable to Owners for property damage other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Owners or other persons.

3.12 Board of Directors. Except as otherwise provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the Members shall be required. The Officers and Directors of the Association have a fiduciary relationship to the members. An Owner does not have the authority to act for the Association by virtue of being an owner.

3.13 Powers and Duties. The powers and duties of the Association include those set forth in the Governing Documents.

#### 4. COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS.

4.1 Creation of Lien and Personal Obligation for Assessments. Subject to the limitations on assessment liability set forth in Sections 4.3 and 4.4, Developer, for each Parcel within the Neighborhood, hereby covenants, and each subsequent Owner of any Parcel (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(A) the Parcel's pro rata share of annual assessments based on the annual budget adopted by the Association;

(B) the Parcel's pro rata share of special assessments for Association expenditures not provided for by annual assessments;

(C) any charges against less than all of the Parcels specifically authorized in this Declaration or the Association Bylaws; and

(D) initial capital contributions payable at closing to the Association as determined by the Developer.

Assessments shall be established and collected as provided herein and in the Bylaws. The annual and special assessments and charges, together with interest, costs, and reasonable attorney's fees shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor the amounts paid by the transferee. Except as provided elsewhere in this Declaration as to the Developer and Institutional Mortgagees, no Owner may be excused from the payment of assessments unless all Owners are similarly excused.

#### 4.2 Reserved.

4.3 Share of Assessments. Except as otherwise provided as to the Developer and certain mortgagees, each Parcel (and the Owner thereof) which has been submitted to the terms of this Declaration and which contains a Living Unit for which a final certificate of occupancy has been issued, shall be liable for its pro rata share of all annual and special assessments. A Parcel which has been submitted to the terms of this Declaration containing land or improvements for which a certificate of occupancy has not been issued, shall pay assessments equal to five (5) percent (5%) of the assessments which are payable by Parcels containing a Living Unit for which a final certificate of occupancy has been issued. All Common Area and any property dedicated to and accepted by any governmental authority or public utility shall be exempt from payment of assessments.

4.4 Developer's Guaranty of Assessments and Share for Parcels Owned By It. Developer guarantees that until the earlier to occur of either: (a) December 31, 2006; or (b) the date control of the Association is turned over to Parcel Owners other than the Developer, monthly assessments against each Owner by the Association shall not exceed \$243.61. Developer reserves the right to renew the guaranty period for additional periods of up to one (1) year each, on such terms as established by Developer, provided that no guaranty period shall extend beyond transition to non-Developer control of the Board of Directors of the Association. During the guaranty period, the Developer shall be excused from the payment of assessments for Parcels owned by it, and instead shall pay that portion of all Association expenses actually incurred which exceeds the amounts assessed against other Parcel Owners. Such difference, herein called

the "deficiency", includes assessments or charges levied by the Recreation Association, which shall be deemed part of the Association's common expenses. However, if the Association or the Recreation Association enters into a "Bulk Agreement" with a provider of cable television, electronic monitoring services or other telecommunications services, then the guaranteed monthly assessment for each Parcel shall increase to reflect any of such charges. After the guaranty period, the initial capital contributions payable at closing to the Association may be used to pay operating expenses, fund reserves, or for any other purpose permitted or obligation imposed upon the Association pursuant to the Milano Section IV Documents. Following the expiration of the guaranty period, the Developer shall pay assessments as described in Section 4.3 hereof.

4.5 Establishment of Liens. Any and all assessments levied by the Association or collected on behalf of in accordance with the provisions of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, and costs of collection (including, but not limited to reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Parcel and Living Unit against which each such assessment or charge is made, and shall also be the personal obligation of the Owner of each Parcel and Living Unit assessed. This lien is superior to any homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for assessments, or release the Living Unit owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area, or by abandonment of his Living Unit; the lien shall be perfected from and after the recording in the Public Records of the County of a Claim of Lien by the Association, setting forth the description of the Parcel, the name of the record owner, the name and address of the Association, the amount and due date of each unpaid assessment as of the date the Claim of Lien is recorded, and the effectiveness of the lien shall relate back to the date of recording this Declaration. A Claim of Lien shall secure payment of all assessments due at the time of recording (including interest, costs and attorney's fees as provided above), as well as all assessments, interest, costs and attorney's fees coming due subsequently, until the Claim is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a Satisfaction of Lien.

4.6 Priority of Liens. The foregoing notwithstanding, the Association's lien for unpaid assessments shall be subordinate and inferior to: the lien of all taxes, and other levies which by law would be superior thereto; and the Recreation Association's continuing lien. The Association's lien shall be subordinate and inferior to the lien of any recorded Institutional Mortgage, unless the Association's Claim of Lien was recorded prior to the Institutional Mortgage, but shall be superior to, and take priority over, any other mortgage or lien regardless of when recorded. Any lease of a Living Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or mortgagee shall hold title subject to the liability and lien of any assessment coming due after foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Parcel by reason of the provisions of this Section, shall be treated as a special assessment divided equally among, payable by and assessed against all Parcels, including the Parcel as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

4.7 Collection of Assessments. If any Owner fails to pay any Assessment, or installment thereof, within ten (10) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

(A) To charge interest on such assessment or charge, from the date it becomes due until paid at the highest rate allowed by law, as well as to impose a late payment penalty of up to Twenty-five Dollars

(\$25.00). This penalty shall not be considered a fine as provided for in Section 11.3, and the procedural requirements for levying fines set forth therein shall not apply.

(B) To deny Association approval of any proposed sale or transfer of the Owner's Parcel and Living Unit.

(C) To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the same manner as that provided pursuant to Florida law for the foreclosure of liens on condominium units for unpaid condominium assessments.

(D) To bring an action at law for a money judgment against the Owner without waiving any lien foreclosure rights of the Association.

4.8 Certificate. The Association shall, within fifteen (15) days of receipt of a written request for same, furnish to any Owner liable for assessments a certificate in writing signed by an officer of the Association, setting forth whether said assessments and any other sums due the Association have been paid. Such certificate may be relied upon by all interested persons except the Owner.

## 5. ARCHITECTURAL AND AESTHETIC CONTROL

5.1 Necessity of Architectural Review and Approval. Except for Developer, no Owner shall make or permit the making of any alterations or additions to his Parcel or the Common Area, or in any manner change the exterior appearance of any portion of the Living Unit, without first obtaining the written approval of the Architectural Reviewer, which approval may be denied if the Architectural Reviewer determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Neighborhood, in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or other modifications, additions or installations which may be installed where visible from outside the Living Unit, are subject to regulation by the Architectural Reviewer. The installation of hurricane shutters shall be subject to regulation by the Architectural Reviewer. No Owner may alter the landscaping of the Common Area or his Parcel in any way without prior approval of the Architectural Reviewer.

5.2 Architectural Review. The architectural review and control functions of the Association shall be administered and performed by the "Architectural Reviewer", as defined herein. Prior to Transition, the Developer shall be the Architectural Reviewer and shall have the exclusive right to exercise architectural review under this Section. Developer may delegate its reserved rights hereunder to any entity, including the Board of Directors of the Recreation Association or of the Association or an Architectural Review Committee appointed by the Board of Directors of the Recreation Association or of the Association, in which case the delegatee shall be deemed the Architectural Reviewer. Prior to Transition, the Association shall not be required to adopt Architectural Planning Criteria, but rather, the Developer shall have the authority to process applications in its reasonable discretion and in accordance with its building plans, specifications, plan of development and aesthetic requirements. The Architectural Planning Criteria shall in no event apply to the Developer. Subsequent to Transition, the Architectural Reviewer shall be the Recreation Association, unless the Recreation Association's Board of Directors grants the Association authority to exercise initial architectural review authority over the Neighborhood. If at any time the Association becomes the Architectural Reviewer, and the Association initially rejects an Owner's application, the Recreation Association shall not have any obligation to process an Owner's application.

5.3 Powers and Duties of Architectural Reviewer. The Architectural Reviewer shall have the following powers and duties:

(A) To enact modifications and/or amendments to the Architectural Planning Criteria. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration. As long as Developer owns at least one Parcel or other property in the Neighborhood, the Architectural Reviewer shall not alter the Architectural Planning Criteria, without Developer's prior written consent, which consent may be denied in Developer's discretion. Notice of any modification or amendment to the Architectural Planning Criteria, including a verbatim copy of such change or modification, shall be delivered to each member of the Association; provided that the delivery of a copy of the modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification.

(B) To require submission of one (1) complete set of all plans and specifications for any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, pool, parking and building additions, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object or other improvement, the construction of placement of which is proposed upon any Parcel in the Neighborhood, together with a copy of any required governmental permits. The Architectural Reviewer may also require submission of samples of building materials and colors proposed for use on any Parcel and may require such additional information as reasonably may be necessary for the Architectural Reviewer to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Architectural Planning Criteria. Reviews shall be coordinated with required governmental approvals. The Architectural Reviewer shall have sixty (60) days to respond once a complete set of plans and specifications have been submitted. Failure to respond within said sixty (60) days shall be deemed an approval.

(C) To approve or disapprove any improvement or structure of any kind, including without limitation, any building, fence, wall, sign, site paving, grading, pools, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative landscaping, landscape device or object, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Parcel in the Neighborhood and to approve or disapprove any exterior additions, changes, modifications or alterations (including, but not limited to, changes in exterior colors, finishes and materials) therein or thereon. All decisions of the Architectural Reviewer shall be in writing and may, but need not be made by a certificate in recordable form.

(D) To approve or disapprove any change, modification or alteration to any improvement or structure as hereinabove described, and the plans and specifications if any upon which such change modification or alteration is based, prior to commencement of construction of such change, modification or alteration. If any improvement or structure as aforesaid shall be changed, modified or altered without prior approval of the Architectural Reviewer of such change, modification or alteration, and the plans and specifications therefore, if any, then the Owner shall upon demand, cause the improvement or structure to be restored to comply with the plans and specifications, originally approved by the Architectural Reviewer and shall bear all costs and expenses of such restoration, including costs and reasonable attorney's fees of the Architectural Reviewer or the Association. The Architectural Reviewer shall be specifically empowered to grant variances from the covenants, conditions and restrictions as contained herein and as are deemed reasonable, required or necessary to meet the needs of the particular building site.

(E) To adopt a schedule of reasonable fees for processing requests for approval or proposed improvements. Such fees, if any, shall be payable to the Architectural Reviewer, in cash, at the time that plans and specifications are submitted to the Architectural Reviewer. In the event such fees, as well as any other costs or expenses of the Architectural Reviewer pursuant to any other provisions of this Article are not paid by the Owner, they shall become a lien on the Owner's Parcel.

(F) To monitor construction to verify compliance with the provisions hereof and any approvals and conditions of the Architectural Reviewer.

5.4 Architectural Control by the Recreation Association. In the event initial architectural review is exercised by the Association, approval of construction, modification, or alteration of any Living Unit or Common Area granted by the Architectural Reviewer pursuant to this Declaration shall not avoid the need for nor guaranty such approval as may be required by the Milano Documents. The Architectural Planning Criteria of the Recreation Association shall take priority over any conflicting provisions adopted by the Association.

5.5 Garages. No garages shall be converted to residential use or use other than as originally designed with the exception of conversion of a garage by the Developer for use as a temporary sales office.

5.6 Developer Construction. The provisions of this Section 5 shall not apply to Developer and Developer reserves the right to alter the plan of development and architectural style of the Neighborhood and Living Units as it deems desirable in its discretion.

## 6. PROPERTY RIGHTS: EASEMENTS.

6.1 Use of Common Area. Except as otherwise limited in the Governing Documents, every Owner and his tenants, guests and invitees shall have a perpetual non-exclusive easement for ingress, egress and access in, to and over the Common Area for use in common with all other Owners, their tenants, guests and invitees, in such manner as may be regulated by the Association. These easements shall be appurtenant to and shall pass with the title to every Living Unit subject to the following:

(A) The right and duty of the Association to levy assessments against each Parcel for the upkeep, maintenance, repair or betterment of the Common Area and improvements thereon.

(B) The right of the Association to dedicate or transfer or grant an easement covering all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board. No such easement shall materially interfere with the rights of the Owner to use the Common Area for the purposes intended.

(C) The right of an Owner to the use and enjoyment of the Common Area and facilities thereon shall extend to the members of his family who reside with him, and to his tenants, guests and invitees subject to regulation from time to time by the Association.

**THE ASSOCIATION SHALL ACCEPT "AS IS, WHERE IS" THE CONVEYANCE OF SUCH PROPERTY WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS INCLUDING, BUT NOT LIMITED TO, REPRESENTATIONS OR WARRANTIES REGARDING THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, CONDITION, QUALITY OF CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OF OPERATIONS OF, OR THE QUALITY OF MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH PROPERTY. BY ACCEPTANCE OF AN INTEREST IN ANY SUCH**



**PROPERTY OR THE DEED TO ANY PARCEL, THE ASSOCIATION AND ALL OWNERS RELEASE DEVELOPER FROM ANY CLAIMS AND WARRANT THAT NO CLAIM SHALL BE MADE BY THE ASSOCIATION OR ANY OWNER RELATING TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, CONDITION, QUALITY OF CONSTRUCTION, ACCURACY, ADEQUACY OF SIZE OR CAPACITY, FOR THE NUMBER OF USERS, DESIGN, FITNESS, ECONOMIC PERFORMANCE OR COMPLETENESS OF SUCH PROPERTY OR REPAIRS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM.**

6.2 Easements. The Developer (during any period in which the Developer has any ownership interest in the Neighborhood) shall have the right to grant such electric, telephone, gas, water, sewer, irrigation, drainage, cable television or other easements, and to relocate any existing easement in any portion of the Neighborhood and to grant access easements and to relocate any existing access easements in any portion of the Neighborhood as the Developer shall deem necessary or desirable, for the proper construction of the Neighborhood, operation and maintenance of the Neighborhood, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Parcels and Living Units. Each Living Unit and Parcel shall be subject to an easement in favor of all other portions of the Neighborhood for the location of utilities and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement of the party walls, structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving other Parcels and portions of the Neighborhood, including without limitation, an easement for any fire sprinkler/monitoring system. If any Living Unit encroaches upon of the Common Area or upon any other Living Unit for any reason other than the intentional act of the Owner thereof, or if any Common Area encroaches upon any Parcel, then an easement shall exist to the extent of that encroachment as long as the encroachment exists. Each Living Unit shall have an easement of support with respect to the party wall and any portion of adjacent Living Units which contributes to the support of the Living Unit. If a building, window, eave, projection, gutter, roof or any other structure on a Parcel shall encroach upon any adjoining Parcel, by reason of original construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, or by the unintentional act of the Owner or Developer, then an easement appurtenant to such Parcel, to the extent of such encroachment, shall exist so long as such encroachment shall exist. An easement for repair and maintenance of the improvements shall exist over and across adjoining Parcels. In the event that any structure is partially or totally destroyed, then rebuilt, then the Owners and the Association agree that minor encroachments on adjacent Parcels or on Common Area due to construction shall be permitted and that an easement for such encroachments and the maintenance of the structure shall exist. The Association is granted a blanket easement over the Common Area and Parcels for repair and maintenance and for carrying out its responsibilities pursuant to this Declaration. Following transition from Developer control, the Association shall have the authority to grant easements on the foregoing terms, subject to the Developer's prior written consent as long as Developer owns a Parcel or any property located in the Neighborhood.

6.3 Partition: Separation of Interest. There shall be no judicial partition of the Common Area, except as expressly provided elsewhere herein, nor shall Developer, or any Owner or any other person acquiring any interest in the Neighborhood, or any part thereof, seek judicial partition thereof. Nothing herein shall be construed to prevent judicial partition of any Parcel and Living Unit owned on cotenancy. The ownership of any Parcel and the ownership of the Living Unit constructed thereon may not be separated or separately conveyed; nor may any person who does not have an ownership interest in at least one Parcel and Living Unit hold membership in the Association, except for Developer.

6.4 Construction; Maintenance. The Developer (including its agents, designees, contractors, successor and assigns) shall have the right, in its and their sole discretion, to enter the Neighborhood and take all other action necessary or convenient for the purpose of completing the construction thereof, of any improvements or Living Units. As long as Developer is liable under the terms of any warranty in favor of an Owner, Developer and its agents, designees, contractors, and their successor and assigns shall have an easement of access to the Neighborhood and any Parcels and Living Units in order to make repairs or replacements, and take all other action necessary or convenient for the purpose of fulfilling its obligations.

6.5 Additional Easements. The Parcels shall be subject to and benefited by any and all easements which are set forth in the Milano Documents and the Plat of Milano recorded in Plat Book 41 at Page 69 et. seq., Public Records of Collier County, Florida (the "Plat"). The Association shall have such easements across the Neighborhood and all Parcels as are necessary to fulfill its obligations as set forth in the Governing Documents.

## 7. MAINTENANCE OF COMMON AREA AND LIVING UNITS.

7.1 Association Maintenance. The Association shall maintain, repair and replace those items set forth in this Section and elsewhere in this Declaration. All maintenance, repair and replacement which is the responsibility of the Association shall be a common expense, unless the Association undertakes maintenance, repair or replacement of those portions of a Parcel for which a Owner is responsible, due to an Owner's failure to undertake the maintenance, repair or replacement. The Association is responsible for the protection, maintenance, repair and replacement of the Common Area. The Association shall maintain, repair and replace lawns, landscaping and irrigation located on each Parcel. The Association shall maintain, repair and replace roofs of Living Units, including any structural elements thereto (for example, roof trusses) and the exterior of Living Units (excluding windows, screens and railings), including any maintenance beneath the exterior of a Living Unit which is required in order to effectuate repairs to the exterior. The Association shall also maintain, repair and replace the fire sprinkler/monitoring system. The Association shall also restore after casualty portions of Living Units, for which the Association is obligated to procure insurance pursuant to this Declaration. The Association shall not be obligated to maintain an Owner's swimming pool or ancillary structures.

7.2 Owner Maintenance. Parcel Owners shall maintain those portions of the Living Unit which are not otherwise maintained by the Association. If an Owner makes any modifications, installations or additions to his Living Unit or the Common Area, the Owner and his successors in title shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations or additions, as well as the cost of repairing any damage to the common elements resulting from such modifications or additions. Whenever an Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Living Unit or Common Area, whether with or without Association approval, such owner shall be deemed to have warranted to the Association and its members that his contractor(s) are properly licensed and fully insured and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance. The Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes and to indemnify the Association and its members from any construction liens which may attach to the Common Area and which are attributable to work performed by or for the benefit of the Owner.

7.3 Combining Living Units. The Board of Directors may authorize the removal of the party wall between two Living Units in order that the Living Units might be used together as one integral living space, on the condition that all assessments and voting rights shall be calculated as if such combined Living Unit constituted separate Living Units. Notwithstanding the fact that two (2) Living Units may thereby be used as one (1), it is the intent and purpose hereof that the Owner of such "combined" Living Units shall be treated

as the owner of as many Living Units as have been combined. In addition to acknowledging his consent, the Owner of the combined Living Units shall secure the approval of the holders of liens against such Living Units as a condition to the Board granting its approval. The Owner of the combined Living Units shall be responsible for complying with all applicable building codes and the permitting requirements of all applicable governmental agencies.

7.4 Alterations and Additions to Common Area. Material alterations or substantial additions to the Common Area may be undertaken and funds necessary levied as special assessments by the Association only upon approval by a majority of the Board of Directors and the Developer (until Developer conveys the last Parcel which may be submitted to the terms of this Declaration). Alterations and additions to the Common Area (and to Living Units) also require architectural approval under the Milano Documents. The Common Area shall not be mortgaged or conveyed without the approval of at least 2/3 of the Class "A" Members (excluding the Developer).

7.5 Enforcement of Maintenance. In the event that an Owner fails or refuses to comply with these provisions, after fourteen (14) days notice and demand from the Association and the Owner's failure to comply, the Association shall have the authority (but not the obligation) to take whatever action is reasonably necessary in its judgment to bring the Parcel and Living Unit into conformity and the expenses of doing so shall be an obligation of the Owner collectable as a special assessment against that Parcel. The Association is granted an easement upon the Parcel and its improvements for these purposes. In the alternative, the Association may institute legal proceedings to compel the Owner to observe his obligations set forth in the Governing Documents.

7.6 Negligence: Damage Caused by Condition in Living Unit. The owner of each Living Unit shall be liable for the expenses of any maintenance, repair or replacement of Common Area, other Living Units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or tenants. Each Owner has a duty to maintain his Living Unit and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Living Units, the Common Area or the property of other owners and residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Living Units, the Common Area or property within other Living Units, the owner of the offending Living Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Living Units involved is not occupied at the time the damage is discovered, the Association may enter the Living Unit without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage and hold the responsible party liable for all costs, secured by a lien against the applicable Parcel.

7.7 Party Walls. Each wall or similar structure built as part of the original construction of the Living Units which serves and/or separates any two adjoining Living Units shall constitute a party wall. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the party wall, except as otherwise provided in the Governing Documents.

7.8 Association's Access to Living Units. The Association has an irrevocable right of access to the Living Units for the purpose of protecting, maintaining, repairing, and replacing those portions of a Living Unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one or more Living Units. The Association's right of access includes, without limitation, entry for purposes of preventive maintenance as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Living Unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from

unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Living Unit. The Association may retain a pass-key to all Living Units. If it does, no Living Unit Owner shall alter any lock, nor install a new lock, which prevents access when the Living Unit is unoccupied, unless the Owner provides the Association with a key. If the Association is not provided with a key to the Living Unit, the owner shall pay all costs incurred by the Association in gaining entrance to his Living Unit, and also shall be responsible for any damage done to his Living Unit in gaining entrance thereto, and shall also be liable for any damage resulting from delay in gaining entrance to his Living Unit caused by the unavailability of a key.

7.9 Pest Control. The Association may supply pest control within Living Units with the cost thereof being part of the common expenses.

7.10 Developer's Lien. In the event the Association fails to maintain, replace or repair as herein provided, upon thirty (30) days notice to the Association, the Developer or its designee shall have the right, without being obligated to do so, to enter upon the Neighborhood and cause said maintenance, replacement, or repair to be made, and in such event, the Developer shall have a lien upon the Neighborhood, including all Parcels therein, for the costs thereof, including, without limitation, interest, court costs and reasonable attorneys' fees and appellate attorneys' fees incurred by the Developer in collecting the sums expended by it. The aforesaid lien may be foreclosed in the same manner as mortgages or statutory liens are foreclosed in Florida. In the event of an emergency situation, threatening the health and welfare of the residents, the Developer may immediately enter upon the Neighborhood and cause such maintenance replacements or repairs to be made forthwith and without the requirement of any prior notice thereof, and the Developer shall have an enforceable lien upon the Neighborhood as aforesaid.

7.11 Amendment of Plans and Alteration of Boundaries and Appurtenant Dimensions. Notwithstanding anything to the contrary contained herein, Developer reserves the right to change the interior design floor plan or arrangement of Living Units, or to alter the boundaries between Living Units as long as Developer owns such Living Units, provided that the Governing Documents are amended as needed to reflect the changes.

7.12 Surface Water Management System. The surface water management system shall consist of certain water management lakes and ancillary drainage facilities constructed by the Developer in accordance with permits issued by the South Florida Water Management District. The Developer or the Recreation Association may reconfigure the size and location of the lakes. The Developer and the Recreation Association shall have an easement over the Neighborhood for purposes of accessing the lakes and ancillary drainage facilities. The Developer or the Recreation Association may require the surface water management system and other conservation areas in Milano to be included in the Recreation Association Common Area. The lakes shall not be available for use by Parcel Owners or the Association, nor shall any Parcel Owner in any manner interfere with or alter the surface water management system or interfere with the access rights of any entity responsible for its maintenance. All Owners acknowledge that due to ground water elevations, priorities established by governmental authorities, and other causes outside of the reasonable control of the Developer and the Recreation Association, lake water levels may fluctuate at certain times during the year and such fluctuations may be material. Neither the Developer nor the Recreation Association shall have any liability for aesthetic conditions, objectionable odors, damage to plantings or direct or consequential damages of any nature caused by the fluctuation of water levels, water quality, or complying with the permitting requirements of governmental agencies.

8. INSURANCE: In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

8.1 Association Insurance: Duty and Authority to Obtain. The Board of Directors shall use its best efforts to obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. The Board may obtain insurance policies containing deductibles.

8.2.1 Required Coverage. The Association shall use its best efforts to obtain and maintain adequate insurance covering all of the Parcels and the Common Area, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

A. Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract. The Association shall not be obligated to insure floor, wall and ceiling coverings, built-in cabinets, appliances, water heaters, air conditioning and heating equipment, fixtures and personal contents of Owners. The Association shall not be obligated to insure any alterations, additions or improvements made to the Living Unit by the Owner or his predecessors in title.

B. Flood. If the Neighborhood is located in the category of flood zone such that mortgagees require the Association and Living Unit Owners to obtain flood insurance, in amounts deemed adequate by the Board of Directors, and any mortgagees, as available through the National Flood Insurance Program.

C. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

D. Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors.

E. Directors and Officers Liability.

8.2.2 By the Owner. Each Owner is responsible for maintaining liability insurance on his Parcel and property insurance for those portions of the Living Unit which are excluded from the Association's responsibilities set forth in this Declaration.

8.3 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Owners. Some of the more common options include:

- A. Additional flood insurance.
- B. Broad Form Comprehensive General Liability Endorsement.
- C. Medical Payments.
- D. Leakage, seepage and wind-driven rain.
- E. The Association may maintain Workers' Compensation insurance on at least a minimum premium basis.

8.4 Description of Coverage. A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection by Owners or their authorized representatives upon request.

8.5 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association, Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

8.6 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Owners and their respective mortgages in the following shares:

A. Common Area. Proceeds on account of damage to Common Area shall be held by the Association as trustee for the Owners.

B. Living Units. Proceeds on account of damage to the Living Units shall be held by the Association as trustee for the applicable Owner(s). The share applicable to a specific Owner shall be based on the amount of damage to that Owner's Living Unit.

C. Mortgage. If a mortgagee endorsement has been issued as to a Living Unit, the shares of the mortgagee and the Living Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against a Living Unit(s), except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

8.7 Association as Agent. The Association is hereby irrevocably appointed as agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to those portions of the Neighborhood within the Association's insurance responsibility.

8.8 Reconstruction or Repair After Casualty. The Living Unit Owner shall be obligated to repair after casualty any portion of the Living Unit which he/she is obligated to insure. The Association shall be obligated to repair after casualty any portion of the Living Unit(s) which it is obligated to insure. If the proceeds of Association insurance are insufficient to repair the portions of the Living Unit(s) which it is obligated to insure, then the Association shall levy a special assessment against all Owner's for the necessary funds as a common expense.

8.9 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or according to different plans and specifications approved by the Association, by the owners of at least three-fourths (3/4ths) of the Parcels, and by fifty-one percent (51%) of the Institutional Mortgagees. Any such repairs or reconstruction are also subject to the architectural review provisions of the Milano Documents.

## 9. USE RESTRICTIONS.

9.1 Residential Purposes. No Parcel shall be used for other than single-family residential purposes,

except that Parcels, or portions of Parcels may be used by Developer for temporary offices, sales offices or model villas. No trade or business may be conducted in or from any Living Unit, except that an Owner or occupant residing in a Living Unit may conduct business activities within the Living Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Living Unit; (b) the business activity conforms to all zoning requirements; (c) the business activity involves only telephone calls and correspondence to and from the Living Unit and does not involve non-residents coming into the Neighborhood or door-to-door solicitation of occupants of the Neighborhood; and (d) the business activity is consistent with the residential character of the Neighborhood and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other occupants of Living Units. The use of a Living Unit as a public lodging establishment shall be deemed a business or trade use. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

9.2 Signs. No sign or advertisement of any kind, including, without limitation, those of realtors, contractors and subcontractors, shall be erected within the Neighborhood without the written consent of the Architectural Reviewer and the Recreation Association, except in connection with the sale or resale of Living Units by the Developer or as may be required by legal proceedings. Signs which are permitted within the Neighborhood may be restricted as to the size, color, lettering, materials and location of such signs. The Developer shall have the right to erect signs as it deems appropriate in its sole discretion. The Board of Directors shall have the right to erect signs on the Common Area as the Board deems appropriate, subject to the prior written consent of the Architectural Reviewer. Under no circumstances shall signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Neighborhood be permitted within the Neighborhood without the prior written consent of the Architectural Reviewer and the Recreation Association or unless they are installed by the Developer. No sign shall be nailed or otherwise attached to trees.

9.3 Nuisance. Nothing shall be done upon any Parcel or in any Neighborhood or in the Common Area which may be or may become an annoyance or nuisance to any person. No obnoxious, unpleasant or offensive activity shall be carried on, nor shall anything be done which can be reasonably construed to constitute a nuisance, public or private in nature.

9.4 Underground Utility Lines and Services. All electric, telephone, gas and other utility lines shall be installed underground, except for temporary lines as required during construction or if required by law.

9.5 Common Area. No Parcel Owner shall make use of the Common Area in such a manner as to abridge the equal rights of the other Parcel Owners to their use and enjoyment thereof nor shall any Parcel Owner remove, prune, cut, damage or injure any trees or other landscaping located in the Common Area. Except as otherwise stated in this Declaration and its Exhibits or with respect to Developer's reserved rights, any portion of the Common Area which is deemed open space shall be owned by the Association and preserved and maintained by it and shall not be destroyed.

9.6 Pets and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Parcel, except that a reasonable number of dogs, cats and other usual and non-exotic household pets may be kept (except for pit bulls, "wolf hybrids", or other dogs prone to or exhibiting aggressive behavior), provided they are not kept, bred or maintained for any commercial purposes. All animals shall be contained

on the Owner's Parcel and shall not be permitted to run freely. When outside the Owner's Parcel (if it does not have a "invisible fence"), all pets must be carried or secured with a hand held leash. All pet owners are obligated to clean up after their pet.

**9.7 Trucks, Commercial Vehicles, Recreation Vehicles, Mobile Homes, Boats, Campers and Trailers.**

(A) Vans, sport utility vehicles and pick-up trucks shall be considered to be automobiles and may be parked on driveways if the vehicle is used for the primary purpose of transportation of passengers and their personal goods. If the vehicle is used primarily for the transportation of goods then it shall be considered to be a truck. Police cars may be parked on driveways if the driver is a police officer. All other vehicles (i.e. all motorized and non-motorized vehicles except operable automobiles) including, without limitation, the following: Security company vehicles, inoperable automobiles, golf carts, commercial vehicles, recreational vehicles, all-terrain vehicles, ambulances, hearses, motorcycles, motorbikes, bicycles, watercraft, aircraft, house trailers, camping trailers, other trailers, vehicles with commercial markings, racks or tools in the bed and tractors shall be kept within an enclosed garage. Parking in the roadway is prohibited. Bicycle racks are permitted on non-commercial vehicles. Garage doors must be kept closed except when a vehicle must enter or exit the garage. Any use of a motorcycle is limited to providing ingress/egress to a Parcel over roadways. All motorcycles shall be equipped with effective sound muffling devices and must be parked in a garage when not in use.

(B) No commercial vendor vehicle of any kind shall be permitted to be parked on a residential Parcel for a period of more than twelve (12) hours unless such vehicle is necessary and being used in the actual construction or repair of a structure or for grounds maintenance.

(C) None of the foregoing restrictions shall apply to commercial vehicles, pick-up trucks or other vehicles which may be utilized by Developer, its contractors and subcontractors for purposes of completing construction of the Neighborhood.

**9.8 Exterior Colors.** No exterior colors on any structure, nor the colors of driveways and walkways shall be permitted that, in the sole judgment of the Architectural Reviewer, would be inharmonious or incongruous with the remainder of Milano Section IV. Any future color changes, as described above, desired by Owners must be first approved in writing by the Architectural Reviewer. The color of the roof tile shall not be changed nor shall other roofing materials or styles be substituted.

**9.9 Landscaping.** All areas not covered by structures, walkways, paved parking facilities or areas approved by the Association to be left in their natural state shall be maintained as lawn or landscape areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or surface water management areas. All lawn and landscaped areas shall be kept in good and living condition. Use of irrigation is subject to South Florida Water Management District water use guidelines.

**9.10 Driveways.** All driveways shall be constructed of concrete or paverstone.

**9.11 Antennas/Flagpoles.** Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Living Unit, or is located on the lanai of the Living Unit, extending no higher than the eaves of that portion of the roof of the Living Unit directly in front of the



Reception Device. The Board of Directors may require that a Reception Device be painted or screened by landscaping in order to blend into the Living Unit and removed from view from the street and other Living Units. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the Architectural Reviewer, but no Owner shall be prevented from displaying a portable, removable American flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, be prevented from displaying a portable, removable official US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'.

9.12 Outdoor Equipment. All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment, housing and sprinkler pumps and other such outdoor equipment must be walled-in or placed in sight-screened or fenced-in areas so that they shall not be readily visible from any adjacent streets or properties. Otherwise, adequate landscaping shall be installed and maintained around these facilities. The Neighborhood shall be equipped with dual water lines, one of which shall be designated to utilize non-potable water. All underground irrigation systems must be connected to the non-potable water line and all spigots on the exterior portion of a structure shall be connected to the potable water line. Basketball hoops, outdoor toys and swing sets are not permitted on an Owner's Parcel, nor shall they be stored on any lanai.

9.13 Air Conditioning Equipment. Window or wall air conditioning units are prohibited.

9.14 Solar Collectors. The Architectural Reviewer must approve the location of the materials used in the construction of solar collectors.

9.15 Walls, Fences, Window Coverings and Hurricane Shutters. Except as provided in Section 9.12 above, no wall or fence shall be constructed on any Parcel. Owners may install hurricane shutters, subject to specifications adopted by the Association and the Recreation Association. The Association shall have the authority to adopt hurricane shutter specifications, which may include color, style, time periods in which shutters may be kept closed, and other factors deemed relevant by the Association. Laminated glass and window film architecturally designed to function as hurricane protection which complies with the applicable building code, may be used in place of hurricane shutters, except that reflective window coverings are prohibited. The Association's hurricane shutter specifications may not conflict with those adopted by the Recreation Association.

9.16 Lighting. The exterior lighting of a Parcel shall be accomplished in accordance with a lighting plan approved in writing by the Architectural Reviewer.

9.17 Developer. As used in this Section 9, when the Architectural Reviewer's approval is required, it shall, prior to Transition, mean the "Developer's approval" (unless the Developer has delegated its architectural review functions to another entity). After Transition, the Developer's approval shall also be required as long as Developer owns a Parcel or other property within the Neighborhood.

9.18 Clothes Drying Area/Clotheslines. No outdoor clothes drying area or clotheslines are permitted.

9.19 Milano Documents. The use and alteration of all Living Units and Common Area by the Association and all Owners is governed and limited by the Milano Documents. The use restrictions contained herein and any rules and regulations of the Association, as they may be amended from time to time, shall be cumulative with the provisions of the Milano Documents. The provisions of the Milano Documents shall prevail over any conflicting provisions contained in the Milano Section IV Documents, provided, however, that the Milano Section IV Documents may contain provisions that are more restrictive

than the Milano Documents.

10. DEVELOPER'S AND ASSOCIATION'S EXCULPATION. The Association and the Developer may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without incurring liability of any nature to the Owners or any other person for any reason whatsoever, any permission or approval so granted shall be binding upon all persons.

11. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. Every Owner and the Owner's family members, tenants, guests and invitees shall at all times comply with all the covenants, conditions and restrictions of the Governing Documents. All violations of the Governing Documents shall be reported immediately to a member of the Board of Directors. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. If any person, firm or entity subject to the Governing Documents fails to abide by them, as they are interpreted by the Board of Directors, the Association shall have the ability to take any action to compel compliance as set forth below.

11.1 Legal Action. Judicial enforcement of the Governing Documents shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If such action is instituted, the Association shall, in addition, be entitled to recover its costs and attorney's fees incurred in enforcing the Governing Documents. Certain disputes must be submitted to dispute resolution procedures conducted by the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division") as more particularly set forth in Section 720.311 of the Act.

11.2 Entry by Association. Violation of any conditions or restrictions, or breach of any covenant, herein contained or in any of the Governing Documents, shall also give the Developer, its successors and assigns, and/or the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land of a Living Unit where such violation or breach exists and in the event of an emergency, summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Developer, its successors and assigns and/or the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

11.3 Fines . The Board may levy a fine or fines against an Owner for failure of the Owner, his family, guests, invitees, tenants, or agents of any of the foregoing, to comply with any covenant, restriction, rule, or regulation contained herein or promulgated pursuant to the Governing Documents. Fines shall not be secured by a lien against the Parcel, unless permitted by the Act.

11.4 Alternative Method for Resolving Disputes with the Developer. In any dispute ("Claim") between any of the following parties (the Association, the Recreation Association or any Owner, tenant, guest, occupant or invitee) against the Developer or its directors, officers, agents and employees, or against any directors or officers of the Association appointed by the Developer prior to the Turnover Date, mediation and then final and binding arbitration shall apply. The procedures set forth in subsections (a) through (e) below shall apply, except in the case of a Claim alleging a construct defect brought

against the Developer by the Recreation Association or the Association that is governed by Chapter 558, Florida Statutes, in which case the procedures set forth in subsections(a) through (e) shall be modified as described in subsection (g):

(a) Any party having a Claim (“Claimant”) against the other party (“Respondent”) shall notify the Respondent in writing (“Notice”), stating plainly and concisely:

- (i) the nature of the Claim, including the persons involved and the Respondent’s role in the claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy;
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) The parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim. If the parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed to by the parties), Claimant shall have 10 days in which to submit the Claim to mediation under the auspices of a mediator certified by the 20<sup>th</sup> Judicial Circuit. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time period as determined by the mediator, the mediator shall issue a notice of an impasse and the date the mediation was terminated.

(c) If the mediation results in an impasse, then either party shall have 10 additional days in which to submit the Claim to final and binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (“AAA”), in the case of a construction defect claim and the Federal Arbitration Act (Title 9 of the United States Code). If not timely submitted to arbitration or if the Claimant does not appear for the arbitration hearing, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant. This subsection (c) is an agreement to arbitrate and is specifically enforceable under Chapter 682, Florida Statutes. The arbitration award shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Florida.

(d) In any dispute under this Section 11.4, the parties shall share the fees and costs associated with mediation. In the case of arbitration, the prevailing party shall be entitled to judgment for its reasonable attorney’s fees and costs incurred.

(e) If the parties agree to a resolution of any Claim through negotiation, mediation or arbitration under this Section 11.4, and any party thereafter fails to abide by the terms of such agreement, or if any party fails to comply with an arbitrator’s final order, then any other party may file suit in a court of competent jurisdiction to enforce such agreement or final order without the need to again comply with the

procedures set forth above. In such event, the party taking action to enforce the agreement or final order shall be entitled to recover from the non-complying party (or if more than one non-complying party, jointly and severally), all costs incurred in enforcing such agreement or final order, including, without limitation, reasonable attorney's fees and costs.

(f) This Section 11.4 shall not apply to a dispute between an Owner and the Developer concerning the purchase and sale and construction of a Parcel or Living Unit. Those disputes shall be governed by the provisions of any purchase and sale agreement or construction agreement.

(g) In the case of a Claim alleging a construction defect brought against the Developer by the Recreation Association or the Association that is governed by Chapter 558, Florida Statutes, the parties to the dispute shall follow the procedures set forth therein. If the Claimant has followed the procedures set forth in Chapter 558, Florida Statutes and is entitled to proceed with an "action" (as defined therein) the Claimant shall then have 10 days in which to submit the Claim to mediation as described in subsection (c) above. The parties shall then be bound by the remaining procedures described in subsections (c) through (e) above.

12. LEASING, CONVEYANCE, DISPOSITION. In order to maintain a community of congenial, financially responsible residents with the objectives of inhibiting transiency, protecting the value of the units and facilitating the development of a stable, quiet community and peace of mind for all residents, the lease, and transfer of ownership of a Parcel by an Owner shall be subject to the following restrictions, which each Owner covenants to observe (except for the exceptions set forth in Section 12.5 below):

12.1 Forms of Ownership:

(A) A Parcel may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(B) Co-ownership. Co-ownership of Parcels may be permitted. If the proposed co-owners are other than husband and wife, or two (2) persons who reside together as a single housekeeping unit, the Board shall condition its approval upon designation of two (2) individuals as the "primary occupants", and the use of the Parcel by other persons shall be as though the primary occupants were the only actual Owners. The intent of this provision is to permit multiple owners, but to prohibit short term, transient use by several individuals or families. Any change in the primary occupants shall be treated as a transfer of ownership by sale or gift, subject to all of the provisions of this Section.

(C) Ownership by Corporations, Partnerships or Trusts. A Parcel may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers or title. However, the intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Parcel may be used as short term transient accommodations for several individuals or families. The approval of a trustee, corporation or other entity as an Owner shall be conditioned upon designation of two (2) individuals as the "primary occupants", and the use of the Parcel by other persons shall be as though the primary occupants were its only actual Owners. Any change in the primary occupants shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section 12. No more than one such change will be approved in any twelve-month period.

(D) Life Estate. A Parcel may be subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the life tenant shall be the only member from such Parcel, and occupancy of the Parcel shall be as if the life tenant was the only Owner. Upon termination of the life

estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and holders of the remainder interest shall be jointly and severally liable for all assessments and charges against the Parcel. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. Except in the case where such a transfer has been made, if the consent or approval of the Owner is required for any purpose, that consent or approval of the holders of the remainder interest shall not be required.

12.2 Transfers. Prior to the lease or transfer, it is the responsibility of the Owner to provide the tenant or purchaser the complete set of Governing Documents and any other documents required by law. If the new purchaser has not received a copy of said documents, the closing shall be delayed until such time as the documents are provided.

(A) Lease, Sale or Gift. No Owner may effectively lease, or convey title to a Parcel or any interest therein by sale or gift without the prior written approval of the Board of Directors of the Association.

(B) Devise or Inheritance. If any Owner acquires his title by devise or inheritance, his right to Occupy or use the Parcel shall be subject to the approval of the Association. The approval of the Association shall not be denied to any devisee or heir who was the decedent's lawful spouse or related to the Owner by blood or adoption within the first degree.

(C) Other Transfer. If any person acquires title in any manner not considered in the foregoing subsections, his right to Occupy the Parcel shall be subject to the approval of the Association under the procedure outlined in Section 12.3 below.

### 12.3 Procedures.

#### (A) Notice to Association.

(1) Lease, Sale or gift. An Owner intending to lease his Living Unit or sell or make a gift of his Parcel or any interest therein, shall give to the Board of Directors or its designee, written notice of such intention at least twenty (20) days prior to the date of the proposed lease or transfer, together with the purchase and sale agreement or lease, and the name, and address of the proposed tenant, purchaser or donee and such other information as the Board may reasonably require. The Association may charge a transfer fee in the amount of up to \$100.00 for the cost of processing each application.

(2) Devise, Inheritance or Other Transfers. The transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy right unless approved by the Board, but may sell or lease the Parcel in accordance with the procedures provided in this Declaration.

(3) Failure to give Notice. If no notice is given, the Association at its election may approve or disapprove the lease or transfer without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed transferee may provide the Board with the required notice and request reconsideration.

(B) Within twenty (20) days of receipt of the required notice and all information requested, but not later than sixty (60) days after receipt of the notice, whichever occurs first, the Board shall approve or

disapprove the lease or transfer. If a lease or transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form (for transfers) and delivered to the lessor or transferee. If the Board neither approves nor disapproves within twenty (20) days, such failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a Certificate of Approval to the lessor or transferee. If the Association disapproves without good cause, upon written demand of the Owner, the Association shall supply an alternate purchaser it approves or the Association may itself elect to purchase and the Owner must sell to such alternate purchaser or to the Association upon the same terms set forth in the purchase and sale agreement, or the Owner may withdraw the proposed sale. In the event of a sale, the closing shall occur within sixty (60) days after an alternate purchaser has been furnished or the Association has elected to purchase.

(C) Disapproval.

(1) The Board may disapprove a proposed lease or transfer only if a majority of the whole Board votes to disapprove the transfer. Only the following shall be deemed to constitute good cause:

(a) The person seeking approval has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;

(b) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

(c) The application for approval on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Neighborhood;

(d) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct as a tenant, Owner or occupant of a Living Unit; or

(e) The person seeking approval failed to provide the information and appearance required to process the application in a timely manner.

(f) The Owner is delinquent on assessments owed to the Association at the time of application.

12.4 Leasing. Only entire Living Units may be leased. The minimum leasing period is thirty (30) days and no Living Unit may be leased more than four (4) times in any one (1) calendar year. For purposes of this restriction, the first day of occupancy under the lease shall conclusively determine in which year the lease occurs. No Living Unit may be used on a "time share" basis. All leases must and shall be deemed to contain the agreement of the tenant(s) to abide by all of the restrictions contained in the Governing Documents and shall be deemed to provide that a violation thereof is grounds for damages, termination and eviction and that the tenant and the Owner agree that the Association may proceed against either the Owner or the tenant and that the Owner or the tenant shall be responsible for the Association's costs and expenses, including attorney's fees and costs, secured by a lien against the Parcel.

12.5 Exception. The provisions of Section 12 do not require Association approval of the acquisition of title by judicial sale, nor by an Institutional Mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure; however, Association approval is required for a purchaser from such mortgagee. The Developer shall have the right to sell, lease or transfer any Parcel/Living Unit it owns without Association approval, and on such terms and conditions it deems to be in

its best interests.

12.6 Unapproved Transfers. Any lease, sale or transfer which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board.

13. DEVELOPER'S RIGHTS AND DUTIES: As long as the Developer holds title to any Parcels or other property in the Neighborhood, the following shall apply, notwithstanding any other provisions to the contrary.

13.1 Developer's Use. Neither the Owners nor the Association nor their use of the Parcels, Living Units, or Common Area shall unreasonably interfere with the completion of the contemplated improvements or sales of Parcels. The Developer may make any use of unsold Parcels, Living Units and Common Area as may reasonably be expected to facilitate completion and sales, including, but not limited to, maintenance of sales offices, display of signs, leasing Living Units, and showing the Neighborhood to prospective purchasers. Developer may utilize any model homes, sales offices, trailers, etc., for use in marketing developments other than Milano Section IV, regardless of whether they are located within or outside of Milano. Developer shall retain all rights set forth in this Section 13.1 until the Developer has completed all of the contemplated improvements, has sold all of the Parcels in the Neighborhood, and is not leasing a Living Unit from an Owner.

13.2 Assignment of Development Rights. All or any portion of the rights, privileges, powers and duties of the Developer set forth in the Governing Documents may be assigned by the Developer to any person or entity, without the consent of any other Owner or any holder of a mortgage secured by any Parcel. In the event of such assignment, the assignee shall assume such rights, powers and duties, and the Developer shall be relieved of all further liability or obligation to the extent of the assignment. In the event of the foreclosure of any mortgage owed by the Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer in and to such interest and the Developer shall be relieved of any further liability or obligation to the extent of such transfer of title.

14. DURATION OF COVENANTS: AMENDMENT OF DECLARATION:

14.1 Duration of Covenants. The covenants, conditions and restrictions of this Declaration shall run with and bind the Neighborhood, and shall inure to the benefit of and be enforceable by the Association, the Developer and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period to expire on the thirtieth (30th) anniversary of the date of recordation of the Declaration (as amended to that date by the Developer or the membership as provided elsewhere herein). Upon the expiration of the initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Declaration being renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten (10) year renewal period, ninety percent (90%) of the entire membership, at a duly held meeting of members of the Association, vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the members vote to terminate this Declaration, the President of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts

contained therein as they relate to the termination of this Declaration.

14.2 Proposal. Amendments to this Declaration may be proposed at any time by the Board of Directors or by written petition signed by one-fourth (1/4) of the voting interests. If by petition, the proposed amendments must be submitted to a vote of the Owners not later than the next annual meeting.

14.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be amended if the proposed amendment is approved by at least two-thirds (2/3) of the voting interests, provided that the text of each proposed amendment has been given to the Members with notice of the meeting. No amendment shall increase the proportion or percentage by which any Parcel shares assessments or materially, adversely alter the proportionate voting interest appurtenant to a Parcel, unless the Association obtains the prior written consent and joinder, in recordable form, of all Owners and all holders of a lien against a Parcel.

14.4 Certificate; Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by the President or Vice President with the formalities of a deed. The amendment shall be effective when the certificate is recorded in the Public Records of Collier County, Florida.

14.5 Developer's Rights. As long as the Developer holds title to any Parcel or property in the Neighborhood, no amendment adopted by the membership shall be effective without the prior written consent and joinder of Developer, which consent may be denied in Developer's discretion. In addition, no amendment shall be effective which alters the rights and privileges of Developer, an Institutional Mortgagee, the Recreation Association, or the South Florida Water Management District, unless such party shall first provide its written consent and joinder.

14.6 Developer Amendment of Documents. In addition to any other right of amendment or modification provided for in this Declaration, to the extent permitted by law, the Developer, or any entity which succeeds to its position as the Developer of the Neighborhood may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the provisions of this Declaration or any of its recorded exhibits. Any amendment made pursuant to this paragraph may be made without notice to the members or to any other entity. Annexation of additional real property and subjecting same to this Declaration, dedication of Common Area to the Association, and amendments to this Declaration requires HUD/VA approval as long as there is a Class "B" Membership.

15. TRANSITION FROM DEVELOPER CONTROL. Pursuant to Section 720.307 of the Act, the members other than the Developer are entitled to elect a majority of the Board of Directors three (3) months after ninety percent (90%) of all Parcels in Milano Section IV that ultimately will be operated by the Association have been conveyed to members other than Developer. The Developer shall be entitled to elect at least one (1) member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Parcels in all phases of Milano Section IV. The Developer may turn over control of the Board of Directors prior to the Transition Meeting by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of members other than Developer to elect Directors and assume control of the Association provided that at least thirty (30) days notice has been sent to the members.

## 16. GENERAL PROVISIONS.

16.1 Waiver. Any waiver by Developer of the breach of any provisions of this Declaration must be



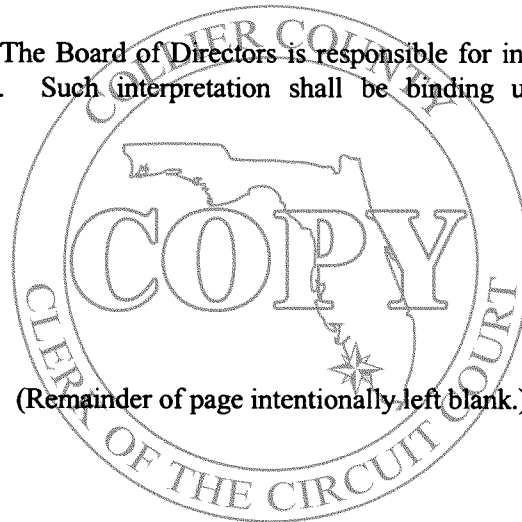
in writing and shall not operate or be construed as a waiver of any other provision or of any subsequent breach.

16.2 Severability. If any section, subsection sentence, clause, phrase or portion of this Declaration or any of its recorded exhibits is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions.

16.3 Headings. The headings of the Sections herein are for convenience only, and shall not affect the meaning or interpretation of the contents thereof.

16.4 Notices. Any notice required to be sent to any Owner other than Developer under the provisions of this Declaration or the Bylaws, shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. The Owner bears the responsibility for notifying the Association of any change of address. Any notice sent to Developer shall be sent by certified or registered mail, return receipt requested to Pulte Home Corporation, 9148 Bonita Beach Road, Suite 102, Bonita Springs, Florida 34135, Attn: Ed Stackhouse.

16.5 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable.



(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the Developer does hereby execute this Declaration of Covenants, Conditions and Restrictions through its undersigned, duly authorized agent and attorney in fact this 16 day of May, 2006.

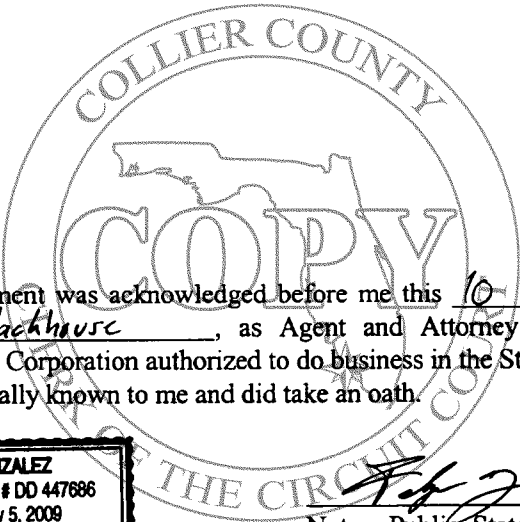
In the Presence of:

PULTE HOME CORPORATION, a Michigan Corporation authorized to do business in the State of Florida (SEAL)

[Signature]  
Printed name: Felipe Gonzalez  
[Signature]  
Printed name: Oliver Garcia

By: [Signature]  
Print Name: EDWIN D. STACKHOUSE  
Its: Agent and Attorney in fact  
Date: 5/10/06

STATE OF FLORIDA  
COUNTY OF LEE



The foregoing instrument was acknowledged before me this 10 day of May, 2006, by Edwin D. Stackhouse, as Agent and Attorney in fact of PULTE HOME CORPORATION, a Michigan Corporation authorized to do business in the State of Florida, on behalf of the corporation. He/She is personally known to me and did take an oath.



[Signature]  
Notary Public, State of Florida  
Print Name Felipe Gonzalez  
Serial No. DD 447686  
My Commission Expires: July 5, 2009

(SEAL)

**EXHIBIT "A"**  
**MILANO SECTION IV**

Lots 1-64, Milano, according to the plat thereof recorded in Plat Book 41 at Page 69, et. seq., Public Records of Collier County, Florida.



**EXHIBIT "A-1"**  
**MILANO SECTION IV**

Lots 1-14, Milano, according to the plat thereof recorded in Plat Book 41 at Page 69, et. seq., Public Records of Collier County, Florida.

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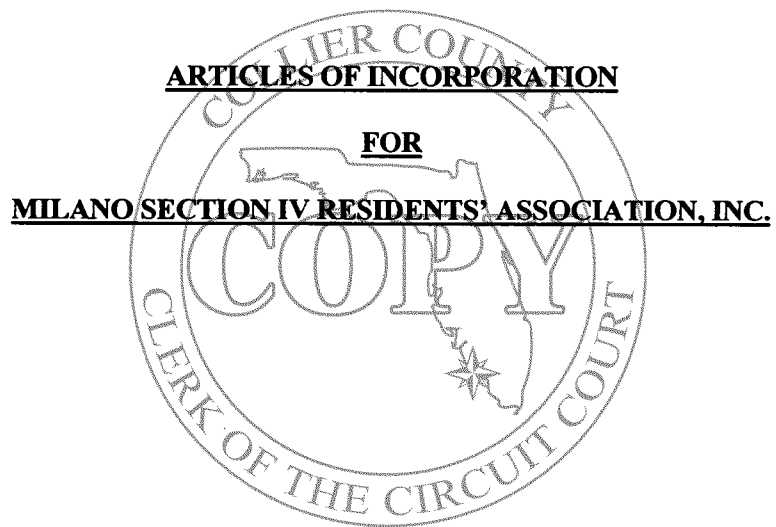


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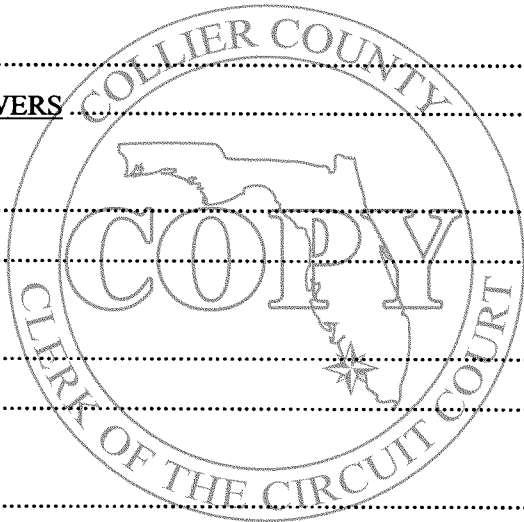


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Exhibit "B"

**ARTICLES OF INCORPORATION**  
**MILANO SECTION IV RESIDENTS' ASSOCIATION, INC.**

Pursuant to Section 617.02011, Florida Statutes, the undersigned hereby executes these Articles of Incorporation for the purpose of forming a Corporation under the Florida Not-for-Profit Business Corporation Act.

**ARTICLE I**

**NAME:** The name of the corporation, herein called the "Association", is Milano Section IV Residents' Association, Inc., and its address is c/o Pulte Home Corporation, 9148 Bonita Beach Road, Suite 102, Bonita Springs, FL 34135.

**ARTICLE II**

**DEFINITIONS:** The definitions set forth in the Declaration of Covenants, Conditions and Restrictions for Milano Section IV and Section 720.301, F.S., (2005), shall apply to terms used in these Articles.

**ARTICLE III**

**PURPOSE AND POWERS:** The purpose for which the Association is organized is to provide an entity pursuant to Section 720.301, F.S. (2005) to act as a "homeowners' association" for the operation of Milano Section IV (the "Neighborhood") located in Collier County, Florida. The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit and of a homeowners' association under the laws of the State of Florida, except as expressly limited or modified by the Governing Documents and it shall have all of the powers and duties reasonably necessary to operate the Neighborhood pursuant to the Governing Documents as they may hereafter be amended, including but not limited to the following:

- (A) To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the Association property.
- (C) To purchase insurance for the protection of the Association and its members.
- (D) To repair and reconstruct improvements after casualty, and to make further improvements of the Association property.
- (E) To make, amend and enforce reasonable rules and regulations as set forth in the Declaration.
- (F) To approve or disapprove the transfer, leasing and occupancy of Parcels as provided in the Declaration.
- (G) To enforce the provisions of the laws of the State of Florida that are applicable to the Neighborhood, and the Governing Documents.

Exhibit     " B "



- (H) To contract for the management and maintenance of the Neighborhood and the Association property, and any property or easements and related improvements that are dedicated to the Association by plat, or separate instrument, including any agreement or easement which imposes maintenance obligations on the Association, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Declaration to be exercised by the Board of Directors or the membership of the Association.
- (I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Neighborhood.
- (J) To borrow money as necessary to perform its other functions hereunder.
- (K) To grant, modify or move any easement.
- (L) To acquire, own, lease and dispose of any real and personal property.
- (M) To sue and be sued.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Governing Documents. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Neighborhood, including any property or easements and related improvements that are dedicated to the Association by plat, or separate instrument, including any agreement or easement which imposes maintenance obligations on the Association, shall be transferred to and accepted by an entity that is acceptable to any applicable governmental authorities, prior to such termination, dissolution or liquidation. Annexation of additional properties, mergers and consolidations, mortgaging of Common Area and dissolution of the Association requires prior written approval of the Department of Housing and Urban Development and the Veterans Administration ("HUD/VA") prior to transition of control of the Board of Directors from the Developer to Owners other than the Developer.

ARTICLE IV

MEMBERSHIP

- (A) The members of the Association shall be the record owners of a fee simple interest in one or more Parcels. Class A members of the Association are all owners other than Developer. The Class B member is the Developer as further provided in the Bylaws.
- (B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his Parcel.
- (C) Except as otherwise provided in the Declaration and Bylaws with respect to the Class B Member, the owners of each Parcel, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE V

TERM: The term of the Association shall be perpetual.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VII

DIRECTORS AND OFFICERS:

- (A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.
- (B) Directors of the Association shall initially be appointed by and shall serve at the pleasure of the Developer, and following transition from Developer control shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board. The initial Directors are as follows:

Edwin D. Stackhouse  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135

W. Michael Meeks  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135

Laura Ray  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135

The initial Officers are: Edwin D. Stackhouse, President; W. Michael Meeks, Vice President; and Laura Ray, Secretary/Treasurer.

ARTICLE VIII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

- (A) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least one-fourth (1/4th) of the voting interests of the Association.

- (B) Procedure. Upon any amendment to these Articles being proposed by said Board or members, such proposed amendment shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can be given.
- (C) Vote Required. Prior to transition of control of the Board of Directors from the Developer, amendments shall be adopted by the Board of Directors. Subsequent to transition of control of the Board of Directors, a proposed amendment shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests of the Association, at any annual or special meeting called for the purpose. As long as Developer owns a Parcel an amendment to the Articles of Incorporation shall not be effective without the prior written consent of Developer, which consent may be denied in Developer's discretion, provided, further, that regardless of whether Developer owns a Parcel, no amendment shall be effective if it affects the Developer's rights or alters any provision made for the Developer's benefit. Amendment of these Articles requires prior written approval of HUD/VA prior to transition of control of the Board of Directors from the Developer.
- (D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a Certificate of Amendment in the Public Records of Collier County, Florida, with the formalities required for the execution of a deed.

ARTICLE IX

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorney fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved.

- (A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.

The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

ARTICLE X

INCORPORATOR: The name and address of the Incorporator is as follows:

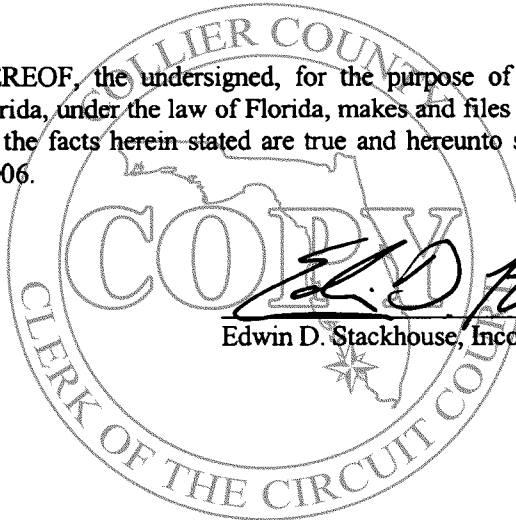
Edwin D. Stackhouse  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135


ARTICLE XI

REGISTERED OFFICE AND REGISTERED AGENT: The name and address of the Registered Agent and the address of the Registered Office is:

Edwin D. Stackhouse  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135

IN WITNESS WHEREOF, the undersigned, for the purpose of forming a Corporation to do business with the State of Florida, under the law of Florida, makes and files these Articles of Incorporation, hereby declares and certifies the facts herein stated are true and hereunto set my hand this 2 day of May, 2006.



  
Edwin D. Stackhouse, Incorporator

**CERTIFICATE OF DESIGNATION**  
**REGISTERED AGENT/REGISTERED OFFICE**

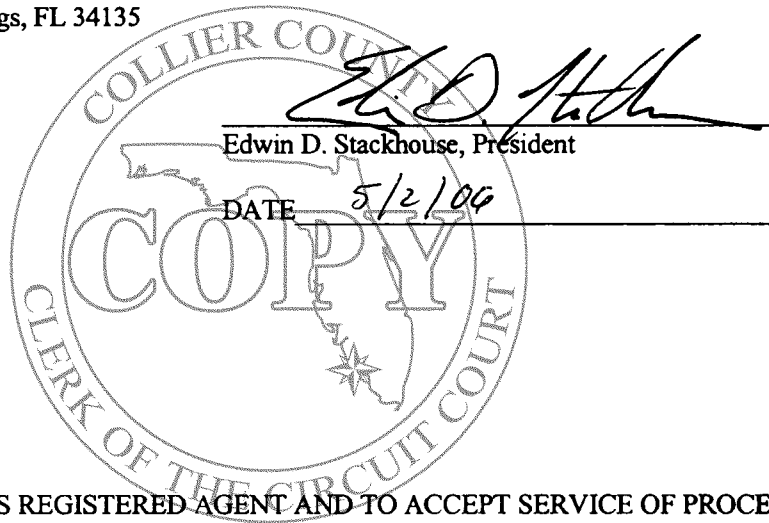
Pursuant to the provisions of Section 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent, in the State of Florida.

1. The name of the corporation is:

MILANO SECTION IV RESIDENTS' ASSOCIATION, INC.

2. The name and address of the registered agent and office is:

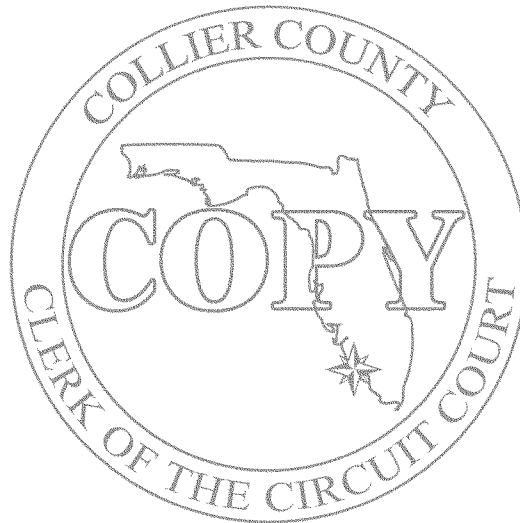
Edwin D. Stackhouse  
c/o Pulte Home Corporation  
9148 Bonita Beach Road, Suite 102  
Bonita Springs, FL 34135



HAVING BEEN NAMED AS REGISTERED AGENT AND TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY ACCEPT THE APPOINTMENT AS REGISTERED AGENT AND AGREE TO ACT IN THIS CAPACITY. I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATING TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES, AND I AM FAMILIAR WITH AND ACCEPT THE OBLIGATIONS OF MY POSITION AS REGISTERED AGENT.

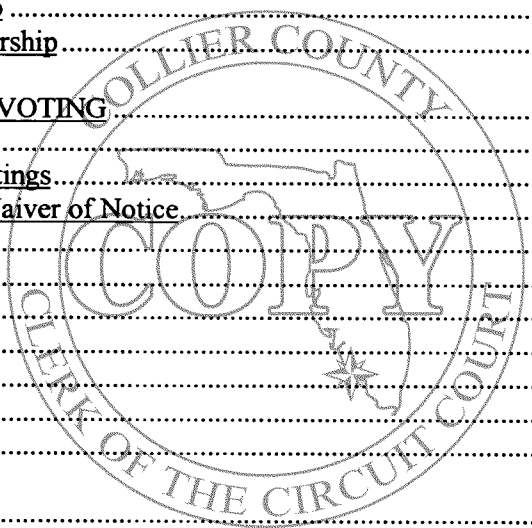
SIGNATURE Edwin D. Stackhouse  
Edwin D. Stackhouse  
DATE: 5/2/06

**BYLAWS  
FOR  
MILANO SECTION IV RESIDENTS' ASSOCIATION, INC.**



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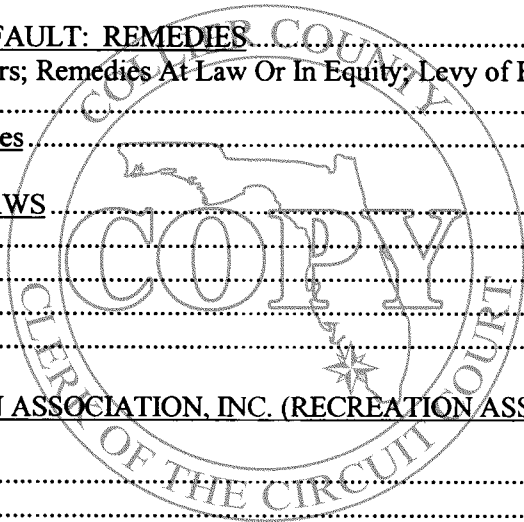
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**BYLAWS****MILANO SECTION IV RESIDENTS' ASSOCIATION, INC.**

1. **GENERAL**: These are the Bylaws of Milano Section IV Residents' Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating Milano Section IV (the "Neighborhood") pursuant to the Florida Not-For-Profit Corporations Act.

1.1 **Principal Office**. The principal office of the Association is c/o Pulte Home Corporation, 9148 Bonita Beach Road, Suite 102, Bonita Springs, FL 34135.

1.2 **Seal**. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions**. The definitions set forth in the Declaration of Covenants, Conditions and Restrictions for Milano Section IV (the "Declaration"), and Sec. 720.301, F.S., (2005), shall apply to terms used in these Bylaws.

2. **MEMBERS**:

2.1 **Qualifications**. The members of the Association shall be the record owners of legal title to the Parcels in the Neighborhood (except as expressly stated to the contrary herein, the terms "Parcels", "Lots", "Units" and "Living Units" shall be utilized interchangeably). In the case of a Parcel subject to an agreement for deed, the purchaser in possession shall be deemed the owner of the Parcel for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events.

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Parcel.
- (B) Approval by the Board of Directors as provided for in the Declaration.
- (C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- (D) Delivery to the Association, if required, of a written designation of a primary occupant.

2.2 **Voting Interest**. The Class A Members of the Association are entitled to one (1) vote for each Parcel owned by them. The total number of Class A votes shall not exceed the total number of Parcels subject to the Declaration. Prior to Transition (as referenced in Section 15 of the Declaration), the Class B Member shall be entitled to a number of votes equal to the total number of Parcels owned by the Class A Members plus one (1) vote. After Transition, the Class B Member shall be entitled to one (1) vote for each Parcel owned by the Class B Member. If a Parcel is owned by one natural person, his right to vote shall be established by the record title to the Parcel. If a Parcel is owned jointly by two or more natural persons, that Parcel's vote may be cast by any one of the record owners. If two or more owners of a Parcel do not agree

among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the owner of a Parcel is a corporation, partnership, limited liability company, trust or other entity other than a natural person, the vote of that Parcel shall be cast by any officer, director, partner, managing member, member, or trustee, as the case may be.

**2.3 Approval or Disapproval of Matters.** Whenever the decision or approval of the Owner of a Parcel is required upon any matter, whether or not the subject of a Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Parcel at an Association meeting as stated in Section 2.2 above, unless the joinder of all record owners is specifically required.

**2.4 Change of Membership.** Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior owner shall be terminated automatically.

**2.5 Termination of Membership.** The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Neighborhood during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

### **3. MEMBERS' MEETINGS: VOTING:**

**3.1 Annual Meeting.** There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Collier County, Florida, each year at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any business duly authorized to be transacted by the members.

**3.2 Special Members' Meetings.** Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members having at least twenty-five percent (25%) of the voting interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

**3.3 Notice of Meetings; Waiver of Notice.** Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. The member is responsible for providing the Association with notice of any change of address. The Notice of Meeting must be mailed or delivered at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a member constitutes waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting. A member may waive notice of any meeting at any time, but only by written waiver. Notice to the members of meetings of the Board, meetings of a committee requiring notice in the same manner as meetings of the Board, and annual and special meetings of the members, may be electronically transmitted in the manner set forth in Section 617.0141, Florida Statutes (except as limited by the Act and these Bylaws). Notice to the members by electronic transmission is effective: when actually transmitted by facsimile telecommunication, if correctly directed to a number at which the member has consented to receive notice; when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the member has consented to receive notice. Notice is also effective when posted on an electronic network that the member has consented

to consult, upon the later of: such correct posting; or the giving of a separate notice to the member of the fact of such specific posting; or when correctly transmitted to the member, if by any other form of electronic transmission consented to by the member to whom notice is given. Consent by a member to receive notice by electronic transmission shall be revocable by the member by written notice to the Association. Any such consent shall be deemed revoked if: the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. The member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the member has revoked his consent. However, the Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. As used in these Bylaws, the term "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmission of images, and text that is sent via electronic mail between computers. An affidavit of the Secretary, an Assistant Secretary, or other authorized agent of the Association that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice.

3.4 Quorum. A quorum at meetings of the members shall be attained by the presence, either in person or by proxy, of members entitled to cast at least thirty percent (30%) of the votes of the entire membership. After a quorum has been established at a members' meeting, the subsequent withdrawal of any voting members, so as to reduce the number of voting interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.5 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the governing documents.

3.6 Proxy Voting. To the extent lawful, any member entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the votes, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to give notice to all members of the time and place of its continuance regardless of whether such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting

as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.8 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum.
- (B) Reading or disposal of minutes of last members meeting
- (C) Reports of Officers
- (D) Reports of Committees
- (E) Unfinished Business
- (F) New Business
- (G) Adjournment

3.9 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

3.10 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. BOARD OF DIRECTORS: The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Parcel owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). The initial Directors shall be appointed by and shall serve at the pleasure of the Developer. At the Transition meeting, and subsequently, Directors shall be elected in accordance with the Act and these Bylaws. Prior to the Transition meeting, the Association shall solicit candidates and any eligible person may place his or her name in nomination. Nominations from the floor shall be accepted only if required by the Act. At the Transition meeting, the two (2) Directors who receive the highest number of votes shall be elected to two (2) year terms, and the remaining director elected shall serve an initial one (1) year term. In the event of a tie vote, or if there are three (3) or fewer candidates, then the candidates shall mutually agree on whom shall serve the longer initial term or the Association shall conduct a "run-off election". In any subsequent election, a tie vote shall be broken by voluntary agreement, drawing lots between the candidates, or by a "run-off" election. Thereafter, all directors shall serve two (2) year terms. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is recalled as provided in 4.4 below.

4.2 Qualifications. Directors appointed by the Developer need not be members. Directors elected by the membership must be a member or the spouse of a member. If a unit is owned by a corporation, partnership, limited liability company or trust, any officer, director, partner, managing member, member, or trustee, as the case may be, shall be eligible to be a Director.

4.3 Vacancies on the Board. If the office of any Director becomes vacant for any reason, other than recall by the membership at a membership meeting, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term except that vacancies of all Directors appointed by the Developer shall likewise be filled by the Developer. If the Association fails to fill vacancies on the Board sufficient to constitute a quorum, or if no member remains on the Board, the vacancy may be filled by the members (via a special meeting of the membership) or any member may apply to the Circuit Court for the appointment of a receiver to manage the Association's affairs, in the manner provided by Florida law.

4.4 Removal of Directors. Except for Directors appointed by the Developer, any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Section 720.303(10) of the Act.

4.5 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may be held immediately following the election, in which case noticing of the meeting may be effectuated by the Board existing prior to the election.

4.6 Other Meetings. Meetings of the Board may be held at such time and place in Collier or Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least forty-eight (48) hours prior to the day named for such meeting.

4.7 Notice to Owners. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors shall be open to members except for meetings between the Board 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; or personnel matters. Notices of all Board meetings shall be posted conspicuously in the Neighborhood for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In the alternative to the posting requirements discussed above, notice of each Board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notice of a Board meeting or committee meeting requiring notice may be provided by electronic transmission to those members who have consented to receiving notice by electronic transmission. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered at the meeting and the nature of the assessments. Members have the right to speak for at least three (3) minutes, on any matter that is placed on the Board meeting agenda by petition of the membership pursuant to Section 720.303(2)(d) of the Act. The Association may adopt reasonable, written rules expanding the rights of members to speak and governing the frequency, duration, and other manner of member statements (including a sign-up sheet requirement), which rules must be consistent with the minimum requirements of Section 720.303(2)(b) of the Act.

4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.9 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a

conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.10 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the governing documents or by applicable statutes. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

4.11 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

4.12 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.13 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.14 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by law, committee meetings shall be open to attendance by any member, and notice of committee meetings shall be posted in the same manner as required in Section 4.7 above for Board meetings except for such committee meetings between the committee 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 or personnel matters.

## 5. OFFICERS:

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated, or the Association's property manager.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated, or the Association's property manager.

6. FISCAL MATTERS: The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed to each member not less than fourteen (14) days prior to that meeting, except that no budget meeting shall be required if the Developer has elected to "guaranty" or "subsidize" the budget for that fiscal year. The proposed budget shall reflect the estimated revenues and expenses for that year by categories, as well as the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the developer, or another person, if any.

6.3 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget may include reserve accounts for capital expenditures and deferred maintenance. Any reserves collected may be utilized in the manner the Board determines in its discretion, unless the reserves are specifically classified as "restricted reserves" in which case those funds and any interest thereon shall be utilized only for their intended, restricted purpose, unless a majority of the members present, in person or by proxy, at a meeting called for such purpose, vote to utilize "restricted reserves" for other than the intended, restricted purpose.

6.4 Assessments. Regular annual assessments based on the adopted budget shall be paid either monthly, or quarterly, as determined by the Board. Failure to send or receive notice of assessments shall not excuse

the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

6.5 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. Subsequent to transition from Developer control of the Board of Directors, no special assessment shall be levied unless it is first approved by two-thirds of the voting interests. Provided however, that no membership approval shall be required for a special assessment that relates to the necessary maintenance, repair, insurance or replacement of a Common Area or if the special assessment is required for the Board of Directors to comply with any law or ordinance, or an order of any municipal, state or federal agency. An assessment may not be levied at a Board meeting unless a written notice of the meeting is provided to each member at least fourteen (14) days before the meeting, which notice includes a statement that assessments will be considered at the meeting and the nature of the assessments. Written notice of any meeting at which special assessments will be considered must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the members and posted conspicuously on the property or broadcast on closed-circuit television not less than fourteen (14) days before the meeting.

6.6 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.7 Financial Reporting. Within 60 days following the end of the fiscal year, the Board of Directors shall mail or furnish by personal delivery to each member a financial report for the previous 12 months. The financial report shall be prepared in accordance with Section 720.303(7) of the Act.

6.8 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt and amend rules and regulations subject to any limits contained in this Declaration. Written notice of any meeting at which rules that regulate the use of Parcels may be adopted, amended, or revoked must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the members and posted conspicuously on the property or broadcast on closed-circuit television not less than fourteen (14) days before the meeting. A written notice concerning changes to the rules that regulate the use of Parcels must include a statement that changes to the rules regarding the use of Parcels will be considered at the meeting. Copies of such rules and regulations shall be furnished to each Parcel owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Parcel owners and uniformly applied and enforced. Subsequent to Transition, and as long as Developer owns a Parcel, no new or amended rule shall be effective unless Developer grants its approval in writing, which approval may be denied in Developer's discretion.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the Declaration, the following provisions shall apply:

8.1 Obligations of members; Remedies At Law Or In Equity; Levy of Fines and Suspension of Use Rights.



(1) Each member and the member's tenants, guests and invitees, are governed by, and must comply with the Act and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by any members against:

- (A) The Association;
- (B) A member;
- (C) Any director or officer who willfully and knowingly fails to comply with the provisions of the Act and the Governing Documents; and
- (D) Any tenants, guests, or invitees occupying a Parcel.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy. Certain disputes must be submitted to dispute resolution procedures conducted by the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division") as more particularly set forth in Section 720.311 of the Act.

(2) The Association may levy reasonable fines against Parcel owners, in those cases in which owners commit violations of the Act, the provisions of the Governing Documents, or condone such violations by their family members, tenants, guests, invitees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law. The procedure for imposing such fines shall be as follows:

- (A) A fine may not be imposed without notice of at least fourteen (14) days to the person sought to be fined and opportunity for hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, sister of an officer, director or employee, and the notice shall include:
  - (1) A statement of the date, time and place of the hearing;
  - (2) A statement of the provisions of Florida law and the Governing Documents which have allegedly been violated; and,
  - (3) A short and plain statement of the matters asserted by the Association; and,
- (B) The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The Parcel owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest. Fines shall not be secured by a lien against the Parcel, unless permitted by the Act.
- (C) If the Committee, by majority vote, does not approve the fine, it may not be imposed.

(D) The Association may not suspend the voting rights of a member.

8.2 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the community free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS: Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board signed by the owners of at least one-fourth (1/4) of the Parcels.

9.2 Procedure. Upon any amendment or amendments to these Bylaws being proposed by said Board or Parcel owners, such proposed amendment or amendments shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can still be given.

9.3 Vote Required. Prior to transition of control of the Board of Directors from the Developer of the Neighborhood, amendments shall be adopted by the Board of Directors. Subsequent to transition of control of the Board of Directors, a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the members in accordance with law. As long as Developer owns a Parcel in the Neighborhood, an amendment to the Bylaws shall not be effective without the prior written consent of Developer, which consent may be denied in Developer's discretion, provided, further, that regardless of whether Developer owns a Parcel, no amendment shall be effective if it affects Developer's rights or alters a provision herein made for Developer's benefit. Amendment of these Bylaws requires prior written approval of HUD/VA as long as there is a Class B membership.

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

10. MILANO RECREATION ASSOCIATION, INC. ("RECREATION ASSOCIATION") Members of the Recreation Association shall have votes cast on their behalf at meetings of the Recreation Association by a Representative, as more particularly described in the Milano Documents.

11. MISCELLANEOUS:

11.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, as the context requires.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

The foregoing were adopted as the first Bylaws of MILANO SECTION IV RESIDENTS' ASSOCIATION, INC. on this 10 day of May, 2006.



EDWIN D. STACKHOUSE, PRESIDENT

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