

**BY-LAWS  
OF  
THE PRESERVE OWNER'S ASSOCIATION, INC.**

A Corporation not for Profit  
under the Laws of the State of Alabama

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These are the By-Laws of The Preserve Owner's Association, Inc. (hereinafter for convenience called "Association" or "Corporation"), a corporation not for profit, incorporated under the laws of the State of Alabama.

**ARTICLE I**

**ASSOCIATION**

- 1.1 **Office.** The office of the Association shall be at USX Realty Development, 6200 E.J. Oliver Boulevard, Suite 183-C, Fairfield, Alabama 35064 (P.O. Box 599, Fairfield, Alabama 35064) or such other place as shall be selected by a majority of the Board of Directors.
- 1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.
- 1.3 **Seal.** The corporate seal of the Association shall consist of two concentric circles, between the edges of which shall be engraved the words: **The Preserve Owner's Association, Inc., Alabama, Not for Profit**, and across the center thereof the words: **Corporate Seal**, all as shown by an imprint of such seal in the margin of these by-laws. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

**ARTICLE II**

**DEFINITIONS**

- 2.1 **Articles of Incorporation:** The Articles of Incorporation of the Association.
- 2.2 **Association:** The Preserve Owner's Association, Inc., its successors and assigns.
- 2.3 **Association Land:** That part of The Preserve Property which may at any time hereafter be owned by the Association so long as the Association or successor thereof may be the owner or lessee thereof.
- 2.4 **Board:** The Board of Directors of the Association.
- 2.5 **By-Laws:** The duly enacted By-Laws of the Association.
- 2.6 **Commercial Parcel.** Any Parcel which is restricted for commercial uses or developed in a manner which allows commercial uses.
- 2.7 **Declaration:** The Declaration of Protective Covenants of The Preserve applicable to Member's Property which shall be recorded in the Probate Records of Jefferson County,

Alabama, as the same may from time to time be supplemented or amended in the manner described therein.

- 2.8 **Deed:** Any deed, assignment, lease, or other instrument conveying fee title or a leasehold interest in any part of the Preserve Property subjected to the Declaration.
- 2.9 **Developer:** United States Steel, LLC, a Delaware limited liability company, its successors and assigns.
- 2.10 **Member.** A person or other entity who is a record owner of Member's Property, or, if such a class of membership is created by the Board, a non-voting member of the POA which may or may not be a record owner of Member's Property.
- 2.11 **Member's Property, Property or Subject Property.** That portion of The Preserve Property which shall have been submitted to the Declaration for the purpose of creating a lien for assessments in favor of the Association. The term shall include each such new parcel of land at the time that the same is subjected to the Declaration as aforesaid.
- 2.12 **Open Spaces or Common Areas.** The Preserve Property which is conveyed to the Association by the owners or Developers of The Preserve or a part thereof and which is designated as an open space or area.
- 2.13 **Owner:** The owner of Member's Property.
- 2.14 **Parcel.** Any unit, Parcel, part or parcel of The Preserve Property which is subjected to the Declaration. Unless the context requires otherwise, the term "Parcel" shall include "Commercial Parcels".
- 2.15 **Property, Member's Property or Subject Property.** That portion of The Preserve Property which shall have been submitted to the Declaration for the purpose of creating a lien for assessments in favor of Association. The term shall include each such new parcel of land at the time that the same is subjected to the Declaration as aforesaid.
- 2.16 **Resident:** Any person or persons occupying or leasing Member's Property. A resident may or may not be an Owner.
- 2.17 **The Preserve or Preserve Property.** The property described as The Preserve in the Declaration and other property which may be acquired by Developer and developed as a part of The Preserve. That part of The Preserve subjected to the Declaration is referred to as "Property", "Subject Property", or "Member's Property".
- 2.18 **The Preserve Club.** The recreation club operated by the Association which may provide recreation amenities to Residents of The Preserve and to other persons as permitted by the Association.
- 2.19 **The Preserve Club Property.** Any property (real or personal) owned, leased or operated by the Association for the benefit of Residents of The Preserve and such other persons as permitted by the Association.

## ARTICLE III

### MEMBERSHIP

- 3.1 **Membership:** The Members of the Association shall consist of all owners of Member's Property and the Developer and shall be all those persons or other entities as set forth in Article V of the Articles of Incorporation.
- 3.2 **Classes of Voting Membership:** The Association shall have two classes of voting membership, Class A and Class B, each such Class consisting of those Members meeting the applicable qualifications for membership in each respective Class, as set forth in Article V of the Articles of Incorporation.
- 3.3 **Rights and Obligations of Membership.** The Members shall have all the rights, privileges, duties and obligations applicable to their respective Class of membership as set forth in the Declaration, the Articles of Incorporation, and elsewhere in these By-Laws.
- 3.4 **Assessments, Charges and Fees.** The rights of membership are subject to the payment of annual, monthly, quarterly or semi-annual assessments, charges and fees as set forth in the Declaration. The obligation of such assessments and charges, together with interest thereon and the costs of collection thereof (including reasonable attorney's fees) is imposed against each owner of, and is a lien upon, the Member's Property against which such assessment or charge is made, as provided in the Declaration. Assessments shall be determined by the Board of Directors of the Association and levied as set forth in the Declaration. Such assessments shall be used for the purposes set forth in the Declaration and for such other purposes as may be set forth in the Articles. All Member's Property shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged and otherwise encumbered subject to all the terms and provisions of the Declaration, the Articles of Incorporation and these By-Laws applicable to Member's Property, including, but not limited to, the continuing lien herein described.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Member's Property. No Member may waive or otherwise escape liability for the assessments provided for in the Declaration or in these By-Laws by non-use of the Association Land or other areas to which assessments are applied or abandonment of the Member's Property owned by such Member.

Unless otherwise provided in a deed or other conveyance, each Member, by acceptance of a deed or other conveyance to Member's Property, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the annual assessments, charges and fees, such assessments, charges and fees to be fixed, established and collected from time to time as hereinafter provided. Each such assessment, charge or fee, together with interest and cost of collection, including reasonable attorney's fees, shall be the personal obligation of the person who is the owner of such Member's Property at the time when the assessment, charge or fee fell due.

- 3.5 Suspension of Membership Rights:** The membership rights of any Member, including the right to vote and the right to use the Preserve Club Facilities (as defined in the Declaration), may be suspended by the Board of Directors (a) for any period during which any assessment or charge owed to the Association by such Member remains unpaid, and (b) for a period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations. Any such suspension shall not affect such Member's obligation to pay assessments coming due during the period of suspension and shall not affect the permanent charge and lien on the Member's Property in favor of the Association.

## ARTICLE IV VOTING RIGHTS

Each class of memberships shall have those voting rights as set forth in Article V of the Articles of Incorporation.

Each Class B Member shall have one vote for each Parcel (in The Preserve) and tract (within The Preserve Property) owned by such Member. When entitled to vote, each Class A Member shall have one vote for each Parcel owned by such Member.

When more than one (1) person (or other entity) holds an ownership interest or interests in any Parcel, the vote for such Parcel shall be exercised as they among themselves shall determine, but in no event shall more than one (1) person be entitled to cast the vote with respect to any Parcel. In the event of disagreement among such persons (or other entities) and an attempt by more than one to cast the vote of such Parcel, such persons (or other entities) shall not be recognized and the vote with respect to such Parcel shall not be counted.

## ARTICLE V ASSOCIATION POWERS

- 5.1 Additions to Association Land:** The Association shall accept the conveyance to it of additional Association Land by the Developer, its successors or assigns. No approval from any Member of the Association or anyone else is required for the Developer to convey as such property to the Association.
- 5.2 Mortgages:** Except as may be limited in the Declaration, the Association shall have the right to mortgage or otherwise burden or encumber all or part of its properties.
- 5.4 Dedication or Transfer of Properties:** The Association shall have the power to transfer the ownership of all or part of its properties, by dedication to a public authority or otherwise, provided that any such transfer shall be authorized by seventy-five percent (75%) affirmative vote, on a class basis, of the Members entitled to vote.

the Association to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the date for the annual meeting or special meeting called for election).

7.4 **Voting Procedures:** Each Class A Member shall receive as many ballots as he has Parcels in which such Member holds an interest required for membership by Article V of the Articles of Incorporation. Each Member shall indicate next to the name of each nominee on the ballot the number of votes he casts for the election of such nominee to the Board of Directors, or shall write in the name of a person not so nominated in the space on the ballot provided for this purpose. All ballots (or a sealed envelope containing the ballot or ballots) shall be signed by the Member casting it and returned to the Secretary of the Association, who, upon receipt of each ballot shall immediately place it in a safe or other locked place until the day set forth for the annual or other special meeting at which the elections are to be held. On that date, the ballots shall be turned over to an Elections Committee which shall consist of three (3) Members appointed by the Board of Directors. The Elections Committee shall then adopt a procedure which shall:

7.4.1 establish that the number of ballots turned in by each Member corresponds with the number of Parcels owned by such Member or his proxy identified on the ballot; and

7.4.2 establish that the signature of the Member or his proxy on the ballot or envelope containing the ballot is genuine; and

7.4.3 if the vote is by proxy, establish that a proxy has been filed with the Secretary as provided in Article XII of these By-Laws and that such proxy is valid.

If any ballot is found to contain more than the number of votes which the Member signing such ballot is entitled to cast, all votes on such ballot shall be disqualified and shall not be counted. After the announcement of the results by the Elections Committee, unless a review of the procedure is demanded by thirty-five percent (35%) of the Members casting ballots in the election within ten (10) days after the election, the ballots shall be destroyed.

## ARTICLE VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

8.1 **Powers:** The Board of Directors shall have the powers:

8.1.1 To call special meetings of the Members whenever it deems necessary, and it shall call a meeting at any time upon written request of one-fourth (1/4) of the voting membership, as provided in Section 12.2.

8.1.2 To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer or Director of the Association in any capacity whatsoever.

- 8.1.3 To establish, levy, assess and collect the assessments and charges set forth in Article III.
  - 8.1.4 To adopt and publish rules and regulations governing the use of the Association Land and the facilities.
  - 8.1.5 To exercise for the Association all powers, duties and authorities vested in or delegated to the Association, except those reserved to Members in the Declaration, or in the Articles of Incorporation, or elsewhere in these By-Laws.
  - 8.1.6 To appoint such committees as it deems in the best interests of the Association to carry out the functions and duties of the Board of Directors.
- 8.2 **Director Absences:** In the event that any member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may by action taken at the meeting during which said third absence occurs, declare the office of said absent Director to be vacant, and the provisions relating to the filling of a vacancy of the Board of Directors as set forth in Section 6.4 shall become operative.
- 8.3 **Duties:** It shall be the duty of the Board of Directors:
- 8.3.1 To cause to be kept a complete record of all its acts and corporate affairs and to present the statement thereof to the voting Members at the annual meeting of the voting Members or at any special meeting when such is requested in writing by one-fourth (1/4) of the total voting membership, as provided in Section 12.2.
  - 8.3.2 To supervise all officers, agents and employees of the Association, and to insure that their duties are properly performed.
  - 8.3.3 As more fully provided in the Declaration and Article III of these By-Laws, to fix the amount of the assessments, charges and fees against each Parcel owned by a Member at least thirty (30) days in advance of the date of any payment of such assessment is due.
  - 8.3.4 To prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the offices of the Association and which shall be open to inspection by any Member thereof, and, to send written notice of each assessment to every Member subject thereto.
  - 8.3.5 To issue, or cause an appropriate officer or agent to issue upon demand by any person, a certificate setting forth whether any assessment, charge or fee has been paid. Such certificate shall be conclusive evidence of payment of any assessment, charge or fee therein stated to have been paid. The Association may charge a reasonable fee for such certificate.
  - 8.3.6 To obtain and maintain a liability insurance policy or policies for the protection of the Association covering the Association Land and covering such risks and with such deductible amounts as the Board of Directors shall determine.

## ARTICLE VI

### BOARD OF DIRECTORS

- 6.1 Selection; Terms of Office:** Until December 31, 2010 or at such earlier time as determined by the Class B membership, the Board of Directors shall consist of three (3) Directors, who shall be elected at the times and in the manner set forth in Section 6.2 hereof. After such time the Board of Directors shall consist of five (5) Directors, who shall be elected at the time set forth in Section 6.3 and in the manner set forth in Article VII of these By-Laws.
- 6.2 Election of Directors by the Class B Members.** Until December 31, 2010, or earlier as determined by the Board of Directors, as provided in Article VIII of the Articles of Incorporation, the Board of Directors shall consist of three (3) Directors selected by the Class B Members who shall be elected in the following manner:
- 6.2.1** The initial Board of Directors set forth in Article VIII of the Articles of Incorporation shall hold office until December 31, 2012, or until all the then Class B Members shall designate in a writing delivered to the Corporation whichever shall first occur. In the event any named Director ceases to be a Director prior to the time specified above in this Section 6.2.1, his replacement shall be elected by a majority of the total vote of the Class B membership at appropriate annual meeting or special meeting of the Class B Members.
- 6.2.2** Any Director or Directors elected by the Class B Members may be removed at any time, with or without cause, by majority vote of the Class B Members at any regular or special meeting thereof, and the removed Director may be replaced by a majority of the total vote of the Class B membership at any regular or special meeting thereof.
- 6.3 Election of Directors by the Class A Members.** After December 31, 2010, the number of Directors shall be increased to five (5) as set forth in Article VIII of the Articles of Incorporation, and the Class A Members shall be entitled to elect the two (2) new members of the Board of Directors (the Class B Members having the right to elect the other three (3) members of the Board of Directors). Election of such Directors by the Class A Members shall be in the manner set forth in Article VII of these By-Laws. As provided in Article VIII of the Articles of Incorporation, upon the termination of the Class B Membership, the Class A Members shall elect all of the Directors; provided, that so long as the Developer owns any of the The Preserve Property or any Parcel, the Developer shall be entitled to elect one Director. The Directors to be elected by the Class A Members shall be elected in the following manner:
- 6.3.1** The incumbent Board of Directors elected by the Class B Members shall hold office until the election of their respective successor by the Class A Members at the first annual meeting of the Class A Members to be held for this purpose.
- 6.3.2** At the first annual meeting of the Class A Members, there shall be elected by the Class A Members in the manner set forth in Article VII of these By-Laws two (2) Directors, all such Directors being elected for staggered terms of three (3) years.

6.3.3 At the first annual meeting of the Class A Members following the termination of the Class B Membership (or such earlier time as the Class B Members so designate in a writing delivered to the Association), there shall be elected by the Class A Members in the manner set forth in Article VII of these By-Laws three (3) additional Directors (or two (2) additional Directors so long as the Developer owns any of the The Preserve Property or any Parcel), all of such Directors being elected for staggered terms of three (3) years.

6.4 **Vacancies:** Vacancies in the Board of Directors shall be filled by the majority of the remaining Directors, any such appointed Director to hold office until his successor is elected by the Class A Members or the Class B Members, as the case may be, who were entitled to elect the Director, at the next annual meeting of the Members or at any special meeting duly called for that purpose.

## ARTICLE VII

### ELECTION OF DIRECTORS BY CLASS A MEMBERSHIP

7.1 **Election of Directors:** Elections to the Board of Directors by the Class A membership shall be by written ballot as hereinafter provided. At such elections, the Class A Members or their proxies may cast as many votes as there are vacancies to be filled on the Board of Directors for each Parcel in which they hold any interest required for membership by Article V of the Articles of Incorporation, but no Member shall have the right to cumulate his vote by giving one candidate a number of votes equal to his vote multiplied by the number of Directors to be elected, or by distributing such votes on the same principle among any number of such candidates. The names receiving the largest number of votes shall be elected.

7.2 **Nominations Committee.** Nominations for a full slate of Directors for election to the Board of Directors by the Class A Members shall be made by the Nominations Committee. The Nominations Committee shall consist of three (3) persons appointed each year by the Board of Directors, one (1) of whom shall be a Director, and two (2) of whom shall be non-directors. Members of the Nominations Committee shall be appointed each year by the Board of Directors at least sixty (60) days before the date on which the election for the members of the Board of Directors is to be held, and the slate of Directors to be nominated by the Nominations Committee shall be nominated at least thirty (30) days before the date of such election. No member of the Nominations Committee shall be eligible for nomination for the Board of Directors by such Committee.

In addition, nominations for the Board of Directors may be made by petition signed by more than twelve (12) Members of the Association, provided that such petitions are filed with the Secretary of the Association at least thirty (30) days before the date of the meeting at which the Directors are to be elected.

7.3 **Ballots:** All elections to the Board of Directors shall be made on a written ballot which shall: (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominations Committee for such vacancies and those nominated by petition timely filed with the Secretary of the Association; and (c) containing a space for a write-in vote by the Members for each vacancy. Such ballots shall be prepared and mailed by the Secretary of



## ARTICLE IX

### DIRECTORS MEETING

- 9.1 **Time and Place:** Meetings of the Board of Directors may be held at any place within or without the State of Alabama. The Board of Directors shall meet immediately following the close of the annual meeting of the Members and at the place thereof, or the Board of Directors may hold such meeting at such place and time as shall be fixed by the consent in writing of all the Directors. Regular meetings of the Board of Directors may be held at such time and place (within or without the State of Alabama) as shall from time to time be determined by the Board of Directors.
- 9.2 **Notice:** Notice of regular meetings of the Board of Directors is hereby dispensed with. If the day for a regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need to be given.
- 9.3 **Special Meetings:** Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days' notice to each Director.
- 9.4 **Waivers, Consents and Approvals:** The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and shall be made a part of the minutes of the meeting.
- 9.5 **Quorum:** The majority of the Board of Directors shall constitute a quorum thereof.
- 9.6 **Adjourned Meetings:** If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called, may be transacted without further notice.

## ARTICLE X

### OFFICERS

- 10.1 **Officers:** The officers shall be a President, a Vice President, a Secretary, and a Treasurer. The President and the Vice President shall be members of the Board of Directors.
- 10.2 **Majority Vote:** The officers shall be chosen by majority vote of the Directors.
- 10.3 **Term:** All officers shall hold office for one year or until duly elected successors are elected.

- 10.4 **President:** The President shall preside at all meetings of the Board of Directors, and shall see that orders and resolutions of the Board of Directors are carried out, and sign all notes, checks, leases, mortgages, deeds and all other written instruments as may be incidental to the orders and resolutions of the Board of Directors.
- 10.5 **Vice President:** The Vice President shall perform all the duties of the President in his absence.
- 10.6 **Secretary:** The Secretary shall be "ex-officio" the Secretary of the Board of Directors, and shall record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. He shall keep the records of the Association. He shall keep the names of all Members of the Association together with their addresses as registered by such Members in a book or a database.
- 10.7 **Treasurer:** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, provided that such notes shall also be signed by the President or the Vice President in his absence. The Association may delegate the signing of checks to a management company under the direction of the Treasurer; otherwise the President and Treasurer must co-sign all checks.
- 10.8 **Bookkeeping:** The Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year. The Treasurer shall prepare the annual budgets and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

## ARTICLE XI

### COMMITTEES

The Board of Directors may establish committees of the Association from time to time for such functions as it may determine.

## ARTICLE XII

### MEETINGS OF MEMBERS

- 12.1 **Annual Meeting:** Until the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the regular annual meeting of the Class B members shall be on the first Thursday in April of each year, or within three (3) weeks thereafter, at a time and place to be agreed upon by the Class B Members.

Until the earlier of December 31 2010, or the time the Class B membership terminates, there shall be no annual meeting or regular meeting of the Class A membership.

Unless sooner called by the Board of Directors, the first annual meeting of the Class A Members shall be held at 7:30 P.M. on the first Thursday in April of 2010, and thereafter the regular annual meeting of the Members shall be held at such time and on such day in each subsequent year as determined by the Board of Directors. The place of the annual meetings shall be determined by the Board of Directors.

- 12.2 Special Meetings:** Special meetings of either class of membership for any purpose may be called at any time by the President, the Vice President, the Secretary or the Treasurer, or by any two (2) or more members of the Board of Directors. In addition, special meetings of the voting membership must be called upon the written request of the Members who have a right to vote one-fourth (1/4) of the total votes entitled to be cast under the provisions of Article V of the Articles of Incorporation at the time such written request is made.
- 12.3 Notice:** Notice of any meetings of a class of membership shall be given to the Members of that class by the Secretary. Notice may be given to the Members either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the association. Each Member shall register his address with the Secretary, and notices of meetings shall be mailed to him at such address. Notice of any regular or special meeting shall be mailed at least ten (10) days and no more than fifty (50) days in advance of the meeting, and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve an election governed by Article VII, notice of such meeting shall be given or sent as therein provided.
- 12.4 Quorum:** The presence at the meetings of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the vote of the class of membership so meeting shall constitute a quorum for any actions governed by these By-Laws unless it is provided otherwise in the Declaration, or the Articles of Incorporation, or elsewhere in these By-Laws.

## ARTICLE XIII

### PROXIES

- 13.1 Form of Vote:** At all meetings of Members, each Member' entitled to vote may vote in person or by proxy.
- 13.2 Proxies:** All proxies shall be in writing filed with the Secretary of the Association. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon the sale by the Member of his Parcel or other interest in the Member's Property.

## ARTICLE XIV

### INSPECTION OF BOOKS AND PAPERS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member.

## ARTICLE XV

### PARLIAMENTARY RULE

Roberts Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Declaration or the Articles of Incorporation.

## ARTICLE XVI

### INDEMNIFICATION

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, or any settlement thereof, whether or not he is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

## ARTICLE XVII

### AMENDMENTS

Until the time at which the Class B membership terminates, at which time the Class A membership is entitled to full voting privileges, as provided for in Article V of the Articles of Incorporation, these By-Laws may be amended upon a majority vote of the Board of Directors in any respect. After such time as the Class A members shall be entitled to full voting privileges, these By-Laws may be amended in any respect upon recommendation of the Board of Directors and subsequent approval at a regular or special meetings of the Members by a sixty percent (60%) vote of the total vote of the then existing classes of membership, present in person or by proxy at a meeting duly noticed for such purpose; provided, however, that those provisions of these By-Laws which are governed by the Articles of Incorporation may not be amended except as provided therein or except as provided by applicable law; and provided further, that any matter stated herein to be or which is in fact governed by the Declaration may not be amended except as provided in the Declaration; and provided, further, that no such amendment shall modify or diminish the rights

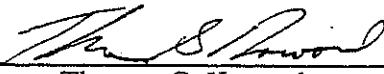
specifically granted to the Developer in Section 6.3 to elect one Director so long as Developer owns any of The Preserve Property or any Parcel.


ARTICLE XVIII


CONFLICTS

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

IN WITNESS WHEREOF, we being all of the Directors of The Preserve Owner's Association, Inc., have heretofore set our hands this 15<sup>th</sup> day of NOVEMBER, 2001.

  
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Thomas G. Howard

  
\_\_\_\_\_  
Jan W. Waid

  
\_\_\_\_\_  
Jeffrey W. Boyd

