

AMENDED AND RESTATED

BYLAWS

OF

TAMARAC HILLS HOMEOWNERS ASSOCIATION, INC.

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**AMENDED AND RESTATED
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OF
TAMARAC HILLS HOMEOWNERS ASSOCIATION, INC.**

ARTICLE 1. INTRODUCTION, PURPOSE AND DEFINITIONS

Section 1.1 Introduction. These are the Amended and Restated Bylaws of Tamarac Hills Homeowners Association, Inc. ("**Association**"), which Association operates under the Colorado Revised Nonprofit Corporation Act, as amended, and applicable portions of the Colorado Common Interest Ownership Act, as amended (the "**Act**").

Section 1.2 Purpose. The purpose for which the Association is formed is to operate and govern the community known as Tamarac Hills, located in the City and County of Denver, Colorado.

Section 1.3 Definitions. Terms used herein shall have the meanings set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tamarac Hills (the "**Declaration**") and are incorporated herein by reference, unless expressly defined herein.

ARTICLE 2. MEMBERSHIP AND VOTING

Section 2.1 Membership. Every person or entity who is a record owner of a Lot which is subject to the Declaration, including contract sellers, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership.

Section 2.2 Voting. Each Lot shall be entitled to cast one (1) vote.

ARTICLE 3. MEETINGS OF MEMBERS

Section 3.1 Annual Meetings. An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time of the year and date as determined by the Board and set forth in the notice of the meeting. At these meetings, the Directors shall be elected by ballot of the Members, in accordance with the provisions of these Bylaws, the Declaration and Articles of Incorporation, or as otherwise determined by the Members present in person at the meeting. The Members may transact other business as may properly come before them at these meetings. Failure to hold an annual meeting shall not be considered a forfeiture or dissolution of the Association.

Section 3.2 Special Meetings. Special meetings of the Association may be called by the President, by a majority of the members of the Board of Directors or by a petition signed by Owners comprising twenty-five percent (25%) of the votes in the Association.

Section 3.3 Notice of Meetings. Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days before, but not more than fifty (50) days before such meeting, to each Member entitled to vote, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. No matters shall be heard nor action adopted at a special meeting except as stated or allowed in the notice.

Section 3.4 Place of Meetings. Meetings of the Members shall be held in the Tamarac Hills Community, or in any other location in Denver Metropolitan area, State of Colorado, and may be adjourned to a suitable place convenient to the Members, as may be designated by the Board or the President.

Section 3.5 Quorum of Members. The presence of Members at any meeting in person or by proxy, entitled to cast twenty percent (20%) of all the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, and these Amended and Restated Bylaws, and any amendments thereto. If the required quorum is not present, the Members who are present shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum is present.

Section 3.6 Voting. At all meetings of Members, each Member eligible to vote may vote in person or by proxy. If only one of several Owners of a Lot is present at a meeting of the Association, the Owner present is entitled to cast the vote allocated to such Lot. If more than one of the Owners is present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority of those Owners. Majority agreement exists if any one of the Owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of the Lot. The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation or business trust. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership or business trust Owner is qualified to vote. Votes allocated to Lots owned by the Association may not be cast.

Section 3.7 Proxies. The vote allocated to a Lot may be cast under a proxy duly executed by an Owner. All proxies shall be in writing and filed with the Secretary or designee of the Association. If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of the vote by the other Owners of the Lot through a duly executed proxy. An Owner may revoke a proxy given under this section by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated. A proxy terminates eleven (11) months after its date, unless it specifies a shorter term or a specific purpose, or upon sale of the Lot for which the proxy was issued.

Section 3.8 Majority Vote. The vote of greater than fifty percent (50%) or more of Lots represented at a meeting at which at least a quorum is present shall constitute a majority and shall be binding upon all Owners for all purposes except where a higher percentage vote is required in the Declaration, these Bylaws, the Articles of Incorporation, as amended, or by law.

Section 3.9 Order of Business and Rules at Meeting. The Executive Board may establish the order of business and prescribe reasonable rules for the conduct of all meetings of the Executive Board and Unit Owners. At meetings of the members, the Executive Board may order the business of the meeting as follows:

- (a) Roll call (or check-in procedure);
- (b) Proof of notice of meeting;
- (c) Review of minutes of preceding meeting;
- (d) Reports;
- (e) Establish number and term of memberships of the Executive Board (if required and noticed);
- (f) Election of Directors of the Executive Board (when required);
- (g) Ratification of budget (if required and noticed);
- (h) Unfinished business; and
- (i) New business.

Section 3.10 Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing, and the waiver shall be deemed equivalent to the receipt of notice. Attendance at the meeting shall constitute a waiver of notice unless attendance is for the express purpose of objecting to the sufficiency of the notice.

Section 3.11 Voting by Mail in Lieu of a Meeting. The Board of Directors may decide that voting of the Members on any matter required or permitted by the statutes of Colorado, the Declaration, the Articles of Incorporation, or these Bylaws, as amended, shall be by mail instead of at a meeting. In case of a vote by mail, the Secretary shall mail written notice to all Members at each Member's address as it appears in the records of the Association. The notice shall include: (i) a proposed written resolution setting forth a description of the proposed action, (ii) a statement that Members are entitled to vote by mail for or against such proposal, and (iii) a date at least thirty (30) days after the date such notice shall have been given on or before which all votes must be received at the office of the Association at the address designated in the notice. Voting by mail shall be acceptable in all instances in the Declaration, Articles or these Bylaws, as amended, requiring the vote of Members at a meeting.

If the Board of Directors determines, in its sole discretion and pursuant to procedures adopted by it, to conduct elections of Directors by mail, any procedures adopted shall provide for

notice to members of the opportunity to run for a vacant position and/or nominate any member of the Association for a vacant position, subject to the nominated Member's consent.

Section 3.12 Adjourned Meetings. If any meeting of Members cannot be convened because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time without new notice, until a quorum is present or the business of the meeting is concluded. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which could have been transacted at the meeting as to which notice was originally given.

ARTICLE 4. BOARD

Section 4.1 Number and Qualification. The affairs of the Tamarac Hills Homeowners Association, Inc. shall be governed by a board of directors which shall consist of an odd number of not less than five (5) nor more than seven (7) members, who shall be Owners, elected or appointed as provided below (the "**Board**"). Only Owners, eligible to vote and otherwise in good standing, may be elected to, or appointed to fill a vacancy on the Board. In the case where through removal or resignation, the total number of Board members is less than five (5), the Board will be considered properly constituted until such vacancies are filled. The number of members of the Board may be increased or decreased by amendment of these Bylaws. If any Lot is owned by a partnership or corporation, any officer, partner or employee of that Member shall be eligible to serve as a Board Member and shall be deemed to be a Member for the purposes of these Bylaws.

Section 4.2 Election. Election to the Board of Board Members shall be by written ballot, unless another procedure is agreed upon by the Members present in person at a meeting. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.3 Term of Office for Board Members. The term of office of Board Members shall be three (3) years, unless such Board Member shall vacate or be removed from such office, as otherwise provided by these Bylaws, or until such time as a successor is elected. The terms of the Board Members shall be staggered.

Section 4.4 Removal of Board Members. One or more Board Members or the entire Board may be removed at any meeting of Members called pursuant to Section 3.2 and 3.3 of these Bylaws, with or without cause, by a vote of a majority of the Members present in person or by proxy. Notice of a meeting of the Members to remove Board Members shall be provided to every member of the Association, including the Board Members sought to be removed, as set forth in Section 3.3 of these Bylaws. Board Members sought to be removed shall have the right to be present at such meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken. In the event of removal of a Board Member, his or her successor shall be elected by the Members at this meeting and shall serve for the unexpired term of his or her predecessor. In the event of the removal of the entire Board, new Board members shall be

elected by a vote of a majority of the Members present in person or by proxy. Board Members so elected shall serve the unexpired term of his or her predecessor.

Section 4.5 Vacancies. Vacancies on the Board caused by any reason (other than removal) may be filled by appointment by a majority vote of the Board at any time after the occurrence of the vacancy, even though the Board Members present at that meeting may constitute less than a quorum. Each person so appointed shall be a Board Member who shall serve for the remainder of the unexpired term.

Section 4.6 Compensation. No Board Member shall receive compensation for any service he or she may render as a Board Member to the Association. However, any Board Member may be reimbursed for actual expenses incurred in the performance of Association duties.

Section 4.7 Election. The Board shall be elected by the members at the Annual Meeting. The members may adopt specific procedures which are not inconsistent with these Bylaws or the Act for conducting the elections. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 5. MEETINGS OF BOARD MEMBERS

Section 5.1 Regular Meetings. Regular meetings of the Board shall be held at such times, place and hour as may be fixed by the Board. The Board may set a schedule of regular meetings, and no further notice is necessary to constitute regular meetings. All meetings of the Board shall be held within the Denver metropolitan area, State of Colorado.

Section 5.2 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Board Members, after not less than three (3) days' notice to each Board Member. The notice shall be delivered in a manner whereby confirmation of receipt of the notice is received, and shall state the time, place and purpose of the meeting.

Section 5.3 Waiver of Notice. Any Board Member may waive notice of any meeting in writing. Attendance by a Board Member at any meeting of the Board shall constitute a waiver of notice. If all the Board Members are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

Section 5.4 Quorum of Board Members. At all meetings of the Board, a majority of the Board Members shall constitute a quorum for the transaction of business, unless there are fewer than five (5) Board Members, in which case all Board Members must be present to constitute a quorum. The votes of a majority of the Board Members present at a meeting at which a quorum is present shall constitute a decision of the Board unless there are fewer than five (5) Board Members, in which case, unanimity of the Board Members is required to consti-

tute a decision of the Board. If at any meeting there shall be less than a quorum present, a majority of those present may adjourn the meeting.

Section 5.5 Proxies. For the purposes of determining a quorum with respect to a particular proposal and for the purposes of casting a vote for or against that proposal, a Board Member may execute, in writing, a proxy to be held by another Board Member. The proxy shall specify either a yes, no, or abstain vote on each particular issue for which the proxy was executed. Proxies which do not specify a yes, no, or abstain vote shall not be counted for the purpose of having a quorum present nor as a vote on the particular proposal before the Board.

Section 5.6 Consent to Corporate Action. The Board Members shall have the right to take any action in the absence of a meeting, which they could otherwise have taken at a meeting, by obtaining the written vote of all of the Board Members, with at least a majority of the Board Members approving the action. Any action so approved shall have the same effect as though taken at a meeting of the Board Members. The Secretary shall file such consents with the minutes of the meetings of the Board of Board Members.

Section 5.7 Telephone Communication in Lieu of Attendance. One or more Board Members, or the entire Board, may attend a meeting of the Board by using an electronic or telephonic communication method whereby the Board Member(s) may be heard by the other Members and may hear the deliberations of the other Members on any matter properly brought before the Board. The Board Member(s) vote shall be counted and the presence noted as if the Board Member(s) were present in person on that particular matter.

ARTICLE 6. POWERS AND DUTIES OF THE EXECUTIVE BOARD

Section 6.1 Powers and Duties. The Board may act in all instances on behalf of the Association, except as provided in the Declaration and these Bylaws or the Act. The Board shall have, subject to the limitations contained in the Declaration, and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Tamarac Hills Community, and for the operation and maintenance of the community as a first class residential property, including the following powers and duties:

- (a) Impose a reasonable charge for late payment of assessments and, after notice and hearing, levy reasonable fines or default assessments for a violation of the Declaration, Bylaws, as amended, and rules and regulations of the Association;
- (b) Exercise any other powers conferred by the Declaration, Bylaws or Articles of Incorporation, as amended;
- (c) Suspend the voting rights and a Member's right to use the Common Area, after written notice and opportunity for hearing, or to take any other action authorized in the Declaration, Bylaws, and rules and regulations of the Association, upon delinquency in the payment of any assessment or for failure to comply with any other provisions of the Declaration, Articles, these Bylaws, or rules and regulations.

- (d) Adopt and amend rules and regulations, including penalties for infraction thereof;
- (e) Adopt and amend budgets for revenues, expenditures and reserves;
- (f) Keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements of the Association;
- (g) Subject to the provisions of Article 10, cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by a majority of the Members who are entitled to vote at the meeting.
- (h) Collect assessments as provided by the Declaration and Act;
- (i) Employ a manager, an independent contractor, or such other employees as it deems necessary, and prescribe their duties;
- (j) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Declaration, Bylaws or Rules, and, in the Association's name, on behalf of the Association or two or more Owners, on matters affecting the Tamarac Hills Community;
- (k) Make contracts, open bank accounts and incur liabilities in the name of the Association;
- (l) Acquire, hold, encumber and convey, in the Association's name and in the ordinary course of business, any right, title or interest to real estate or personal property other than the Common Area, pursuant to the consent requirements set forth in the Declaration and Articles of Incorporation;
- (m) Borrow funds and secure such loans with an interest in future assessments, pursuant to consent requirements set forth in the Declaration and Articles of Incorporation;
- (n) To dedicate sell, or transfer 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 agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been approved by at least a majority of the votes submitted in person or by proxy at a meeting called for this purposed at which at least a quorum is present.
- (o) Grant permits, licenses and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Properties;
- (p) Impose a reasonable charge for the preparation and recording of amendments to the Declaration liens, or statements of unpaid assessments;
- (q) Provide for the indemnification of the Association's Officers and Board Members and maintain Board Members' and Officers' liability insurance;

(r) Declare the office of a Member of the Board of Board Members to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Board Members;

(s) Supervise all officers, agents and employees of the Association, and see that their duties are properly performed;

(t) Procure and maintain adequate liability and hazard insurance on property owned by the Association;

(u) Cause all officers or employees having fiscal responsibilities to be insured, as it may deem appropriate; and

(v) Exercise for the Association all powers, duties, rights and obligations in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, the Declaration or the Act.

Section 6.2 Manager. The Board may employ a manager for the Tamarac Hills Community, at a compensation established by the Board, to perform duties and services authorized by the Board. Licenses, concessions and contracts may be executed by the manager pursuant to specific resolutions of the Board and to fulfill the requirements of the budget. Regardless of any delegation to a manager or managing agent, the members of the Board shall not be relieved of responsibilities under the Declaration, the Articles of Incorporation, these Bylaws or Colorado law. The Board shall have the authority to delegate any of the powers and duties set forth in this Article to a manager.

Section 6.3 No Waiver. The omission or failure of the Association or Owner to enforce the covenants, conditions, easements, uses, limitations, obligations, or other provisions of the Declaration, the Bylaws, or the rules and regulations shall not constitute or be deemed a waiver, modification, or release thereof, and the Board or the Managing Agent shall have the right to enforce the same at any time.

ARTICLE 7. OFFICERS AND THEIR DUTIES

Section 7.1 Enumeration of Offices. The officers of this Association shall be a President, one or more Vice-Presidents, a Secretary and a Treasurer, who shall at all times be members of the Board of Board Members, and such other Officers as the Board may from time to time create by resolution, including a Secretary and a Treasurer, who are not required to be Board Members. The offices of Secretary and Treasurer and any special offices created by resolution of the Board may be held by the same person.

Section 7.2 Election of Officers. The Officers shall be elected at the first meeting of the Board of Board Members following each annual meeting of the Members.

Section 7.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year, unless the officer shall sooner resign, or shall be removed, or shall otherwise be disqualified to serve.

Section 7.4 Special Appointments. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.5 Resignation and Removal. Any Officer may be removed from office with or without cause by a majority of the Board of Board Members. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

Section 7.6 Vacancies. A vacancy in any office may be filled by appointment by the Board by majority vote of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7.7 Duties. The duties of the Officers are as follows:

(a) President. The President shall have all of the general powers and duties which are incident to the office of president of a Colorado nonprofit corporation including, but not limited to the following: preside at all meetings of the Board of Board Members; appoint committees; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds and other written instruments and co-sign checks and promissory notes.

(b) Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and maintain the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall be responsible for Association funds and securities and for keeping full and accurate financial records. The Treasurer shall cause all monies of the Association to be received and deposited in appropriate bank accounts and shall cause to be disbursed such funds as directed by resolution of the Board of Board Members; shall cause to be kept proper books of account; shall sign checks and promissory notes of the Association; shall cause to be prepared an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and cause to be delivered a copy of each to the Members present at such annual meeting; and shall prepare, certify and execute statements of unpaid assessments in accordance with Section 316 of the Act

and charge, for the Association, a reasonable fee for the preparation of such statement as established by resolution of the Board.

Section 7.8 Delegation. The duties of any Officer may be delegated to another Board Member; *provided, however*, the Officer shall not be relieved of any responsibility under this Section or under Colorado law.

Section 7.9 Compensation. No Officer shall receive compensation for any service he or she may render as an Officer of the Association. However, any Officer may be reimbursed for actual expenses incurred in the performance of Association duties.

ARTICLE 8. COMMITTEES

Section 8.1 Designated Committees. The Association may designate committees as deemed appropriate in carrying out its purposes. Committees shall have authority to act only to the extent designated in the governing documents or delegated by the Board.

ARTICLE 9. BOOKS AND RECORDS

Section 9.1 Records. The Association or its manager or managing agent, if any, shall keep the following records:

- (a) An account for each Lot, which shall designate the name and address of each Owner, the amount of the common expense assessment, the dates on which each assessment comes due, any other fees payable by the Owner, the amounts paid on the account and the balance due;
- (b) An account for each Owner showing any other fees payable by the Owner;
- (c) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- (d) The current operating budget;
- (e) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;
- (f) A record of insurance coverage provided for the benefit of Owners and the Association;
- (g) Tax returns for state and federal income taxation;
- (h) Minutes of proceedings of meetings of the Owners, Board Members, committees of Board Members and waivers of notice; and
- (i) A copy of the most current versions of the Declaration, Articles of Incorporation, Bylaws, rules and resolutions of the Board, along with their exhibits and schedules.

Section 9.2 Examination of Records.

(a) Examination. The books, records and papers of the Association shall at all times, during normal business hours and after reasonable notice, be subject to inspection and copying by any Member, at their expense, for any proper purpose, except documents determined by the Board to be confidential. The Board Members or the manager shall determine reasonable fees for copying.

(b) Proper Purpose. Without the consent of the Board of Directors, a membership list or any part thereof may not be obtained or used by any person for:

- (i) Any purpose unrelated to a member's interest as a member;
- (ii) To solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the Association;
- (iii) Any commercial purpose; or
- (iv) Sold to or purchased by any person.

(c) The following records and documents may be kept confidential by the Association:

(i) Attorney-Client Confidential Documents. In order to protect the attorney/client privilege existent between the Association and its attorneys, all attorney created documents, including but not limited to: memos, opinion letters, and draft documents prepared at the behest of the Board of Directors, are not available for the inspection or copying by any member or his/her authorized agent, without the consent or authority of the Board of Directors.

(ii) Personnel Confidential Documents. Documents pertaining to employees of the Association or involving employment, promotion, discipline, or dismissal of an officer, agent or employee.

(iii) Applicable Law. Any documents that are confidential under constitutional, statutory or judicially imposed requirements.

(iv) Individual Privacy. Any documents which the disclosure of would constitute an unwarranted invasion of individual privacy are confidential.

ARTICLE 10. AMENDMENTS

Section 10.1 Bylaw Amendments. These Bylaws may be amended by a majority of the votes submitted by Members at a meeting of the Members at which at least a quorum is present, in person or by proxy, called for that purpose. Further, an Amendment may also be made by mail

in lieu of a meeting pursuant to the assent of a majority of the votes returned, so long as votes equaling at least a quorum of the Members are returned.

ARTICLE 11. INDEMNIFICATION

Section 11.1 Actions Other Than By or In the Right of the Association. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Board Member or Officer of the Association, who is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) judgments, fines, amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in a manner which such individual reasonably believed to be in the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Determination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe his conduct was unlawful.

Section 11.2 Actions By Or In The Right of The Association. The Association shall indemnify any person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure judgment in its favor by reason of the fact that such person is or was a Board Member or Officer of the Association or is or was serving at the request of the Association in such capacity, against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner which he or she reasonably believed to be in the best interests of the Association; but no indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for negligence or misconduct in the performance of his or her duty in the Association unless, and to the extent that the court in which such action or suit was brought determines upon application that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses if such court deems proper.

Section 11.3 Successful on the Merits. To the extent that a Board Member, manager, Officer, project manager, employee, fiduciary or agent of the Association has been wholly successful on the merits in defense of any action, suit or proceeding referred to in paragraphs 11.1 or 11.2 of this Article 11, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including expert witness fees, attorneys' fees and costs) actually and reasonably incurred him or her in connection therewith.

Section 11.4 Determination Required. Any indemnification under paragraphs 11.1 or 11.2 of this Article 11 (unless ordered by a court) and as distinguished from paragraph 11.3 of this Article 11, shall be made by the Association only as authorized by the specific case upon a determination that indemnification of the Board Member or Officer is proper in the circumstances because such individual has met the applicable standard of conduct set forth in paragraphs 11.1 or 11.2 above. Such determination shall be made by the Board of Board Members by majority vote of a quorum consisting of those members of the Board who were not parties to such action, suit or proceeding or, if a majority of disinterested members of the Board of Board Members so directs, by independent legal counsel in a written opinion or by Members entitled to vote thereon.

Section 11.5 Payment in Advance of Final Disposition. The Association shall pay for or reimburse the reasonable expenses incurred by a former or current Board Member or Officer who is a party to a proceeding in advance of final disposition of the proceeding if the Board Member or Officer furnishes to the Association a written affirmation of the Board Member's good faith belief that he or she has met the standard of conduct described in paragraphs 11.1 or 11.2 of this Article 11, the Board Member or Officer furnishes to the Association a written understanding, executed personally or on the Board Member's or Officer's behalf to repay the advance if it is ultimately determined that the Board Member or Officer did not meet the standard of conduct and a determination is made that the facts then known to those making the determination would not preclude indemnification under this article. The undertaking required in this paragraph shall be an unlimited general obligation of the Board Member or Officer but need not be selected and may be accepted without reference to financial ability to make repayment.

Section 11.6 No Limitation of Rights. The indemnification provided by this Article 11 shall not be deemed exclusive of nor a limitation upon any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of the Members or disinterested members of the Board of Board Members, or otherwise, nor by any rights which are granted pursuant to C.R.S. §38-33.3-101, *et seq.*, and the Colorado Revised Nonprofit Corporation Act.

Section 11.7 Board Members and Officers Insurance. The Association may purchase and maintain insurance on behalf of any person who is or was a Member of the Board of Board Members or an Officer of the Association against any liability asserted against him or her and incurred by such individual in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify such individual against such liability under provisions of this Article 11.

ARTICLE 12. CONFLICTS OF INTEREST

The Association may not enter into any contract or other transaction between the Association and one or more of its Board Members or between this Association and any corporation, association, or other entity in which one or more of the Board Members of this Association are Board Members or are financially interested.

ARTICLE 13. MISCELLANEOUS

Section 13.1 Fiscal Year. The Board has the right to establish and, from time to time, change the fiscal year of the Association.

Section 13.2 Notices. All notices to the Association or the Board shall be delivered to the office of the manager, or, if there is no manager, to the office of the Association, or to such other address as the Board may designate by written notice to all Owners. Except as otherwise provided, all notices to any Owner shall be mailed to the Owner's address as it appears in the records of the Association. All notices shall be deemed to have been given when mailed, except notices of changes of address, which shall be deemed to have been given when received.

Section 13.3 Registration of Mailing Address. The address of each Owners' Lot in Tamarac Hills shall be used by the Association for mailing of monthly statements, notices, demands, and all other communications, unless the Owner notifies the Association and its managing agent in writing of a different address to be use for all such communications.

Section 13.4 Conflicts. In the case of any conflicts between the Declaration and these Bylaws, the terms of the Declaration shall control. In the case of any conflicts between the Articles of Incorporation and these Amended and Restated Bylaws, the terms of the Articles of Incorporation shall control. In the case of any conflict between the Articles of Incorporation and the Declaration, the Declaration shall control.

Section 13.5 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly elected and acting Secretary of the Tamarac Hills Homeowners Association, Inc., a Colorado nonprofit corporation, and that the foregoing Amended and Restated Bylaws constitute the Bylaws of said Association, as duly adopted at a meeting of Members, held on the 7th day of February, 2000.

TAMARAC HILLS HOMEOWNERS ASSOCIATION, INC.,
a Colorado nonprofit corporation

By: *Christa M. Valenzuela* (3/14/00) its
Secretary