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 MARTHA O. HAYNIE, COMPTROLLER  
 ORANGE COUNTY, FL  
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This instrument prepared by  
 (or under the supervision of)  
 and should be returned to:  
 Scott D. Newsom, Esq.  
 Shutts & Bowen LLP  
 300 S. Orange Ave, Suite 1000  
 Orlando, Florida 32801

**DECLARATION OF COVENANTS, CONDITIONS  
 AND RESTRICTIONS FOR CASA DEL LAGO**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASA DEL LAGO (“**this “Declaration”**”) is made and entered into this 10<sup>th</sup> day of April, 2008, by **LAKE BURDEN INVESTMENTS, LLC**, a Florida limited liability company (hereinafter referred to as “**Declarant**”).

**RECITALS:**

A. Declarant is the owner of a portion of certain real property located in Orange County, Florida, more particularly described on Exhibit “A”, attached hereto and made a part hereof (the “**Property**”). The portion of the Property owned by Declarant is more particularly described on the attached Exhibit “A1”, which is incorporated herein by this reference.

B. The remainder of the Property is owned by Ashton Woods Orlando Limited Partnership, a Florida limited partnership (“Ashton”), which has joined in and consented to this Declaration as more particularly described and set forth on the Joinder and Consent attached hereto as Exhibit “E” and incorporated herein by this reference. The portion of the Property owned by Ashton is more particularly described on the attached Exhibit “A2”, which is incorporated herein by this reference.

C. The Property is hereafter to be known as “**Casa del Lago.**”

D. Declarant has or will develop the Property into a single family home residential development, and Declarant deems it desirable to develop the Property pursuant to a comprehensive plan for the development, use and enjoyment of the Property, subject to this Declaration and certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the Property, as hereinafter set forth.

E. Declarant does not intend to create a condominium and/or a condominium association within the meaning of Chapter 718 of the Florida Statutes (otherwise known as the “Florida Condominium Act”), and any amendments and/or renumbering of Chapter 718 that may occur from time to time.

F. In order to provide for the preservation of the values and amenities of the Property, there has been created that certain corporation not for profit under the laws of the State of Florida known as Casa del Lago Homeowners Association, Inc.

**NOW, THEREFORE**, for and in consideration of the premises hereof, Declarant and Ashton hereby declare that the Property (including, but not limited to, all land, tracts, parcels, and subdivision lots now or hereafter constituting a part thereof) shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved in accordance with and subject to the Master Approvals (as hereinafter defined), this Declaration, the Governing Documents (as hereinafter defined) and the hereinafter described easements, restrictions, covenants, conditions, equitable servitudes, liens, and charges, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability, and are in furtherance of a comprehensive plan for the protection, maintenance and improvement, of the Property. The covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens, and charges set forth in this Declaration shall (i) run with the title to the Property, and shall be binding upon all persons having any right, title, or interest therein, or any portion thereof; and their heirs, personal representatives, successors, and assigns and all Members (as hereinafter defined), and their successors and assigns; (ii) shall inure to the benefit of the Property, and all interests therein; and (iii) shall inure to the benefit of and be binding upon Declarant, its successors and assigns, and its tenants, invitees, licensees, and guests.

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

1.1 **"Architectural Guidelines"** shall mean the architectural, design, and/or construction guidelines and review procedures adopted pursuant to Article X of this Declaration, and as they may be adopted, amended and/or modified from time to time.

1.2 **"Articles"** shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of Florida, a copy of which is attached hereto as Exhibit "B", as the same may be amended from time to time.

1.3 **"Association"** shall mean Casa del Lago Homeowners Association, Inc., a Florida not for profit corporation, its successors and assigns.

1.4 **"Board"** or **"Board of Directors"** shall mean the Board of Directors of the Association elected in accordance with the Bylaws.

1.5 **"Boardwalk"** shall be as depicted in the Subdivision PSP/DP and described in the Development Agreement, including all related landscaping, improvements and facilities.

1.6 **"Building Contractor"** means any person or entity who, for compensation, constructs and sells residential dwelling units, except for a person who sells or constructs less than 7 units per year throughout the State of Florida.

1.7 **“Bylaws”** shall mean the Bylaws of the Association which have been or will be adopted by the Board, a copy of which is attached hereto as Exhibit “C”, as the same may be amended from time to time.

1.8 **“Common Expenses”** shall mean those costs and expenses of the Association more particularly described in Section 8.2 of this Declaration.

1.9 **“Common Property” or “Common Area”** shall mean all real property (including the improvements thereto) and all personal property from time to time owned by the Association for the common use and enjoyment of the Owners. “Common Property” and “Common Area” also includes any portion of the Property and/or any personal property designated by Declarant as Common Property and/or Common Area, including without limitation, on the Plat. “Common Property” and “Common Area” shall also include any portion of the Property designated on the Plat as being dedicated to, owned by and/or maintained by the Association. The Association shall accept, own, operate, maintain, repair, replace and insure all Common Property and/or Common Area for the common use, benefit and enjoyment of the Owners in accordance with and subject to the terms of this Declaration, even if such Common Property and/or Common Property have not yet been formally conveyed, sold and/or transferred to the Association.

1.10 **“Conservation Space”** shall mean that certain tract of land designated as Tract ‘H’ on the Plat. The Conservation Space shall be part of the Common Property.

1.11 **“County”** shall mean Orange County, Florida.

1.12 **“Declaration”** shall mean this Declaration of Covenants, Conditions, and Restrictions for Casa del Lago.

1.13 **“Development Agreement”** shall mean the Development Agreement and Grant of Easements recorded in Official Records Book 7213, Page 2057, Public Records of Orange County, Florida.

1.14 **“Design Review Board”** shall have the definition ascribed to it in Section 10.1(B) of this Declaration.

1.15 **“Drainage Facilities”** shall mean those certain tracts of land designated as Tracts ‘F’ and ‘G’ on the Plat (which tracts are designated as Stormwater Tracts ‘A’ and ‘B’ on the PSP/DP), and all detention and retention facilities and improvements associated therewith, including without limitation, any such facilities and improvements located within the Environmental Swale Easement, as depicted on the Plat and the PSP/DP and described in the Development Agreement. The Drainage Facilities shall be part of the Common Property.

1.16 **“Drainage System Oversizing”** shall mean the oversizing of the stormwater/drainage system for Overstreet Road as contemplated by the Development Agreement.

1.17 **“Environmental Swale Easement”** shall mean that portion of the Property designated as the Environmental Swale Easement on the Plat.

1.18 **“Governing Documents”** shall mean and collectively refer to this Declaration, the Articles, the Bylaws and any rules and regulations published pursuant thereto.

1.19 **“Governmental Regulations”** shall mean all applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments or other requirements of any governmental authority having jurisdiction over the Property or any Improvements constructed or located thereon, including, without limitation, those pertaining to building and zoning.

1.20 **“Improvements”** shall mean any buildings, structures, driveways, walkways, swimming pools, patios, decks, fences, walls, landscaping, flagpoles, boat houses, docks and any and all other appurtenances, facilities and improvements of any kind constructed, erected, placed, installed or located on any portion of the Property, and any replacements thereof or additions or alterations thereto.

1.21 **“Lift Station”** shall mean the sanitary sewer lift station constructed or to be constructed within Tract ‘D’ of the Property, together with the four inch (4”) force main extending from such lift station to the force main located in the right-of-way of Overstreet Road and included in the improvements described in Paragraph 8.i. of the Development Agreement, all as more particularly described in the Development Agreement. The Lift Station shall be dedicated to, owned, operated and maintained by Orange County.

1.22 **“Lot”** shall mean any plot of land shown upon the Plat, other than any areas dedicated to the public use or designated as Common Property. The Lots are consecutively numbered 1 through 88, inclusive. Where any provision of this Declaration refers to the number of a Lot, such reference shall mean the number of each Lot as designated on the Plat.

1.23 **“Master Access Facilities”** shall mean that portion of Overstreet Road extending from the right-of-way of County Road 535 to the easterly right-of-way line of the Subdivision Entrance Road, together with any improvements, facilities and appurtenances as required by the County.

1.24 **“Master Approvals”** shall mean the Master Approvals as defined in the Development Agreement, including (but not necessarily limited to) the following:

1.24.1 Lakeside Village Specific Area Plan (**“Village SAP”**);

1.24.2 The Lake Burden Neighborhood PD Zoning Ordinance approved by Orange County Board of County Commissioners on May 15, 2001 (**“PD Zoning Ordinance”**) and the Lake Burden Neighborhood PD Development Agreement entered into by and between the County and Ashton, a copy of which is recorded at Official Records Book 6274, Page 5705 of the Public Records (**“PD Development Agreement”**);

1.24.3 Orange County Adequate Public Facilities/Transfer of Development Rights Ordinance (**“APF/TDR Ordinance”**);

1.24.4 The Public Education Agreement by and between the School Board of Orange County, Florida and Ashton, a copy of which is recorded at Official Records Book 6596, Page 3263 of the Public Records (“**PEA**”);

1.24.5 Orange County Village Development Code Ordinance (“**Village Development Code**”);

1.24.6 Orange County Master Public Facilities Cost Sharing Ordinance (“**MPF Cost Sharing Ordinance**”);

1.24.7 Master Conceptual Environmental Resource Permit for Lake Burden Neighborhood issued by SFWMD (“**Master ERP**”);

1.24.8 Lake Burden North Mass Grading and Entrance Road Plans prepared by PBS&J, Job No. 07-1156.09, dated August 13, 2003 (“**Burden North Grading Plan**”);

1.24.9 Reams Road Utilities/CR 535 Utility Plans for the Master Utility Lines prepared by PBS&J, Job No. 07-1156.06, dated September 22, 2003 (“**Master Utility Plans**”);

1.24.10 Florida Department of Environmental Protection permits for the Master Utility Lines; and

1.24.11 The Preliminary Subdivision Plan/Development Plan for the Property (the “**PSP/DP**”).

1.25 “**Master Utility Lines**” shall mean sanitary sewer, potable water, re-use water, electric, cable television, natural gas and telephone lines from their current terminus point to the intersection of County Road 535 and Overstreet Road and extending along Overstreet Road and stubbed out at the westerly right-of-way of the subdivision entrance road, as depicted on the Plat.

1.26 “**Member**” shall mean (i) Declarant, for so long as it owns any part of the Property, and (ii) every other person or entity holding a membership in the Association as provided herein.

1.27 “**Mortgage**” means any recorded mortgage, deed of trust, or other interest transferring any interest in a Lot as security for the performance of an obligation. “**First Mortgage**” means any Mortgage constituting a lien prior in dignity to all other Mortgages encumbering the same property. “**Mortgagee**” means the party named as the obligee under any Mortgage, its heirs, personal representatives, successors, or assigns

1.28 “**Open Space**” shall mean those certain tracts of land designated as Tracts ‘C’ and ‘E’ on the Plat. The Open Space shall be part of the Common Property.

1.29 “**Overstreet Road Extension**” that portion of Overstreet Road extending from the right-of-way of County Road 535 along the northern boundary of the Property to the

easterly right-of-way line of the Subdivision Entrance Road, together with improvements, facilities and appurtenances as required by the County.

1.30 “**Owner**” shall mean the Person, including Declarant, holding fee simple title of record to any Lot or other piece or parcel of land within the Property, including sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

1.31 “**Park**” shall mean that certain tract of land designated as Tract ‘I’ on the Plat. The Park shall be part of the Common Property.

1.32 “**Pedestrian Trail**” shall be as depicted in the Subdivision PSP/DP and described in the Development Agreement, including all related landscaping, improvements and facilities.

1.33 “**Person**” shall mean and include an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity

1.34 “**Plans**” shall mean the plans, specifications and plot plans showing all details of each proposed improvement, construction, landscaping, alteration, modification, repair, replacement and/or addition, including but not limited to, the dimensions, design, shape, finished grade elevation, size, materials, composition and color, together with a landscape plan and a plot plan showing the location relative to Lot boundaries and adjacent improvements of all proposed improvements, alterations, construction, modifications, replacement and/or additions. “Plans” shall also include any other information the Declarant or the DRB, in their respective sole and absolute discretion, determines is necessary or desirable to make an informed determination on any proposed Improvement, construction, landscaping, alteration, modification, repair, replacement and/or addition to any Lot.

1.35 “**Plat**” means the subdivision plat of the Property, to be recorded in the Public Records of the County, and the recorded plat of any additional lands made subject to the provisions of this Declaration pursuant to the provisions hereof, and any amendments thereto.

1.36 “**Property**” or “**Properties**” shall mean that certain real property as more particularly described on the attached Exhibit “A” and such additions thereto as may hereafter be subjected to the operation and effect of this Declaration.

1.37 “**Residence**” shall mean any home, dwelling unit and/or house constructed on a Lot for which a certificate of occupancy has been duly issued, and any other buildings, structures, appurtenances and/or Improvements of any kind on that Lot.

1.38 “**Shared Infrastructure Improvements**” shall mean those certain infrastructure and other improvements that benefit the Property which are shared with other properties located within the Lake Burden Neighborhood, including, without limitation, the Utility Lines, the Overstreet Road Extension, the Drainage Facilities, the Boardwalk and Pedestrian Trail, the Lift Station and the Drainage System Oversizing, all as more particularly described in the Development Agreement.

1.39 **“Subdivision Entrance Road”** shall mean the subdivision entrance road, as depicted on the Plat and described in the Development Agreement.

1.40 **“Subdivision PSP/DP”** or **“PSP/DP”** shall mean the Lake Burden North Preliminary Subdivision Plan, prepared by PBS&J, Job No. 071156.02, as approved by the Orange County Board of County Commissioners on September 16, 2003.

1.41 **“Surface Water Management System”** shall mean a system operated, maintained, and managed by the Association which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges, from the system, as permitted pursuant to Chapter 40, Florida Administrative Code, and operated, maintained, and managed in a manner consistent with any SFWMD Permit. The Surface Water Management System shall include all mitigation areas and other water management areas of the Property.

1.42 **“SFWMD”** shall mean the South Florida Water Management District.

1.43 **“SFWMD Permit”** shall mean SFWMD Permit No. 48-01039-P, attached hereto as Exhibit “D”, together with any and all other permits and/or modifications issued by SFWMD relating to the operation and/or maintenance of the Surface Water Management System.

1.44 **“Utility Lines”** shall mean such sanitary sewer, potable water, re-use water, electric, cable television, natural gas, telephone and other utility lines from time to time located within the boundaries of the Property, including without limitation, the utility lines more particularly described in the Master Utility Plans.

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**ARTICLE II**  
**COMPLIANCE WITH GOVERNMENTAL REGULATIONS AND APPROVALS**

The Property shall be developed and used in compliance with all applicable Governmental Regulations as well as the requirements contained in any permits and approvals applicable to the Property, including, but not limited to, the Master Approvals.

**ARTICLE III**  
**EASEMENTS**

3.1 Easements Generally. Declarant hereby grants, declares and reserves the easements hereinafter described in this Article III (the “Declared Easements”); provided, however, that at such time as, and to the extent that, the portions of the Property affected by the Declared Easements are dedicated to the public, by plat or otherwise, such easements shall terminate automatically without further action.

3.2 Utility Easements. There are hereby granted and reserved for the benefit of Declarant, the County, the Association, each Owner, each Lot, piece, parcel and tract of land within the Property and any public or private providers of utility services to the Property and their respective successors and assigns, a non-exclusive easement for utility purposes over, under, within and upon the rights-of-way of and for all streets and roads within the Property, and over, under, within and upon all other utility easements and easement areas shown on the Plat, or otherwise reserved pursuant to this Declaration or the Master Approvals, for the purposes of constructing, installing, inspecting, operating, maintaining, repairing and replacing from time to time any and all utility lines, systems and facilities from time to time located therein or thereon. The utilities contemplated to be served by such utility easements shall include, without limitation, those providing electric power, natural gas, telephone, potable water and cable television.

3.3 Drainage Easements. There is hereby granted and reserved for the benefit of Declarant, each Owner and each Lot, piece, parcel and tract of land within the Property, a non-exclusive easement for storm water collection, retention, detention and drainage over, upon and within (i) the rights-of-way of all streets and roads of the Property, (ii) the Drainage Facilities, (iii) the Environmental Swale Easement, and (iv) all drainage easements shown on the Plat or otherwise established pursuant to this Declaration or the Master Approvals, together with an easement and license to enter upon such easements and easement areas for the purposes of constructing, installing, inspecting, operating, maintaining, repairing and replacing any and all storm water drainage systems, improvements and facilities from time to time located therein or thereon. Additionally, Declarant, for the benefit of itself, the Association, each Owner and each Lot, hereby reserves easements over any and all other portions of the Property as may be reasonably required from time to time in order to provide storm water drainage to all or any portions of the Property; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owner of any Lot or the Common Property affected thereby or any Improvements from time to time constructed or installed thereon.



3.4 Emergency Access and Drainage Easement. There is hereby granted to SFWMD and the County a non-exclusive easement over and upon the streets and roads of the Property, and all drainage easements shown on the Plat or otherwise reserved pursuant to this Declaration or the Master Approvals, for the purpose of undertaking emergency maintenance and repairs to the Drainage Facilities and the Surface Water Management System in the event that inadequate maintenance or repair of the same shall create a hazard to the public health, safety or general welfare. It is expressly provided, however, that the grant of such easement shall not be deemed to impose upon SFWMD or the County any obligation, burden, responsibility or liability to enter upon the Property or any portion thereof to take any action to maintain or to repair the Drainage Facilities or the Surface Water Management System or any portion of either, unless and to the extent that the same have been dedicated to and accepted by either of SFWMD or the County.

3.5 Utility and Lift Station Easements. There is hereby granted and reserved for the benefit of Declarant, the Association, Ashton, each Owner, and each Lot, piece, parcel and tract of land within the Property, a perpetual, non-exclusive easement for a sanitary sewer lift station and sewer lines and related facilities over, through, under and upon those portions of the Property lying within Tracts 'E' and 'D' depicted on the Subdivision PSP/DP, and within and upon all other sanitary sewer easements and easement areas shown on the Plat or otherwise reserved pursuant to this Declaration or the Master Approvals for the purposes of installing, utilizing, maintaining, repairing and replacing and sanitary sewer lines and related facilities necessary to connect the Property, and each portion thereof, as applicable, to the Lift Station.

3.6 Side Yard Drainage and Utility Easements. There is hereby granted and reserved for the benefit of Declarant, the Association, each Owner, each Lot and all public or private providers of utility services to the Property, and their respective successors and assigns, a non-exclusive easement for drainage and utility purposes in that area which is adjacent to and within five (5) feet on either side of any side boundary or lot line of any Lot.

3.7 Landscape Easements. There is hereby granted and reserved for the benefit of Declarant and the Association, an easement for landscaping purposes over and upon all landscape easement areas shown on the Plat, if any, or hereafter declared by Declarant, together with the easement and license to enter upon such landscape easement areas for the purposes of installing, maintaining, inspecting, repairing and replacing any and all landscaping and irrigation systems of any kind, whether the same shall be required by the County or deemed necessary or desirable by Declarant or the Association.

Further, there is hereby reserved and granted for the benefit of the Declarant and the Association (and their respective designees and/or agents), an easement for landscaping purposes over and upon all portions of the Property, including without limitation, each Lot, together with the easement and license to enter upon all portions of the Property, including without limitation, each Lot for the purposes of installing, maintaining, inspecting, managing, placing, repairing and/or replacing any and all landscaping and/or irrigation system of any kind. Notwithstanding anything to the contrary in this Section 3.7, the Association shall not be obligated to perform any maintenance, repair and/or replacement of any landscaping and/or irrigation system located on any Lot within the Property, unless the Association has voluntarily agreed to perform such maintenance, repair and/or replacement.

3.8 Conservation Easements. There is hereby granted and reserved for the benefit of Declarant, the County, SFWMD, and each Owner, a conservation easement over and upon (i) the Conservation Space, (ii) all conservation easement areas shown on the Plat, and (ii) all applicable portions of the Property as required under those Master Approvals which are necessary for, or a condition to, the development of the Property, for the purpose of conserving, preserving, retaining and maintaining in its natural state, that portion of the Property contained within such conservation easements, and providing for passive recreational uses thereof.

3.9 Amenities Easements. There is hereby granted and reserved for the benefit of Declarant, the Association and each Owner, a perpetual, non-exclusive access and use easement over those portions of the Property that are depicted on the Subdivision PSP/DP as areas to be encompassed by the Boardwalk, for the purpose of allowing the beneficiaries hereof to use and enjoy the Boardwalk, subject to such rules and regulations as may be set forth by the Association, and subject to the right of Ashton and Declarant to narrow, expand or otherwise modify the size and location of Boardwalk in connection with the development of the Property.

3.10 Construction and Sales Easements. There is hereby granted and reserved for the benefit of Declarant, together with the right to grant, assign and transfer the same to such builders, contractors, sales agents and other parties as Declarant may from time to time designate, an easement for construction activities upon the Property, an easement for sales activities and signs on the Property, and an easement for the construction and maintenance from time to time of a sales center on the Property from which Declarant and its authorized builders and sales agents may engage in marketing, sales and administrative activities on a temporary basis during the period of the development and construction of homes and other improvements on the Property. The location of such sales center may be changed from time to time by Declarant, in its sole and absolute discretion.

3.11 Common Property Easement. There is hereby granted and reserved for the benefit of Declarant, the Association and each Owner, a non-exclusive easement upon and the right and privilege of using any or all of the Common Property for ingress and egress, and for the passive recreation of the residents of and visitors to the Property. This easement and right to use and enjoy the Common Property shall be subject to regulation by the Association, including the right of the Association to suspend such use and enjoyment as more particularly provided in Section 5.4(A) of this Declaration.

3.12 Association Easement. There is hereby granted to the Association such easements over and upon all or any portion of the Property as may be reasonably necessary to permit the Association to carry out and discharge its duties, obligations and responsibilities under and pursuant to the Governing Documents.

3.13 Wall, Landscape and Fence Easements. There is hereby created, declared, granted to and reserved for the benefit of Declarant and the Association a non-exclusive perpetual easement over and upon all Wall Easement, Fence Easement and/or Landscape Easement areas shown on the Plat or hereafter created, declared and/or granted by the Developer, together with the easement and license to enter upon such Wall Easement, Fence Easement and/or Landscape Easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing any and all security or screening walls or fences, and the installation and

irrigation of any landscaping and/or hardscaping therein, which may be required by the County and/or deemed to be necessary or desirable by Declarant and/or the Association. This will include, without limitation, the right of the Declarant and/or Association, at its option, to construct and maintain a perimeter wall or fence as designated in the Plat or as determined to be necessary or desirable by the Declarant and/or the Association, and any such perimeter wall or fence, if constructed, shall be maintained by the Association. There is hereby created, declared, granted to and reserved for the benefit of Declarant and the Association a non-exclusive perpetual easement for landscaping, hardscaping and irrigation purposes over and upon all Wall Easement, Fence Easement and/or Landscape Easement areas shown on the Plat or hereafter created, declared or granted by Declarant, together with an easement and license to enter upon such Wall Easement, Fence Easement and/or Landscape Easement areas for the purposes of installing, maintaining, inspecting, repairing and replacing any and all landscaping, including trees, shrubs, bushes, ground covers, grasses and other plant materials, hardscaping and irrigation systems of any kind, whether the same shall be required by the County or deemed necessary or desirable by Declarant and/or the Association. The Association shall manage, operate and maintain any improvements, walls, fences, irrigation, landscaping, entrance features and/or structures of any kind located within and/or on the Wall Easement, Fence Easement and/or Landscape Easement, and the costs of such management, operation, maintenance, repair and/or replacement shall be part of the Common Expenses.

3.14 Future Easements. There is hereby reserved to Declarant and its successors and assigns (together with the right to grant and transfer the same) the right, power and privilege to grant to itself, the Association, the County or any other parties, at any time and from time to time, such additional easements as may be reasonably necessary or desirable, in the sole opinion and in the sole discretion of Declarant, for the orderly development of the Property. It is expressly provided, however, that no additional easements shall be granted or created over and upon the Property pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of a particular Lot as a single family residential home site. Such additional easements may be hereafter created, granted, or reserved by Declarant without the necessity for the consent or joinder of the Association or any Owner of the particular portion of the Property over which any such further or additional easement is granted or required.

3.15 Community Systems and Services. Declarant reserves for itself, its successors and assignees, and the Association the exclusive and perpetual right to provide and operate, or to permit others to provide and operate, within the Property, such telecommunication systems (including, without limitation, cable television, satellite television, community intranet, internet, telephone and other systems for receiving, distributing and transmitting electronic data, signals, and audio or visual communications), systems and services, utilities, and similar systems and services, including, without limitation, conduits, wires, amplifiers, towers, antennae, and other apparatus and equipment for the operation and/or provision thereof (collectively, the "Community Systems and Services") on a reasonably competitive basis, as Declarant, in its discretion, deems appropriate. Such right shall include, without limitation, the right to select and contract with companies licensed to provide such services in the area where the Property is located, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable. Declarant and/or the Association may receive, and

shall be entitled to retain, any rebate, credit, fee, and/or incentive relating to the installation, operation, and/or provision of any Community Systems and Services. If Declarant and/or the Association enters into an agreement for the provision of Community Systems and Services to all Lots, the charges, fees and/or other expenses for those Community Systems and Services shall be part of the Common Expenses. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as an Individual Assessment. No Owner may avoid liability for the charges associated with the Community Systems and Services by electing not to utilize the Community Systems and Services.

3.16 Easements of Encroachment. Declarant grants easements of encroachment, and for the maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. Such easement shall permit encroachment only by a structure, improvement, Residence and/or fixture which has been constructed by Declarant, or approved in advance in accordance with Article VI of this Declaration, and which is constructed, installed, build, erected and/or placed on the property of another Person without the actual intention of encroaching on such property. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such an easement.

3.17 Easements to Serve Additional Property. Declarant reserves for itself and its duly authorized agents, successors and assigns, an easement in, through, under and/or over the Common Property and Lots for enjoyment, use, access and development of any other real property, whether such real property is actually made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over, under, in and/or through the Common Property and Lots for construction of roads and for connecting and installing utilities.

3.18 Easements for Cross-Drainage. All portions of the Property shall be burdened with easements for drainage of stormwater runoff from other portions of the Property; however, no Person other than Declarant shall alter the drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Property without the consent of the Owner(s) of the affected portions of the Property, the Board and the District.

**ARTICLE IV**  
**PROPERTY SUBJECT TO THIS**  
**DECLARATION AND ADDITIONS TO THE PROPERTY**

4.1 Property Subject to Declaration. The Property is, and shall be, held, transferred, sold, conveyed, used and occupied subject to this Declaration.

4.2 Annexation of Other Property. Declarant and the Association reserve the right to add or cause to be added other real property, not now included within the Property, to the Property from time to time, and such additional lands shall be thereupon subject to the provisions of this Declaration; provided, however, that additional lands may be so annexed to the Property only upon the approval of Members holding not less than two-thirds (2/3) of the total votes in the Association.

4.3 Platting. As long as there is a Class B Membership, Declarant shall be entitled at any time, and from time to time, to plat and/or replat all or any part of the Property and to file subdivision restrictions and amendments thereto with respect to any undeveloped portion or portions of the Property without the consent or approval of any Owner.

4.4 Amendment. As long as there is a Class B Membership, the provisions of this Article IV cannot be amended without the written consent of the Declarant, and any amendment of this Article IV without the written consent of Declarant shall be null and void.

4.5 Recordation. Upon each commitment of additional real property to this Declaration, a recordation of such addition shall be made as a supplement to this Declaration in the Public Records, and such real property described therein shall be subjected to the covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated herein as a part of the Property.

4.6 Merger. Nothing in this Declaration is intended to limit or restrict in any way the Association's rights or ability to merge or consolidate with another homeowners association (a "Neighboring Association") as the Board may determine to be in the best interests of the Association and its Members. A merger or consolidation of the Association must be approved by Members holding not less than two-thirds (2/3) of the total votes in the Association. Upon a merger or consolidation of the Association with a Neighboring Association, all Common Property rights and obligations shall, by operation of law, be transferred to the surviving or consolidated association. The surviving or consolidated association may administer the covenants established by this Declaration within the Property together with the covenants and restrictions established by any declaration applicable to the property administered by the Neighboring Association as one scheme. No such merger or consolidation, however, shall cause a revocation, change or addition to the covenants in the Declaration as it pertains to the Property, except as hereinafter expressly provided.

4.7 Withdrawal of Property. Declarant shall be entitled to withdraw any portion of the Property owned by Declarant from the operation and effect of this Declaration. For purposes of this Declaration, the portion of the Property withdrawn from the terms hereof shall be referred to as the "Withdrawn Property". In order to withdraw such portion of the Property from the terms and conditions of this Declaration, Declarant shall record in the Public Records an instrument which (i) makes reference to this Declaration, (ii) states that the purpose of the instrument is to withdraw the Withdrawn Property from the operation and effect of this Declaration and (iii) contains a legal description of the Withdrawn Property. Declarant shall have the right to withdraw portions of the Property from the operation and effect of this Declaration without the joinder, ratification or approval of the Association, any Owner, or any Mortgagee, provided that Declarant is the fee simple owner of the Withdrawn Property. Upon the withdrawal of the Withdrawn Property from the operation and effect of this Declaration, the Withdrawn Property shall no longer be subject to the terms of this Declaration.

4.8 Special Taxing Districts. In the event that a special taxing district or community development district (hereinafter "Taxing District") is established to provide any services that are then rendered by or the responsibility of the Association, these covenants and conditions shall no longer be of any force and effect as to any such services provided by the Taxing District;

provided, however, that the covenants and conditions set forth herein shall continue to bind and run with the land as to all of the Property for services not provided by the Taxing District. The Association shall have the right to convey or transfer all or portions of the Common Property to the Taxing District so long as the Members shall have the right to use and enjoy the Common Property. If such Taxing District is terminated for any reason, these covenants and conditions shall thereupon apply in full force and effect as if the Taxing District had never been created.

## **ARTICLE V COMMON PROPERTY**

5.1 Designation. Declarant shall have the right and the power, in its sole discretion, to determine which real and/or personal property will be Common Property and to convey or transfer ownership of the Common Property to the Association for the uses and purposes set forth in this Declaration and/or in the Plat. The Association is obligated to accept ownership of all Common Property designated by Declarant in its “as is, where is” condition when conveyed or transferred to the Association, without warranty by and/or recourse against Declarant. Prior to the later of conveyance of title to the Common Property to the Association or the conversion of the Class B membership to Class A membership, Declarant may change and/or cause the Association to change the configuration, purpose, designation and/or legal description of any of the Common Property due to a change in Declarant's development plans. Each Owner acknowledges, understands and agrees that any portion of the Property, including without limitation, any portion of the Common Property, may be withdrawn from the Property by the Declarant pursuant to Article IV of this Declaration.

5.2 Transfer of Title. Declarant shall convey to the Association fee simple title in and to all real property designated by Declarant as Common Property; subject to, however, all taxes not then delinquent, applicable Plats, this Declaration and any other restrictions, limitations, conditions, reservations, easements and other matters then of public record. Declarant shall also transfer and assign to the Association by bill of sale or assignment ownership of all personal property designated by Declarant as Common Property. Except as otherwise provided in this Declaration, after conveyance to the Association, any real property owned by the Association may not be mortgaged or further conveyed by the Association without the approval of Members representing at least two-thirds (2/3) of the total votes in the Association and, for so long as Declarant owns any portion of the Property, the Declarant.

5.3 Additional Common Property. Declarant, in its sole discretion, shall have the right to convey to the Association, and the Association shall be obligated to accept as Common Property, any portion of the Property now or hereafter owned by Declarant. Should Declarant so convey any such property to the Association, the same shall thereupon become “Common Property” for all purposes hereunder, and shall be subject to all covenants, conditions, restrictions, easements and reservations set forth in this Declaration with respect to all other Common Property.

5.4 Restrictions on Use of Common Property. Subsequent to the conveyance of any Common Property to the Association by Declarant, the Common Property shall, subject only to the easements specified in this Declaration and the Master Approvals, be maintained, used and enjoyed solely for the purposes specified in this Declaration and in the instrument of

conveyance and for passive recreation of the residents of and visitors to the Property, and for no other purpose or purposes whatsoever. No other use shall be made of the Common Property without the prior written consent of Declarant.

5.5 Use by Owners. Subject to any reasonable rules and regulations adopted and promulgated by the Association from time to time, and subject to any and all easements granted pursuant to this Declaration or the Master Approvals, each and every Owner shall have the non-exclusive right, privilege and easement to use and enjoy the Common Property for the purpose or purposes for which the same is conveyed, designated and intended by Declarant and maintained by the Association, and such non-exclusive right, privilege and easement shall be an appurtenance to and shall pass with the title to each and every Lot within the Property, subject, however, at all times to the terms, provisions, covenants, conditions, restrictions, easements and reservations set forth in this Declaration including, without limitation, the following:

A. The right of the Association to suspend the right, privilege and easement of any Owner and its family, tenants, guests or other invitees to use the Common Property or any portion thereof designated by the Association (i) during any time in which any Assessment levied by the Association against such Owner and Lot remains unpaid and delinquent for a period of thirty (30) days or more, or (ii) for a period not to exceed thirty (30) days for any single infraction of the rules and regulations of the Association with respect to the use of the Common Property; provided, however, that except for a suspension occasioned by the failure of an Owner to pay an Assessment within thirty (30) days from the date that the same is levied by the Association, such suspension shall be made by the Association, or a committee duly appointed by the Association for that purpose, only after appropriate notice and hearing given and held in accordance with the Governing Documents. Notwithstanding anything to the contrary set forth herein, the Association shall have no right, power or authority hereunder to suspend or otherwise unreasonably interfere with any Owner's right, privilege and easement to use any streets and roads within the Property for ingress and egress to and from such Owner's Lot; it being expressly provided, however, that temporary interference for purposes of appropriate identification at and clearance through any security gate or to prevent or bring about the cessation of the violation of any rules and regulations adopted and promulgated by the Association, including, without limitation, those with respect to speed limits imposed upon such streets and roads, shall not be deemed to be an unreasonable interference with such right, privilege and easement of and for ingress and egress.

B. The right of the Association to limit the number of guests of Owners who may use the Common Property from time to time.

C. The right of the Association to establish, promulgate and enforce reasonable rules and regulations with respect to the use of and/or access to any portion of the Common Property pursuant to Section 5.7 and Section 7.4(k) of this Declaration.

5.6 The right of the Association to take such steps as are reasonably necessary to maintain, preserve and protect the Common Property and preserve and protect the safety of Delegation of Use. Any Owner may delegate his right, privilege and easement to use and enjoy the Common Property to family, tenants, guests or other invitees; subject to such rules and regulations as may be promulgated by the Association pursuant to Section 5.7 of this

Declaration. In the event that an Owner shall make such a delegation to tenants residing on his Lot, the Association shall be entitled, after the adoption and promulgation of appropriate rules and regulations with respect thereto, to limit or restrict the right of the Owner to simultaneously exercise his right, privilege and easement of and for the use and enjoyment of the Common Property.

5.7 Waiver of Use. No Owner may exempt his Lot from any Assessments duly levied by the Association, or may exempt himself from personal liability for such Assessments or from any rules and regulations of the Association, by any act or omission whatsoever, including without limitation (i) the voluntary waiver of the right, privilege and easement for the use and enjoyment of the Common Property, (ii) the abandonment of that Owner's Lot, or (iii) conduct which results in the Association's suspension of such right, privilege and easement as provided in Section 5.4(A) of this Declaration.

5.8 Rules and Regulations. In addition to the foregoing restrictions on the use of and/or access to the Common Property, the Association shall have the right, power and authority to promulgate and impose reasonable rules and regulations governing and/or restricting the use of and/or access to the Common Property and to thereafter change, modify, alter, amend, rescind and/or augment any of the same; provided, however, that no rules or regulations so promulgated shall conflict with the provisions of this Declaration or the Master Approvals. Any rules and regulations promulgated by the Association shall be applicable to and binding upon the applicable Common Property and all Owners and their successors and assigns, as well as upon all members of the families, the tenants, guests, and other invitees of each Owner and upon all other parties claiming by, through or under any Owner.

## **ARTICLE VI**

### **MEMBERSHIP AND VOTING RIGHTS**

6.1 Membership Appurtenant. Every Owner of a piece, parcel or Lot of the Property shall be a member of the Association. Membership shall be appurtenant to and may not be separated from such ownership interest, but a Member's voting rights and use and enjoyment of the Common Property may be regulated or suspended as provided in the Governing Documents.

6.2 Classes of Membership. The Association shall have two (2) classes of voting Membership:

A. Class A. Class A Members shall be all Owners of any tract, piece, parcel or Lot that is included within the Property. Each Class A Member shall be entitled to one (1) vote for each Lot owned by such Member. If more than one (1) Person should hold an interest in any Lot, the vote for such Lot shall be exercised by a majority of all such Persons as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

B. Class B. The Class B Member shall be Declarant, or the express assigns or successors in interest of Declarant. Until conversion of the Class B membership to Class A membership pursuant to this Declaration, Declarant shall have three (3) times the total number of votes of the Class A Members plus one. As each Lot in the Property is conveyed by Declarant to



a Class A Member, Declarant's votes for that Lot shall automatically terminate. Declarant's Class B membership status shall continue in effect during the period from the date of this Declaration until the earlier of the following (the "Turnover Date"):

(i) Three (3) months after ninety percent (90%) of the all Lots in all phases of the Property have been conveyed or transferred to Owners other than Declarant, excluding all conveyances and/or transfers to builders, contractors and/or others who purchase a Lot for the purpose of constructing Improvements thereon for resale; or

(ii) Fifteen (15) years from the date on which this Declaration is recorded in the Public Records of the County; or

(iii) At such earlier time as Declarant, in its sole and absolute discretion, may so elect by recording notice of such election in the Public Records of the County.

Upon termination of the Class B Membership in accordance with the provisions of Section 6.2(B), all provisions of this Declaration and the Governing Documents referring to Class B Membership shall be void and without further force or effect. Regardless of any provision of the Governing Documents to the contrary, Declarant shall be entitled to elect at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots of the Property. Subsequent to the date that Declarant relinquishes control of the Association, Declarant may exercise the right to vote the Class A Membership which it then holds in the Association in the same manner as any other Class A Member.

Notwithstanding anything above to the contrary, in the event additional Lots are added to the Property by or in consequence of annexation, pursuant to Section 4.2 of this Declaration after the Class B Membership has ceased pursuant to Section 6.2(B), the Class B Membership and voting rights shall, at the option of Declarant (which may be exercised in its sole discretion), be immediately reinstated and resumed, and shall continue until the subsequent occurrence of one of the above events.

6.3 Approval by Members. Unless otherwise specifically provided in the Governing Documents, any provision of this Declaration which requires the vote, consent or approval of a majority or other specified fraction or percentage of the total voting power of the Association or any class or classes of membership therein shall be deemed satisfied by either, both or a combination of the following:

A. The vote in person or by proxy of the majority or other specified fraction or percentage of the membership at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members of the Association; or

B. Written consents executed by the majority or other specified fraction or percentage of the Members.

**ARTICLE VII**  
**FUNCTIONS OF THE ASSOCIATION**

7.1 Purposes of the Association. The Association has been created and established for the purpose of and shall have sole responsibility for (i) the ownership, administration, management, operation, regulation, care, repair, restoration, replacement, preservation and protection of the Common Property, (ii) the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in this Declaration, (iii) the payment of all Common Expenses, all as more specifically set forth in the Governing Documents.

7.2 Through Board Action. The affairs and decisions of the Association shall be conducted and made by the Board. The Members shall only have such power or rights of approval or consent as is expressly specified herein, or in the Governing Documents. In the absence of a specific requirement that the approval of Members be obtained, the Board may act on its own through its proper officers.

7.3 Powers of the Association. The Association, acting by and through its Board, shall, in addition to those general and specific powers conferred upon it by law and those powers specified in its Articles and Bylaws, have the following specific powers:

A. Except as may be limited by the Governing Documents, to acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, buy, sell, lease, transfer, convey, encumber or otherwise deal in or with real or personal property (or any interest therein, including easements) which is, or upon its acquisition by the Association shall thereupon become, Common Property.

B. To establish, levy, enforce and collect all Assessments.

C. To establish, maintain and administer such capital expenditure reserves as shall, in the discretion of the Board, be necessary or desirable to assure the availability of funds for the care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property and all other easements and facilities, and for such other purposes as the Board shall, in its discretion, deem necessary.

D. To sue or be sued and to defend any suits brought against it.

E. Subject to any limitations contained within the Governing Documents, to borrow money in such an amount as may be reasonably required, in the discretion of the Board, to discharge and perform the duties, obligations and responsibilities imposed upon it by the Governing Documents.

F. To employ such persons or to contract with such independent contractors or managing agents as may be reasonably required, in the discretion of the Board, in order for the Association to perform and discharge all or any part of the duties, obligations and responsibilities imposed upon it by the Governing Documents.

G. To contract with, hire, retain and/or employ a private security provider or company. If such private security provider or company is retained, hired and/or employed, such service shall be part of the Association's Common Expenses.

H. To provide equipment, facilities and personnel, or to contract with an independent contractor therefor, to administer controlled access to and provide internal security services for and within the Property.

I. To take such steps as may be necessary, in the discretion of the Board, to enforce the provisions of this Declaration, including, without limitation, the employment of counsel and the prosecution of litigation.

7.4 Duties of the Association. In addition to all other responsibilities specified in the Governing Documents, the Association shall have the following specific duties, responsibilities and obligations when deemed necessary and appropriate by the Board and shall have easement rights necessary to perform same:

A. The maintenance, repair, preservation and protection of the Common Property, and all Improvements thereon, including any roadways, sidewalks, access gates and utilities, to the extent that the same have not been dedicated to the public and/or to the County, as and when deemed necessary by the Board.

B. Payment of the Common Expenses associated with the maintenance, repair, and operation of the Common Property, the management and administration of the business and affairs of the Association, and all Common Expenses for which provision is made in this Declaration.

C. Establishment, levy and collection of the Assessments provided for in this Declaration or which may otherwise be necessary, in the discretion of the Board, to provide and assure the availability of funds necessary to pay the Common Expenses or otherwise conduct the business and affairs of the Association.

D. In the event that an access gate or other barrier device is installed at the entrance to Property, to administer controlled access to and provide internal security services for and within the Property. However, neither Declarant nor the Association, or any of their respective partners, members, officers, directors, employees or agents shall, in any manner or way, be deemed to be insurers or guarantors of the personal safety or security of any persons, including, without limitation, any Owner or his family, tenants, guests, invitees, employees or agents, or of any property, whether real or personal, from time to time located within or upon the Property. Neither Declarant nor the Association, or any of their respective partners, members, officers, directors, employees or agents shall be responsible or accountable for the injury or death of any person. or for the loss of or damage to any property by reason or on account of the failure of the Association to limit or control access to the Property or by reason of the ineffectiveness of any activities directed, conducted, maintained or supported by the Association for that purpose.

E. Payment of ad valorem taxes and personal property taxes, if applicable, with respect to the Common Property.

F. Payment of maintenance costs associated with the Shared Infrastructure Improvements; provided, however, that at such time as, and to the extent that, such Shared Infrastructure Improvements are dedicated to the public, this obligation shall terminate automatically without further action.

G. Taking any and all actions necessary, in the discretion of the Board, to enforce all covenants, restrictions and easements affecting the Property and performing any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Property, or in the Governing Documents.

H. Conducting business of the Association, including, arranging for ancillary administrative services such as legal, accounting, financial, and communication services, such as informing Owners of activities, meetings, and other events.

I. To provide adequate insurance protection for the Common Property and, consistent with their respective duties, responsibilities and liabilities, provide adequate insurance protection for the Association and its officers and directors, as well as for members of the Design Review Board.

J. Acceptance of any instrument of conveyance with respect to any Common Property conveyed to the Association.

K. To establish and enforce such rules and regulations for the preservation, protection and use of the Common Property as the Board deems to be in the best interest of the Association and its Members.

L. To maintain, operate and repair the Surface Water Management System, and/or to cause such other Persons as may be legally responsible therefor to maintain, operate and repair the Surface Water Management System (as the case may be). For purposes of this Declaration, the maintenance, operation and repair of the Surface Water Management System means the exercise of practices that allow the systems included therein to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by SFWMD or the SFWMD Permit. Any repair or reconstruction of the Surface Water Management System shall be as permitted or, if modified, as approved by SFWMD.

M. To engage in any and all other activities permitted to be engaged in by a corporation not-for-profit under the laws of the State of Florida, as may be necessary or appropriate for the achievement of the objects and purposes for which the Association has been created

7.5 Authorized Services. The Association shall be authorized, but not required, to provide the following functions and services and shall have any and all easement rights necessary to perform same:

A. Such other services as are authorized in the Governing Documents;

B. Cleanup, landscaping, maintenance, dredging, water treatment or other care of ponds, canals, roads, or other property (public or private), adjacent to or near the Property, or

other property designated Common Property by Declarant or Association, to the extent that, in the judgment of the Board, such care would be beneficial to the Property, and to the extent that the Association has been granted the right to so care for the affected property by the owner thereof or by any other Person authorized to grant such right, including, but not limited to, any appropriate governmental authority.

7.6 Landscape Maintenance. Notwithstanding anything to the contrary in this Declaration, the Association shall have the right, but not the obligation, to provide maintenance, mowing, trimming, cleaning, placement, removal, planting, edging and/or pruning of the landscaping of any yards, lawns and/or sod located on each Lot, exterior pest control, fertilizer or other chemical treatment and/or irrigation systems (collectively, the "Landscape Maintenance"). Any Landscape Maintenance performed and/or assumed by the Association shall be assessed against each Lot as a Landscape Assessment (as described in Article VIII of this Declaration). Each Owner agrees, by virtue of taking title to that Owner's Lot, that the Declaration, the Association, and/or any of their respective directors, officers, employees, contractors, servants, invitees, licensees and/or agents, shall have any liability, obligation and/or responsibility to any Owner and/or to any family member, tenant, occupant, invitee, employee, servant, agent, visitor and/or guest of that Owner for any trespass, damages and/or injury to property or persons for any action taken pursuant to this Section 7.6, unless caused by gross negligence or intentional wrongdoing. Any such entry by the Association (and/or the Association's agents, contractors or designees) to perform or provide the Landscape Maintenance shall not be considered a trespass of any kind, and any corrections, repairs, replacements, cleaning, alterations, modifications and/or removals from that Lot shall not be considered criminal activity of any kind, including without limitation, theft, criminal mischief or burglary, and shall not be considered the basis for any civil action, including without limitation, conversion and any tort claim.

In the event that the Association exercises its right pursuant to this Section 7.6 to provide the Landscape Maintenance, an Owner shall have the ability to decline to accept such Landscape Maintenance. If an Owner declines such Landscape Maintenance, that Owner shall be obligated and responsible to maintain that Owner's Lot in the same standard as what the Association would have provided, and in a manner consistent with an exclusive residential community in accordance with this Declaration. Even if an Owner declines to accept such Landscape Maintenance, that Owner and that Owner's Lot shall remain subject to and obligated to timely pay each Landscape Assessment adopted and levied against that Owner and/or that Owner's Lot pursuant to Article VIII of this Declaration.

For purposes of this Section 7.6, Landscape Maintenance to be performed and/or provided by the Association shall specifically exclude trimming, pruning, fertilizing, chemically treating, repairing, replacing, installing, maintaining and/or operating landscaping of any type (including without limitation, plants, trees, shrubbery and sod) and/or any portion of an irrigation or sprinkler system located within an enclosed or screened patio, porch and/or swimming pool enclosure.

7.7 Actions by Association. Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating or otherwise abetting any legal action, claim or extra-judicial action except for (i) the imposition, enforcement and collection of Assessments, including lien rights, pursuant to Article VIII hereof,

(ii) collecting of debts owed to the Association, (iii) bringing any contest or appeal of tax assessments relating to any property owned by the Association, (iv) actions brought by the Association to enforce the provisions of this Declaration, and (v) counterclaims brought or defenses asserted by the Association in proceedings instituted against it, unless such legal action, claim or extra-judicial action shall be specifically approved for such purposes by Members holding not less than seventy-five percent (75%) of the total votes in the Association.

### **ARTICLE VIII COVENANT FOR ASSESSMENTS**

8.1 Assessments for Common Expenses. In order to assure the availability of the funds necessary to pay Common Expenses associated with the ownership, administration, management, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property and such additional Common Expenses as may be otherwise necessary, in the judgment of the Board, for the Association to perform its duties and obligations in accordance with the Governing Documents, and to otherwise carry out and accomplish the objects and purposes for which the Association has been created and established, each Lot and each Owner of such Lot shall, by the acceptance of a deed or other conveyance of title to the Lot, whether or not it shall be expressly stated in any such deed or other conveyance, be obligated for and be deemed to have covenanted and agreed to pay to the Association all Assessments established, levied, and imposed by the Association pursuant to this Declaration. Notwithstanding anything contained in this Declaration to the contrary, each of the Lots owned by the Declarant and/or a builder shall be exempt from the payment of all Assessments, fees and common expenses, including without limitation, the Annual General Assessment, Capital Improvement Assessments, Special Assessments, and Specific Assessment until such time as the title to each such Lot is conveyed to a third party purchaser.

8.2 Common Expenses. The Common Expenses for which Assessments shall be established, levied, enforced and collected by the Association pursuant to this Declaration shall be all costs and expenses incurred by the Association in the discharge and performance of the duties and obligations of the Association pursuant to the Governing Documents and in furtherance of the objectives and purposes for which the Association has been formed, created and established, including, without limitation, the following costs and expenses:

A. Those incurred in the management and administration of the business and affairs of the Association, including, without limitation, the salary or other compensation paid to the employees and consultants of the Association.

B. Those incurred in connection with the ownership, administration, management, regulation, care, insurance, maintenance, repair, restoration, replacement, improvement, preservation and protection of the Common Property.

C. Reasonable reserves for repairs to and replacement of the Common Property.

D. Those incurred for utility services to the Association and the Common Property, including, without limitation, electric power for the common street lighting, irrigation systems, and trash collection and removal.

E. Those incurred for Common Property landscape installation, maintenance, replacement and irrigation.

F. Those incurred in the operation, maintenance, management, repair, and if necessary, the replacement, of the Surface Water Management System.

G. Those incurred for internal security services to the Property, including, without limitation, the construction, maintenance, repair and replacement of guardhouses or guard gates, the salaries of security guards, the purchase and maintenance of vehicles, communications equipment, security cameras and other similar equipment, whether the same are provided directly by the Association or by a security services contract with an independent contractor.

H. Those incurred in connection with the regulation of traffic on any streets or roads within the Common Property, including, without limitation, the acquisition, maintenance, care, repair and replacement of traffic control and other signs.

I. Those incurred as premiums on or for any insurance obtained by the Association, including, without limitation, fire, casualty, liability and other insurance covering the Common Property and health, medical, workman's compensation and other insurance covering employees of the Association.

J. All taxes paid by the Association, including, without limitation, ad valorem real and personal property taxes on the Common Property, if any.

K. Those incurred in connection with any payments by the Association for the discharge of any lien or encumbrance imposed upon the Common Property or any portion thereof.

L. Those incurred by the Reviewing Entity in the performance of its duties and obligations pursuant to this Declaration, including, without limitation, the fees of or other compensation paid to consultants engaged by the Reviewing Entity, including architects, landscape architects, engineers and attorneys.

M. Those incurred from time to time by any committees of the Association which are reasonably connected to the discharge of the duties and obligations of the Association pursuant to this Declaration.

N. Those incurred in connection with the acquisition and repayment of any loans made to the Association.

O. Those incurred in connection with the enforcement of the provisions of this Declaration or the other Governing Documents, including the fees, costs and expenses of any attorney retained or employed by the Association for that purpose.

P. Costs associated with the Shared Infrastructure Improvements; provided, however, that at such time as, and to the extent that, the Shared Infrastructure Improvements, or the portion(s) of the Property upon which the same are located, are dedicated to the public, this obligation shall terminate automatically without further action.

8.3 Creation of the Lien of Assessments. All Assessments established, made, levied, adopted and/or imposed by the Association pursuant to this Declaration, together with interest, late charges, costs and expenses, including without limitation, any attorneys' fees associated with the collection thereof, shall be a charge and a continuing lien upon, and shall run with title to, each Lot against or with respect to which any such Assessment is made or levied.

8.4 Personal Liability for Assessments. In addition to the foregoing lien for Assessments, each Assessment, together with interest, late charges, costs and expenses, including any attorneys' fees associated with the collection thereof, shall also be the personal obligation and liability of the Owner of the Lot against which such Assessment is levied at the time of the levy. Personal liability for Assessments levied against and attaching to a Lot prior to the sale, transfer or other conveyance of such Lot shall pass to the purchaser or transferee of title to the Lot regardless whether such personal liability shall be expressly assumed by such successor in title as his or her personal obligation; provided, however, that no assumption of personal liability by a successor in title shall relieve any Owner from the personal liability and obligation for the payment of each Assessment.

8.5 Types of Assessments. The Association is hereby authorized and empowered to establish, levy, enforce and collect the following (collectively, the "Assessments"):

A. Annual General Assessments. An annual assessment for the Common Expenses estimated by the Association to be incurred by it during each calendar year in the performance of its duties and obligations pursuant to this Declaration (hereinafter referred to as an "Annual General Assessment").

(i) The amount of the Annual General Assessment for each calendar year shall be established by the Board not later than December 1 of the preceding year. The Board shall establish the Annual General Assessment for each calendar year based upon a pro forma operating statement or estimated budget for such calendar year which in turn shall be based, among other things, upon an estimate of the total Common Expenses likely to be incurred during such calendar year, taking into account the previous operating history of and any surplus funds (not including reserves) held by the Association, and the establishment of reasonable reserves for the maintenance and replacement of and repairs to the Common Property. The Association shall, not later than November 1 of each year, provide to each Owner a copy of the pro forma operating statement or estimated budget to be used by the Association in the establishment of the Annual General Assessment for the next succeeding calendar year. The total amount of the Common Expenses so estimated shall be divided by the total number of Lots within the Property in order to determine the amount of the Annual General Assessment for each Lot for such calendar year.

(ii) No later than December 16 of each year, the Association shall provide written notice to each Owner of the amount of the Annual General Assessment established for the next calendar year and the dates upon which the installments thereof shall be due and payable.



(iii) Unless otherwise determined by the Board, Annual General Assessments shall commence to accrue as to all Lots on the first day of the month following the first conveyance of a Lot by Declarant to any third-party Owner.

(iv) In the event that the Association shall determine during any calendar year that the Annual General Assessment established for such calendar year is or will become insufficient to meet all Common Expenses for such calendar year, for whatever reason, the Association shall be entitled to immediately determine the approximate amount of the deficiency of the Annual General Assessment for such fiscal year, issue a supplemental estimate of Common Expenses to all members of the Association and within thirty (30) days thereafter establish, levy, enforce and collect a supplemental Annual General Assessment for such calendar year. .

(v) From and after the Turnover Date, the Association shall not establish, levy, enforce or collect any Annual General Assessment which is increased over the amount of the Annual General Assessment for the immediately preceding calendar year by more than twenty-five percent (25%) without the approval of a majority of the Members, at a meeting duly called for such purpose and of which written notice specifying the amount of the proposed increase is sent to each Member at least thirty (30) days prior to such meeting.

(vi) Annual General Assessments shall be due and payable in advance either annually or in monthly or quarterly installments, as determined by the Board. Such payments shall be due and payable without any further notice than that notice specified in subsection (ii) above.

(vii) Notwithstanding anything contained in this Declaration to the contrary, Declarant shall not be obligated to pay any Annual General Assessment and/or Special Assessment as to any Lot owned by Declarant during the period of time that Declarant has Class B membership, but Declarant must pay any operating expenses of the Association incurred that exceed the Assessments receivable from other Owners and other income of the Association (commonly referred to as "Deficit Funding the Association"), as more particularly described in herein. While Declarant has Class B membership, Declarant may choose to pay the Common Expenses actually incurred over and above the income derived from all Assessments due from the other Owners pursuant to this Declaration. For purposes of this subsidy arrangement, the Association's budget deficit shall be the difference between (i) the amount of Annual General Assessments levied on Class A Member-owned Lots, plus any other anticipated income of the Association during that Fiscal Year (including, but not limited to, all other types of Assessments), and (ii) the amount of the Common Expenses and the Association's anticipated expenditures during that fiscal year, excluding contributions to reserves and/or reserve accounts and also excluding Special Assessments arising as a result of any loss or liability. For purposes of this subsidy arrangement, Declarant need not subsidize, contribute to and/or pay any reserves, replacement reserves and/or capital expenditures. Declarant, at its option and while Declarant has Class B membership, may elect by written notice delivered to the Association at any time to abandon the subsidy approach and commence payment of the Annual General Assessments and any Special Assessments thereafter falling due for the Lots then owned by Declarant, prorated as of the date of such written notice.

(viii) The Annual General Assessment shall include an amount, as determined by the Board in its reasonable discretion, to be collected as reserves against future periodic maintenance, repair and replacement of all or any portions of the Common Property, or for such other purposes as shall be determined by the Board. The portion of the Annual General Assessment representing the amount collected as reserves shall be deposited into a separate interest bearing bank account, not commingled with any other funds of the Association, and held in trust by the Association until used for such purposes.

B. Capital Improvement Assessments. The Association is hereby authorized and empowered to establish, levy, enforce and collect "Capital Improvement Assessments" for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or unexpected repair or replacement of any capital improvement to or upon the Common Property or the cost of the initial purchase or any subsequent unexpected repair or replacement of any fixtures, equipment or personal property purchased, repaired or replaced by the Association in furtherance of the discharge of its duties and obligations pursuant to this Declaration; provided, however, that any such Capital Improvement Assessment shall have the approval of Members holding not less than fifty-one percent (51%) of the total votes in the Association, at a meeting duly called for such purpose and of which written notice specifying the nature and amount of the proposed Capital Improvement Assessment is sent to all Members at least thirty (30) days prior to such meeting. All sums collected as Capital Improvement Assessments shall be used only for the purpose for which such Capital Improvement Assessment has been approved, and such sums shall be deposited by the Association in a separate interest bearing bank account, not commingled with any other funds of the Association, and held in trust by the Association until used for such purposes.

C. Special Assessments. The Association is hereby authorized and empowered to establish, levy, enforce and collect from time to time "Special Assessments" for any purpose directly related to the discharge of its duties and obligations pursuant to this Declaration; provided, however, that such Special Assessment shall have the approval of Members holding not less than fifty-one percent (51%) of the total votes in the Association, at a meeting duly called for such purpose and of which written notice specifying the nature and amount of the proposed Special Assessment is sent to all Members at least thirty (30) days prior to such meeting. All sums collected as Special Assessments shall be used only for the purpose for which such Special Assessment has been approved and such sums shall be deposited in a separate interest bearing bank account, not commingled with any other funds of the Association, and held in trust by the Association until used for such purposes.

D. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration also may be assessed by the Association against such Owner's Lot as a "Specific Assessment" in the event the Owner fails to pay it when due and such default continues for 30 days after written notice from the Association to the Owner.

E. Landscape Assessments. The Association is hereby authorized and empowered to establish, levy, enforce and collect from time to time "Landscape Assessments" for the purpose of providing and/or performing the Landscape Maintenance pursuant to Section 7.6 of this Declaration. Notwithstanding anything to the contrary in this Declaration, the Landscape

Assessments do not need to be uniform as to all Lots within the Property. The Association shall have the authority to adopt, levy, enforce and collect Landscape Assessments at differing amounts and/or levels based on the type of Lot (whether a Lot is lakefront or an interior Lot) and/or on the Landscape Maintenance provided on a particular Lot. If the Association adopts and/or levies Landscape Assessments, no Owner shall be excused from the obligation and/or responsibility to pay the portion of Landscape Assessments imposed and/or levied on that Owner and/or that Owner's Lot by virtue of that Owner's refusal and/or decline of the Association's Landscape Maintenance. When a certificate of occupancy has been issued for a Residence on a Lot, that Lot shall be subject to any and all applicable Landscape Assessments, if such Landscape Assessments have been adopted, established and/or levied by the Association.

F. Excise Taxes. The Association is hereby authorized and empowered to levy, enforce and collect from the Members, all excise taxes, if any, that from time to time may be imposed upon all or any portion of the Assessments established under this Article VIII.

8.6 Initial Fee. In addition to the foregoing, upon and at the closing of each sale of any Lot by Declarant and/or a builder to a third party purchaser for value, the purchaser of the Lot shall make an initial funding contribution to the Declarant in an amount to be determined by the Declarant from time to time (the "Initial Funding Contribution"), which the Declarant may be able to use for any purpose. The Initial Funding Contribution shall not be refundable to the purchaser and shall not be applied and/or considered as a credit or an advance against any Assessment (including any Annual General Assessment). Notwithstanding anything to the contrary contained in this Declaration, no Initial Funding Contribution shall be payable by any Building Contractor purchasing one or more Lots for the purpose of constructing a residential dwelling thereon and selling the same to a third party purchaser for value.

8.7 Resale Fee. In addition to the foregoing, upon and at the closing of each resale of any Lot, the purchaser of the Lot shall make a resale funding contribution to the Association in an amount to be determined by the Board of Directors from time to time (the "Resale Funding Contribution"), which the Association may be able to use for any purpose. The Resale Funding Contribution shall not be refundable to the purchaser and shall not be applied and/or considered as a credit or an advance against any Assessment (including any Annual General Assessment). Notwithstanding anything to the contrary contained in this Declaration, no Resale Funding Contribution shall be due and/or payable by the Declarant, the Association, any builder purchasing one or more Lots from Declarant for the purpose of constructing a Residence thereon for resale and/or any Building Contractor purchasing one or more Lots from Declarant for the purpose of constructing a Residence for resale.

8.8 Quorum for Action Authorized Under Section 8.5. The quorum required at any meeting of the Association for any action authorized pursuant to Section 8.5 above shall be as follows: At the first meeting called for the purpose of taking any such action, the presence at such meeting, in person or by proxy, of Owners entitled to cast thirty percent (30%) of all of the votes of the Members shall constitute a quorum. If the required quorum is not forthcoming at such first meeting, a subsequent meeting may be called for the same purpose, subject to the notice requirements set forth in said Section 8.5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the first meeting; provided, that no

such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.9 Allocation of Assessments. All Annual General Assessments and any Capital Improvement Assessments or Special Assessments shall be uniformly allocated among the Class A Members at an equal amount per Lot, and shall be collected on a uniform basis from the Owner of each Lot.

8.10 Remedies of the Association. Any Assessment, or installment thereof, not paid within thirty (30) days after its due date shall be delinquent and shall bear interest at the maximum rate from time to time permitted by law. The Association may bring an action at law against the Class A Member personally obligated to pay the same, or may foreclose its lien against the Lot to which the Assessment relates. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosure, and without waiving or otherwise impairing the security of any of the Association's liens, or its priority.

8.11 Foreclosure. The liens for sums assessed pursuant to this Article may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of Florida under applicable law. In any such foreclosure, the Class A Member against whom the action is filed shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, and all such costs and expenses shall be secured by the lien foreclosed. The Class A Member shall also be required to pay to the Association any Assessments against the Lot subject to the lien that become due during the period of foreclosure, which also shall be secured by the lien foreclosed and shall be accounted and paid as of the date title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the property foreclosed, or to acquire such property by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such property as its owner for purposes of resale only. If any foreclosure sale results in a deficiency, the Court having jurisdiction of the foreclosure may enter a personal judgment against the Class A Member for such deficiency.

8.12 Subordination of Lien. The lien against each Lot for the Assessments provided in this Article shall be subordinate to the lien of any First Mortgage on such Lot. Sale or transfer of any Lot within the Property shall not affect the Assessment lien thereon. The Association shall report to any Mortgagee of a Lot any applicable Assessments remaining unpaid for more than thirty (30) days and shall give such Mortgagee thirty (30) days' notice of such delinquency before instituting foreclosure proceedings against the Lot, provided such Mortgagee first shall have furnished the Association with written notice of the encumbrance, a request to receive such notice of delinquency from the Association, designating the Lot encumbered by a proper legal description and stating the address to which notices shall be given. Any holder of a Mortgage on a Lot may, but is not required to, pay any amounts secured by any of the liens created by this Article, and, upon such payment, such Mortgagee shall be subrogated to all rights of the Association with respect to such liens, including priority.

8.13 Certificate of Assessments Due. The Association and/or the designee or agent of the Association shall, upon the request of an Owner or any other interested party,

furnish a certificate executed by its President, Secretary, Treasurer or any other officer duly authorized to make such statements on behalf of the Association, setting forth whether Assessments payable with respect to a particular Lot have been paid, the amount of the delinquency, if any, and the amounts of any outstanding and unpaid interest, late charges, penalties, costs of collection, including attorneys' fees and court costs, if any, associated with any such delinquent Assessments. The Association and/or the Association's designee or agent shall be entitled to charge and collect a reasonable fee for and as a condition precedent to the issuance of any such certificate.

8.14 No Defenses or Offsets. All Assessments shall be payable in the amounts and at the times specified in the notices of such Assessments that are provided by the Association to the Owners, and no defenses or offsets against the payment of such amount shall be permitted for any reason whatsoever, including, without limitation, any claim by an Owner that (i) the Association is not properly exercising its rights and powers or performing or discharging its duties and obligations as provided in the Governing Documents; (ii) such Owner has made or elected to make no use of the Common Property; (iii) such Owner has otherwise waived or elected to waive his membership in the Association; or (iv) the Association has suspended the right, privilege and easement of such Owner to use the Common Property.

8.15 Exempt Property. Notwithstanding anything to the contrary set forth in or otherwise implied from the terms and provisions of this Declaration, the Common Property shall be and is hereby made exempt from all Assessments of any kind, nature, type or character whatsoever. Additionally, any property, other than a Lot, which is owned by or dedicated to and accepted by any governmental body or agency, shall be exempt from any Assessments. All property otherwise exempted from taxation by the laws of the State of Florida or the United States of America shall also be exempt from all Assessments, but only upon the same terms as those on which the tax exemption is provided.

## **ARTICLE IX ENFORCEMENT OF NON-MONETARY DEFAULTS**

9.1 Non-Monetary Defaults. In the event of a violation by any Member or Owner (other than the nonpayment of any Assessments or other monies) of any of the provisions of the Governing Documents or any rules and regulations set forth by the Association, the Association shall notify the Member or Owner of the violation by written notice. If the violation is not cured as soon as practicable, and in any event, no later than seven (7) days after receipt of written notice, or if the violation is not capable of being cured within such seven (7) day period, and the Member or Owner fails to commence, within said seven (7) day period, and thereafter diligently proceed to completely cure the violation, the Association may pursue any or all of the following, at its sole and absolute option:

A. **Specific Performance**. Commencement of an action to enforce the performance on the part of the Member or Owner, or for such equitable relief as may be determined by the Board to be necessary under the circumstances, including injunctive relief;

B. **Damages**. Commencement of an action to recover damages;

C. Injunctive Relief. Commencement of an action for injunctive and/or other equitable relief;

D. Any and all legal, administrative and/or equitable remedies provided under Florida law; and/or

E. Corrective Action. Any and all action determined by the Board to be reasonably necessary to correct such violation, which action may include, but is not limited to, the removal of any building or improvement for which the approval of the Reviewing Entity has not been obtained, or the performance of any maintenance required to be performed by this Declaration, including the right to enter upon a Lot to make such corrections or modifications as are necessary, or remove anything in violation of the provisions of the Governing Documents or any rules and regulations set forth by the Association.

9.2 Fine and Suspension. In the event of any non-monetary violation by any Member, Owner, or any tenant, guest or invitee thereof, of any of the provisions of the Governing Documents or of any of the rules and regulations promulgated by the Association, the Association or a committee duly appointed by the Board for such purpose, shall have the right to suspend the right, privilege and easement of such Member, Owner and its family, tenants, guests or other invitees to use the Common Property, or any portion thereof designated by the Association, for a period not to exceed thirty (30) days for any single infraction after appropriate notice and opportunity for a hearing is given and held in accordance with Florida Statutes. The Association, or a committee duly appointed by the Board for such purpose, shall have the right to levy reasonable fines against any Member, Owner and their tenants, guests or invitees, for any non-monetary violation of any of the Governing Documents or of any of the rules and regulations promulgated by the Association, after appropriate notice and opportunity for a hearing is given and held in accordance with Florida Statutes. Such fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing given and held. It is expressly provided that such fines may exceed One Thousand and No/100 Dollars (\$1,000.00) in the aggregate.

9.3 Expenses. All expenses incurred by the Association in connection with the correction of any violation, or the commencement of any action against any Owner, including administrative fees, costs and reasonable attorneys' fees through the appellate level, shall be a Specific Assessment as provided in Article VIII, assessed against the applicable Owner and Lot, and shall be due upon written demand by the Association.

9.4 Late Fees. Any amount due to the Association which is not paid within thirty (30) days of the date when due shall be subject to a late fee as set by the Board and shall bear interest at the maximum rate from time to time permitted by law.

9.5 No Waiver. The failure of the Association to enforce any right, provision or covenant granted to it in the Governing Documents shall not constitute a waiver of the right of the Association to enforce such right, provision or covenant in the future.

9.6 Rights Cumulative. All rights, remedies and privileges granted to the Association pursuant to the terms and conditions of the Governing Documents shall be deemed

to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Association from executing such additional rights, remedies or privileges as may be granted to it or as it might have by law.

9.7 Enforcement. In addition to the foregoing, this Declaration may be enforced by Declarant, the Association, or any Owner by any procedure at law or in equity against any Person violating or attempting to violate any provision herein, to restrain any violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the Person against whom enforcement is sought, provided such proceeding results in a finding that such Person was in violation of this Declaration. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees prior to trial, at trial, post-judgment, collections, bankruptcy, judgment enforcement, administrative, arbitration, mediation and through any and all appellate levels.

9.8 Certificate as to Default. Upon request by any Owner or Mortgagee, the Association shall execute and deliver a written certificate as to whether the records of the Association indicate that such Owner is in default with respect to compliance with the terms and provisions of this Declaration.

## **ARTICLE X**

### **ARCHITECTURAL AND LANDSCAPE CONTROL**

10.1 Architectural Review. All portions of the Property, including the Lots, are subject to architectural review and control. The following provisions shall govern the architectural review process for the Property:

A. Declarant Review.

(1) Each Owner, by accepting a deed and/or other instrument conveying any interest in any portion of the Property, understands, agrees and acknowledges that Declarant has a substantial interest in ensuring that the improvements within the Property enhance the appearance of the Property and do not impair Declarant's ability to market, sell and/or lease any portion of the Property. Therefore, each Owner knowingly and voluntarily agrees that no site work, construction, excavation, staking, landscaping, repair, replacement, modification, utility installation or extension, drainage improvement, paving, driveway, swimming pool, pool enclosure, building, structure, Improvements, fence, wall, sidewalk, mailbox, lighting, decoration, equipment, or any other physical or structural Improvement in the Property and/or any Lot, no any exterior alteration, modification, repair, replacement and/or addition to any portion of the Property and/or any Lot (defined collectively for purposes of this Declaration as the "Work") shall be permitted, commenced, modified, erected, built, placed, started, planted and/or maintained unless and until the Declarant has given its prior written approval for such Work, which approval may be granted, conditionally granted and/or withheld in Declarant's sole and absolute discretion. In reviewing any architectural review request,

Declarant shall be acting in Declarant's own interest and shall not owe any duty to any other Person.

(2) The rights granted and/or reserved to Declarant in this Section 10.1 shall continue so long as Declarant owns any portion of the Property, unless terminated, assigned and/or delegated at an earlier time in a written instrument that has been executed by Declarant and recorded in the Public Records of the County.

B. Design Review Board.

(1) Declarant may, from time to time, but shall not be obligated to, delegate, transfer and/or assign all or a portion of its reserved rights under this Section 10.1 to the Association's Design Review Board (the "DRB"), subject to the following: (i) the right of Declarant to revoke such delegation, transfer and/or assignment at any time and reassume jurisdiction over the architectural review matters previously delegated, transferred and/or assigned to the DRB; and (ii) the right of Declarant to veto any decision of the DRB which Declarant determines, in Declarant's sole and absolute discretion, to be inappropriate, inadvisable and/or not in keeping with the architectural scheme and/or architectural pattern of the Property. For so long as Declarant has rights pursuant to this Section 10.1, the jurisdiction of the DRB shall be limited to such matters that are specifically delegated, transferred and/or assigned to the DRB by Declarant. Unless and until such time as Declarant delegates, transfers and/or assigns all or a portion of Declarant's reserved rights to the DRB, the Association and/or the DRB shall have no jurisdiction over any architectural and/or architectural review matters. Upon any such delegation, transfer and/or assignment from Declarant to the DRB, the DRB shall accept and exercise the architectural review jurisdiction so delegated, transferred and/or assigned in accordance with the provisions of Article X of this Declaration.

(2) Upon the expiration, cancellation and/or termination of Declarant's rights under this Section 10.1, the Association shall assume complete jurisdiction over architectural and/or architectural review matters pursuant to this Declaration, and the Association, acting through the DRB, shall be entitled to exercise all powers previously reserved to Declarant under Article X of this Declaration.

10.2 Membership of DRB. So long as Declarant has Class B membership, Declarant shall be entitled to appoint all members of the DRB, none of whom shall be required to be Members of the Association. When Declarant's Class B membership terminates, the membership of the DRB shall be determined and selected by the Board, and all DRB members selected by the Board shall be Members of the Association. Prior to the termination of Declarant's Class B membership, the DRB shall consist of no less than one (1) member, and may contain any number of members as determined by the Declarant. Upon the termination of Declarant's Class B membership, the DRB shall consist of no less than three (3) members, and may contain such additional number of members as may be determined from time to time by the Board. Decisions of the DRB shall be made by majority vote or action. No member of the DRB shall be entitled to compensation for services performed, but the DRB may employ professional advisors and pay reasonable compensation to such advisors at Common Expenses. Members of the DRB may be reimbursed by the Association for any out-of-pocket expenses incurred as a



result of the performance of that member's service on the DRB, and such reimbursement shall be a Common Expenses. Members of the DRB serve at the pleasure of the Board and any member of the DRB may be removed by the Board at any time with or without cause. Notice of DRB meetings shall be pursuant to the Articles and/or Bylaws.

10.3 Prior Approval Requirement. Absolutely no site work, construction, excavation, staking, landscaping, repair, replacement, modification, utility installation or extension, drainage improvement, paving, driveway, swimming pool, pool enclosure, building, fence, wall, sidewalk, Improvement, mailbox, lighting, decoration, equipment, or any other physical or structural improvement in, on and/or to the Property and/or any Lot, nor any exterior alteration, modification, repair, replacement and/or addition to any portion of the Property and/or any Lot (defined collectively for purposes of this Declaration as the "Work") shall be permitted, commenced, modified, erected, started, installed, built, placed, planted and/or maintained until Declarant, or to the extent that the DRB has jurisdiction pursuant to this Declaration, the DRB (the applicable entity having architectural review jurisdiction at any particular time for purposes of this Declaration shall be defined collectively as the "Reviewing Entity") has received and approved in writing the Plans therefor. All Work shall also comply with all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. It shall also be the responsibility of each Owner at the time of construction, placement, building, installation, planting and/or permitting of any Work on that Owner's Lot to comply with the approved construction plans for the Drainage System on file with the District, the applicable portions of the District Permit and all other District requirements. Until the Plans for all proposed Work have been submitted to and approved in writing by the Reviewing Entity, the Owner shall not make application (directly or through any other agent, servant and/or family member) to any governmental agency for any building and/or other permit for the proposed Work. Nothing in this Declaration shall limit the right of an Owner to finish or alter the interior of that Owner's Residence as that Owner desires; provided, however, that no such finishing and/or alteration increases the premium on any insurance policy obtained by the Association and/or that no such finishing and/or alteration is visible from the exterior of that Owner's Residence.

10.4 Approval or Disapproval. Except as otherwise expressly provided in the Governing Documents, all Work must conform to the Governing Documents, and no Plans shall be approved by the Reviewing Entity if they are not in conformity with the Governing Documents. If for any reason, including purely aesthetic reasons, the Reviewing Entity determines that any proposed Work is not consistent with the Governing Documents, Declarant's development plan and/or the best interests of the Property, then such Work shall not be made and/or performed. The Reviewing Entity's approval of Plans may be withheld not only because of noncompliance with any of the specific conditions, covenants, terms, provisions and restrictions contained in the Governing Documents, but also by virtue of the dissatisfaction of the Reviewing Entity with the location of the Work on the Lot, the elevation, color scheme, finish, design, proportions, architecture, drainage plan, shape, height, style and appropriateness of the proposed Work, the materials to be used therein, the materials, design, size, height and/or location of vegetation and/or any landscaping on the Lot, or because of the Reviewing Entity's reasonable dissatisfaction with any other matter or thing which, in the sole judgment of the Reviewing Entity, will render the proposed Work aesthetically displeasing and/or inharmonious

with the Governing Documents, Declarant's development plan, architectural scheme of the Property, architectural pattern of the Property and/or the best interests of the Property.

Submittals and resubmittals of Plans shall be approved, conditionally approved or disapproved within forty-five (45) days after receipt by the Reviewing Entity of all required and/or requested Plans. The forty-five (45) day time period does not begin to run until the Reviewing Entity has received all Plans and any other documents required by the Reviewing Entity from the requesting Owner. The Reviewing Entity's approval, conditional approval or disapproval shall be in writing and shall be accompanied by one (1) copy of the Plans approved, conditionally approved or disapproved. In the event the Reviewing Entity fails to advise the requesting Owner by written notice of approval, conditional approval or disapproval within the forty-five (45) day time period set forth above, the requesting Owner shall give the Reviewing Entity written notice of the Reviewing Entity's failure to respond, and any such notice from the requesting Owner shall expressly state that unless the Reviewing Entity responds within fifteen (15) days of receipt of the requesting Owner's written notice, the approval of the Reviewing Entity shall automatically be deemed to have been granted. Whenever the Reviewing Entity disapproves any Plans, the Reviewing Entity may, but is not obligated to, specify the reasons for that disapproval. Any approval by the Reviewing Entity may be conditional in nature and/or may impose additional requirements to be met by the requesting Owner. If the conditions and/or additional requirements are not met by that Owner, the Reviewing Entity's approval will automatically be withdrawn, considered null and void and that Owner must resubmit Plans and obtain prior approval from the Reviewing Entity for any proposed Work. The Reviewing Entity may grant partial approval to any proposed Work.

Any approval, conditional approval or disapproval given in writing by the Reviewing Entity shall be final. An Owner cannot appeal any decision of the Reviewing Entity to the Board. Each Owner, by accepting any interest in any portion of the Property, acknowledges, understands and agrees that determinations and/or decisions of the Reviewing Entity are purely subjective, and opinions may vary as to the desirability and/or attractiveness of particular construction, improvements, alterations, modifications, landscaping, repairs, replacements and/or additions.

10.5 Commencement. If any Work that has been approved by the Reviewing Entity does not commence within six (6) months from the date of the Reviewing Entity's approval, such approval shall automatically expire and it shall be necessary for the Owner to reapply for the Reviewing Entity's approval before the Work can begin. Any and all Work must be completed in the time set forth in Article VIII of this Declaration.

10.6 Violations. All Work must be performed strictly in accordance with the approved Plans. If after Plans have been approved, the approved Work is altered, erected, constructed, built, placed, installed, planted, modified and/or maintained upon the Lot other than as approved by the Reviewing Entity, then the Work shall be deemed to have been undertaken without the Reviewing Entity's approval. After two (2) years from completion of any Work, it shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to comply with the Governing Documents unless a notice of such noncompliance has been issued by either the Reviewing Entity or the Board, or legal and/or administrative proceedings shall have been

instituted to enjoin the noncompliance and/or to enforce compliance with the Governing Documents.

10.7 Variances. The Reviewing Entity may grant variances from compliance with the architectural provisions of the Governing Documents, including but not limited to restrictions upon height, size or placement of structures, buildings, landscaping and/or improvements, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may reasonably require or permit. The granting of any variance shall not operate to waive any of the terms and provisions of the Governing Documents for any purpose except as to the particular Lot and the particular provision covered by the specific variance being granted, nor shall it affect the Owner's obligation to comply with all governmental requirements, including the District Permit and other requirements of the District. Such variances may only be granted when mitigating or unique circumstances exist on a particular Lot, no variance shall be effective unless in writing, and no variance shall be deemed to preclude or estop the Reviewing Entity from denying a variance in similar circumstances in the future.

10.8 Waiver of Liability. None of Declarant, the DRB, the members of the Board or the Association, or any Director, officer, agent, servant, attorney or employee thereof, shall be liable to anyone submitting Plans for approval or to any Owner, or any Owner's family members, tenants, invitees, licensees, agents, visitors, occupants and/or guests by reason of or in connection with approval, conditional approval and/or disapproval of any Plans, or for any defect in any Plans submitted, revised and/or approved in accordance with the requirements of the Reviewing Entity, or for any structural and/or other defect in any work done according to such Plans. Approval of Plans, or any other approvals, variances or consents, are given solely to protect the values and aesthetics of the Property in the judgment of the Reviewing Entity and shall not be deemed a warranty, representation, guarantee and/or covenant that any action taken in reliance thereon complies with applicable laws, codes, ordinances, rules or regulations, nor shall the Reviewing Entity's approval be deemed approval of any Plan or design from the standpoint of safety and/or conformity with building, zoning or other codes. Every Owner who submits Plans for approval agrees, by submission of such Plans, and every family member, tenant, invitee, visitor, Person, agent, occupant and/or guest of any Owner agrees, by acquiring title thereto, by acquiring a deed thereto and/or acquiring an interest therein, or by entering the Property, that he, she or it will not bring any action, proceeding, claim and/or suit to recover any such damages and shall be deemed to have automatically, knowingly and voluntarily agreed to hold harmless and indemnify the Declarant, the Association, the DRB, the Board, and the Association's officers and Directors from and for any loss, claim, property damage, personal injury, death and/or any other damages connected with, arising from and/or related to any aspects of the Work on, in, under and/or to any Lot.

10.9 Enforcement. The Reviewing Entity and the Association both shall have standing and authority on behalf of the Association to enforce in courts of competent jurisdiction and/or any applicable administrative agency the decisions of the Reviewing Entity. In addition to any other remedy to which the Reviewing Entity and/or the Association may be entitled, the Reviewing Entity and the Association shall also be entitled to recover their Enforcement Cost from the violating Owner. Should any Owner fail to comply with the requirements of this Article X within thirty (30) days after receipt of written demand for compliance, the Reviewing

Entity and the Association both shall have the right, but not the obligation, to enter upon that Owner's Lot, make such corrections, repairs, replacements, alterations and/or modifications as are necessary, or remove anything in violation of the provisions of the Governing Documents, and charge the cost thereof to that Owner as an Individual Assessment. Neither the Reviewing Entity and/or the Association, nor any of their respective Directors, officers, employees, servants, invitees, attorneys, contractors and/or agents, shall have any liability to the Owner or to any of that Owner's family members, tenants, invitees, agents, visitors, occupants and/or guests for any trespass, damages, injury to property or person(s) for any action taken hereunder unless caused by gross negligence or intentional wrongdoing. Any such entry upon that Owner's Lot shall not be considered a trespass and any corrections, repairs, replacements, alterations, modifications and/or removals from that Lot shall not be considered criminal activity of any kind, including, but not limited to, theft, criminal mischief, and burglary, and shall not be considered the basis of any civil claim, including, but not limited to, conversion and any tort claim.

10.10 Exemption. Declarant shall be exempt from the architectural control and/or architectural review provisions of Article X of this Declaration. Declarant shall be entitled to construct, build, erect, place, plant and/or install any new Improvement, any landscaping and/or structure of any kind, and to change, modify, replace and/or add to any existing Improvement, building, landscaping and/or structure, without submitting Plans to and/or obtaining the approval of the DRB and/or the Association.

10.11 No Waiver of Future Approval Rights. The approval of any Plans by the Reviewing Entity or the approval of or consent to any other matter requiring the review, approval or consent of the Reviewing Entity, shall not be deemed to constitute a waiver of the right to withhold approval and/or consent as to any similar Plans or matters subsequently and/or additionally submitted to the Reviewing Entity for its review, approval and/or consent.

10.12 Inspection of Construction. Any member of the Design Review Board or any officer, director, employee or agent of Declarant or the Association may, but shall not be obligated to, enter any building, structure or other Improvement under construction, at any reasonable time, in order to inspect the same and ascertain whether or not any such building, structure or other Improvement is being constructed, built, planted and/or installed in compliance with this Declaration and the Plans, specifications and other materials approved by the Reviewing Entity.

10.13 Interior Alterations Exempt. Nothing contained in this Article X shall be construed to require the submission to or approval of the Reviewing Entity of any Plans, specifications or other materials for the reconstruction or alteration of the interior of any building, structure and/or Improvement constructed on the Property, unless any proposed interior construction or alteration will have the effect of changing or altering the exterior appearance of such building, structure and/or Improvement.

10.14 Approved Builder. Only such builder or builders as Declarant, in the exercise of its sole discretion, may designate from time to time in writing as an approved builder shall be permitted to construct homes within the Property.

10.15 Plan Submittal. Unless waived in advance by the Reviewing Entity, all Plans shall be prepared by an architect or engineer employed by and at the expense of the submitting Owner. All plan submittals must include three (3) sets of drawings for review.

A. Preliminary Submittal (Optional).

(i) Topographic Survey (certified) in one foot (1') intervals showing primary trees;

(ii) Preliminary Site Plan showing building placement; proposed grading and drainage contour; patios/fences (schematic); fountains (schematic); berm and swale easements (lakefront only); all easements; walks and drives; site coverage and building square footage; pools (schematic); existing trees; future additions; and required and actual building Preliminary Floor Plans (1/8" or 1/4" scale) showing door and window locations (front door must be minimum of eight feet (8') or six feet eight inches (6'8") with transom); finish floor elevations; overhangs (must be a minimum of 18" from face of wall); yard or accessory structures. Slab elevation will be a minimum of eighteen (18") inches above the finished floor grade elevation.

(iii) Preliminary building elevation identified as front (street), left and right sides, showing proposed exterior materials.

(iv) Preliminary area coverage calculation.

B. Final Submittal. The Final Submittal is meant to provide the Reviewing Entity with Plans and drawings that illustrate and communicate a fully developed design concept that is well integrated with the site and, surroundings. The drawings shall be hard line, to 1/4 inch scale. The Reviewing Entity requires one (1) exterior material/color board for review purposes and, three (3) sets of the following Design Development Drawings:

(i) Illustrative materials, renderings, models, or drawings are recommended to adequately present the concept.

(ii) Certified Topographic Survey Showing diameter of primary trees at one (1) inch intervals and topography grades.

(iii) Final Site Plan showing applicable building setback lines; building placement; proposed new grades by landscape architect, civil engineer or surveyor;. All easements; pool setback lines; final drainage plan; finished floor elevations; all service yards, mechanical equipment, trash areas, pool fences; all utility services locations; pervious versus impervious calculations; berm and swale easements (lakefront only) signed by landscape architect, civil engineer, or surveyor; existing trees (as shown on tree survey); dimensions to corner of structure(s) perpendicular to the property lines.

(iv) Final Floor Plans showing rooms designated by name and dimensions; appliances noted gas or electric; door and window locations; square footage of covered patio; square footage of garage; 1/a" scale; square footage of gross and living areas.

(v) Exterior Elevations showing all exterior elevations; exterior materials and finishes (including light fixtures, etc.); chimney and chimney cap height; special architectural elements (skylights, ornaments, etc.); gutters and downspouts.

(vi) Roof Plan showing overhang line (MUST be a minimum of 18 inches from face of the wall).

(vii) Landscape Plan showing final site plan indicating fencing, retaining walls and site lighting plan; hardscape plan; proposed trees, shrubs, lawn, berming and ground cover area; irrigation plan.

C. Plan Submittal Fees. Each submission shall include an information block containing north arrow and scales; street names; submission date; date of each revision, change or plan reissue; name of the lot owner; name, address, telephone number and Florida license number of the design professional. The first submission shall be accompanied by a Five Hundred and No/100 Dollars (\$500.00) non-refundable application and review fee. Each subsequent submission and each reuse of a multiple use plan shall be accompanied by a Fifty and No/100 Dollars (\$50.00) non-refundable application and review fee. The Reviewing Entity shall have the authority to modify the application and review fees for both first submission and each subsequent submission in the sole and absolute discretion of the Reviewing Entity.

10.16 Architectural Guidelines. Declarant and/or the DRB may develop, adopt and make available to all Owners, their architects, builders and contractors and all approved builders, and may from time to time change, modify, amend, supplement and/or restate a manual or manuals setting forth detailed architectural, aesthetic and/or landscaping Architectural Guidelines to be used as a standard or guide for determining the acceptability of any proposed Improvement requiring review and approval by the Reviewing Entity. Until Declarant's delegation of the architectural review function as set forth in this Declaration, any such Architectural Guidelines must be approved by Declarant prior to its adoption and/or any subsequent change, modification, amendment, supplement and/or restatement by the DRB. Such Architectural Guidelines may include a detailed statement, explanation, interpretation and expression of acceptable design standards, specifications, criteria and guidelines for a number of typical design elements, including without limitation, site planning, grading, drainage, architectural design and detail, building components and materials, landscape and landscape design and detail, plant materials, and such other design elements as Declarant and/or the DRB shall, in their respective discretions, from time to time determine to be reasonably necessary or appropriate in order to achieve the desired physical and aesthetic environment to be created, established and maintained within the Property. The Architectural Guidelines and the standards, specifications, criteria and guidelines from time to time set forth therein shall be used by the Reviewing Entity and other affected Persons only as a guide and shall not be binding upon the Reviewing Entity in determining the acceptability of any Plans, specifications and/or materials submitted to and reviewed by the Reviewing Entity in the exercise of its review and approval functions pursuant to this Declaration.

## **ARTICLE XI**

### **USE RESTRICTIONS AND COVENANTS**

The Property shall be subject to the following restrictions, reservations and conditions, which shall be binding upon Declarant and upon each and every Owner who shall acquire hereafter a Lot or any other portion of the Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns:

11.1 County Restrictions.

A. The same front facade for single family residential units may not be repeated more than five (5) times within one (1) block length for both sides of any street, and shall be separated by at least two (2) Residences with different facades. House front facades shall be varied and articulated to provide visual interest to pedestrians along the street frontage. The front facade of the main body of the house shall not exceed forty feet (40') in length, except for wings or "L's" which are set back from the facade. In no case shall more than fifty percent (50%) of the front facade of a house consist of an unobstructed block wall or garage door.

B. At least fifty percent (50%) of all Residences shall have a front porch. A front porch shall be a minimum of seven feet (7') in depth and cover a minimum ten feet (10') in width or one-third (1/3) of the front facade, whichever is greater.

C. Flat roofs shall be prohibited. The following materials will be acceptable roof finishes, any others must be approved by the Reviewing Entity: clay tile, cement tile or slate. The color of all roof finishes must be approved by the Reviewing Entity.

D. Other than those fences and walls constructed by the Developer and/or the Association on any Lot or within the Wall and Landscape Easements established pursuant to this Declaration, no fences and/or walls shall be erected on a Lot unless first approved in writing by the Reviewing Entity as to type, style, materials, height, color and placement on the Lot. Notwithstanding the foregoing, in no event shall prefabricated wooden or chain link fences be permitted by the Reviewing Entity on any Lot, and no fences may be installed in the front yards of any Lot. The limitations contained herein shall not be construed as prohibiting the construction of screen enclosures around swimming pools, in a design and of a material approved by the Reviewing Entity. Any fence to be constructed around a pool or spa must comply with all applicable governmental codes, regulations, ordinances and statutes. Notwithstanding anything to the contrary in this Declaration, any fencing located in the front yard of a Lot shall be placed, installed and/or built within three feet (3') of the sidewalk to define the separation of public and private spaces. Any fencing located in the front yard of a Lot shall be no higher than three feet and six inches (3'6") and the style shall be limited to decorative wrought iron or a wood picket style.

E. The Association, and any Owner, shall have the right to enforce the provisions of this Paragraph 11.1. The County shall have the right, but not the duty, to enforce the provisions of this Paragraph 11.1 in the same manner as it enforces County ordinances and regulations. The provisions of this Paragraph 11.1 shall not be amended, removed, deleted and/or superseded without the prior approval of the County, which approval may be withheld in the sole discretion of the County.

11.2 General Restrictions.

A. Each Lot shall be used, improved, and devoted exclusively to single family residential use and for no commercial purpose, except for the rights of Declarant set forth herein or contemplated hereby.

B. No structure of any kind shall be erected, altered, placed or permitted to remain on any Lots, other than for residential use.

C. Except for Lots 40, 41, 44, 45 and 46 on the Plat (which shall be subject to the requirement that no residence built thereon shall be less than 1,700 square feet in total area), the setbacks on each Lot and the minimum square footage of each residence constructed on a Lot shall be as follows:

Lot Number	Minimum Front Yard (Note 1)	Minimum Side Yard (Note 2)	Minimum Rear Yard	Maximum Building Height	Maximum Stories	Minimum Square Footage of Residence (Note 3)	Side Street
4 through 33, inclusive	25 feet	First fl: 7.5 feet; Second fl: Recommended to be center loaded; Reviewing Entity to have final approval	50 feet from normal high water elevation (Note 4)	40 feet	3	4,000	10 feet
3, 34 through 39, inclusive, 42, 43 and 47 through 83, inclusive	20 feet	First fl: 7.5 feet; Second fl: Recommended to be center loaded; Reviewing entity to have final approval	25 feet	40 feet	3	3,000	10 feet
1, 2 and 84 through 88, inclusive	20 feet	First fl: 5 feet; Second fl: Recommended to be center loaded; Reviewing Entity to have final approval	25 feet	40 feet	3	3,000	10 feet

Note 1: The front setback for porches shall be ten feet (10') and garages that face the street shall be set back ten feet (10') from the front façade.

Note 2: Exceptions may be permitted only with prior approval by the Reviewing Entity.

Note 3: Only includes portion of Residence being heated and/or cooled.



Note 4: Notwithstanding anything to the contrary, the building pad for lakefront Lots shall not encroach in the environmental swale.

D. Except for Lots 40, 41, 44, 45 and 46 on the Plat, which shall be entirely exempt from this subsection D., each Owner will be required to install landscape planting on such Owner's Lot (excluding sod, irrigation and trees) at a cost of not less than (i) \$25,000 per Lot for Lots 4 through 29, inclusive, and (ii) \$10,000 per Lot for Lots 1 through 3, inclusive and for Lots 30 through 88, inclusive, excepting only Lots 40, 41, 44, 45 and 46. Each Lot must have planted on it, as a street tree, one live oak (18' to 20' in height x 10' to 12' canopy with a 6" caliper) for each fifty feet (50') or fraction thereof, of street frontage, to be planted within the right-of-way. In addition to street trees, each Lot must have planted in the front yard, the following trees: (i) for Lots 4 through 29, inclusive, a minimum of 7 live oaks or 4 live oaks and 3 magnolias (16' to 18' in height x 8' to 10' canopy with a 4" caliper), and (ii) for Lots 1 through 3, inclusive and for Lots 30 through 88, inclusive, excepting only Lots 40, 41, 44, 45 and 46, a minimum of three (3) live oaks or two (2) live oaks and one (1) magnolia (16' to 18' in height x 8' to 10' canopy with a 4" caliper). All planting beds on all Lots, except for Lots 40, 41, 44, 45 and 46, must conform to the following standards: (i) no prefabricated or manufactured edgers will be allowed, instead hand cut edges are required, (ii) no gravel, stone, crushed brick, or similar materials will be allowed as mulch, instead shredded cypress bark, pine bark, red wood nuggets or other hardwood chips must be used as mulch. Except for Lots 40, 41, 44, 45 and 46, all sod planted on any Lot must be of the Zoysia variety, or such other variety as may be approved from time to time by the Reviewing Entity.

11.3 Access to Lake Burden. Public, community or commercial water craft access to Lake Burden shall be prohibited and no public boat ramps shall be permitted on Lake Burden.

11.4 Commercial Activity. No business, commercial, industrial, trade, professional or other non-residential activity or use of any kind or description shall be conducted upon or from any Lot or the Improvements constructed thereon.

11.5 Mining or Drilling. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise, undertaken within any portion of the Property. Excepted from the foregoing shall be activities of Declarant or the Association, or any assignee of Declarant or the Association, in dredging the water areas, creating land areas from water areas, or creating, excavating, or maintaining drainage or other facilities or easements, or the installation of wells or pumps in compliance with applicable Governmental Regulations, or for sprinkler systems for any portion of the Property.

11.6 Antennas, Aerials, Satellite Dishes and Flagpoles. No outside antennas, antenna poles, antenna masts, satellite television reception devices, electronic devices, antenna towers, citizen band (CB) radios or amateur band (ham) antennas shall be permitted on any portion of the Property, except as approved in writing by the Reviewing Entity and as permitted by applicable law. A flagpole for display of the American flag or any other flag shall be permitted only if first approved in writing by the Reviewing Entity as to its design, height, location and type; provided, however, that nothing contained herein is intended or shall be

construed to require that an Owner obtain the approval of the Reviewing Entity in order to attach to an exterior wall of the Owner's house, and to display in a respectful manner, one portable, removable United States flag.

11.7 Outside Lighting. Except as may be installed initially by Declarant, no spotlights, flood lights, or similar high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Improvements without the prior written approval of the Reviewing Entity.

11.8 Trees. Trees shall not be removed without the prior written approval of the Reviewing Entity.

11.9 Walls; Pens. No walls, dog runs, animal pens or similar structures of any kind shall be placed or erected on any portion of the Property unless approved in writing by the Reviewing Entity.

11.10 Subdivision or Partition. No portion of any Lot shall be subdivided by any Person other than Developer without the prior written approval of the Association.

11.11 Casualty Destruction to Improvements. In the event an Improvement is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, not exceeding six (6) months following the occurrence of the incident, the Owner thereof shall either commence to rebuild or repair the damaged Improvement and diligently continue such rebuilding or repairing activities to completion or, upon a determination by the Owner that the improvement will not be repaired or replaced promptly, shall clear the damaged Improvement and grass over and landscape such Lot. A destroyed Improvement shall only be replaced with an improvement of a similar size, type, construction, and elevation as that destroyed unless the prior written consent of the Reviewing Entity is obtained.

11.12 Insurance Rates. Nothing shall be done or kept on any Common Property which shall increase the insurance rates of the Association without the prior written consent of the Board.

11.13 Parking. All parking shall be in designated areas only. Vehicles are not permitted to be parked on grassed areas, sidewalks and/or any portion of the Common Property not specifically designated for parking. The Association shall have the authority to have any vehicle determined to be in violation of this Section 11.13 towed from the Property, and such towing shall be at the sole cost and expense of the owner of that vehicle. Further, the Association shall have the authority to recover any and all costs of any towing from the owner of the vehicle that has been removed and/or towed away from the Property as a result of a violation of this Section 11.13.

11.14 Pets, Livestock and Poultry. No reptiles, livestock, poultry or animals of any kind shall be kept, bred or raised upon the Property, except for dogs, cats, birds, fish or other usual and customary types of urban household pets, provided that the same are not kept, raised, or maintained for business or commercial purposes, or in numbers deemed unreasonable by the Association, in the exercise of its reasonable discretion. Notwithstanding the foregoing, no reptiles, animals, birds or other pets may be kept, raised or maintained on the Property under

circumstances which, in the reasonable discretion of the Association, constitute an unreasonable annoyance, nuisance or safety hazard or an unreasonable interference with the quiet use, occupation and enjoyment of the Property.

11.15 Signs. No signs and/or banners of any kind shall be erected or displayed to the public view in and/or on any portion of the Property, excepting only one (1) "For Sale" sign that has been approved in advance by the Reviewing Entity. The Reviewing Entity shall have the authority to adopt a uniform appearance for all "For Sale" signs, and if such uniform appearance has been adopted, each Owner shall utilize only the "For Sale" sign that conforms to the approved uniform appearance. If such uniform appearance has been adopted by the Reviewing Entity, no other "For Sale" signs shall be displayed or erected for public view in and/or on any portion of the Property. Notwithstanding the foregoing, Declarant specifically reserves the right for itself, its successors, assigns and the Association to place and maintain on the Property: (i) any and all signs they may deem necessary or desirable in connection with the marketing, sale and/or development of Lots; and (ii) any identifying or informational signs.

11.16 Laundry Lines. No portion of the Property shall be used as a drying and/or hanging area for laundry of any kind unless that area is fully screened from view by fencing and/or landscaping. No drying and/or hanging area for laundry shall be permitted to be visible from the streets or from any other Lot within the Property.

11.17 Garbage Containers, Oil and Gas Tanks. All garbage and trash containers must be concealed within walled-in areas or landscaped areas approved by the Reviewing Entity and otherwise in conformity with the applicable provisions of this Declaration. No oil tanks or gasoline tanks shall be allowed on any Lot without the express written consent of the Board. There shall be no burning of trash or other waste material. Trash, garbage or other waste shall be kept only in closed containers and all equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

11.18 Pesticides, Herbicides and Fertilizers. No pesticides, insecticides, fungicides, herbicides, fertilizers or other deleterious substances shall be applied to the area below the top of the berm nearest the shore of any Lot fronting Lake Burden or any other body of water on the Property.

11.19 Prohibited Structures. No structure, including without limitation, trailers, tents, shacks, sheds, barns, tree houses or ancillary buildings shall be placed or erected on the Property at any time without the express written permission of the Reviewing Entity.

11.20 Nuisances. No obnoxious, unpleasant, unsightly or offensive activity and/or excessive noise shall be committed on any portion of the Property and/or be permitted to occur on any portion of the Property. Any questions with regard to the interpretation of this section shall be decided by the Board, whose decision shall be in the sole and absolute discretion of the Board and shall be considered final.

11.21 Window Treatment. No reflective foil, sheets, newspapers, or other similar material shall be permitted on any window or glass door.

11.22 Games and Play Structures. No basketball goals, hoops, backboards or any other basketball equipment may be constructed or installed on any portion of any Lot, or the Improvements constructed thereon. Temporary roll-out basketball goals are permitted during daylight hours only, and must be stored in a garage at night and when not in use. All toys, yard tools and other portable items shall be removed from exterior yards at night and when not in use.

11.23 Vehicles and Recreational Equipment. No Truck, Commercial Vehicle, passenger vehicle without current registration, mobile home, motor home, house trailer, utility trailer, horse trailer, camper, boat, boat trailer, personal water craft, jet ski, all terrain vehicle, bus and/or recreational vehicle of any kind shall be permitted to be parked, kept and/or stored at any place on any portion of the Property, unless the same is parked wholly within a closed garage.

A. For purposes of this Section 11.23, "Truck" means a vehicle which has a compartment or bed for carrying cargo, as distinguished from passengers, with a maximum payload of more than two and one-half (2 ½) tons. The presence on any such vehicle of a cover or "topper" for the cargo-carrying area shall not change its designation as a Truck for purposes of this Declaration.

B. For purposes of this Section 11.23, "Commercial Vehicle" means any vehicle showing any commercial marking, signs, displays, racks, equipment racks, tool kits, tool boxes, insignias, advertising, business contact information and/or otherwise indicating a commercial use of any kind. Commercial Vehicles shall specifically not include law enforcement or governmental vehicles.

Notwithstanding anything to the contrary in this Section 11.23, the foregoing prohibitions shall not apply to temporary parking of Trucks and/or Commercial Vehicles used for moving, pickup, delivery, repair, maintenance or construction of a Lot or any Improvements thereon, or to any vehicles of Declarant.

Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in any rules and regulations adopted by the Association may be towed by the Association at the sole expense of the owner of such vehicle or recreational equipment if it remains in violation for a period of twenty-four (24) consecutive hours or for forty-eight (48) non-consecutive hours in any seven (7) day period. The Association shall not be liable to the owner of such vehicle or recreational equipment for trespass, conversion or otherwise, or of any criminal act by reason of such towing, and neither the removal nor the failure of the owner of such vehicle or recreational equipment to receive any notice of said violation shall be grounds for relief of any kind.

11.24 Repairs. No maintenance or repairs shall be performed on any vehicles upon any portion of the Property unless: (i) the maintenance or repairs are completed within four (4) hours after they are commenced; or (ii) the vehicle is parked within a garage during the entire period of such maintenance or repairs.

#### 11.25 Lake Level Fluctuations.

A. Neither Declarant nor the Association makes any representation concerning the current or future water levels of Lake Burden, or of the bodies of water in the Common Property

or Surface Water Management System, nor shall Declarant or the Association bear any responsibility in attempting to adjust or modify the water levels since such levels are subject to periodic groundwater and rainfall fluctuations that are beyond the control of Declarant and the Association.

B. Each Owner hereby acknowledges that water level fluctuations are a naturally occurring phenomenon and each Owner, by the acceptance of a deed to his Lot, shall be deemed to have agreed that none of Declarant, the Association, the County, or any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to any water level fluctuations.

#### 11.26 Surface Water Management System.

A. No Construction or Maintenance Activities shall be conducted within the Surface Water Management System unless they are (i) permitted by applicable statutory or common law, (ii) permitted by rules promulgated by SFWMD (or by such other governmental authority or authorities as may from time to time have jurisdiction thereof), or (iii) authorized by, or otherwise consistent with the conditions contained in, a permit or other written approval issued by SFWMD (or such other governmental authority, as the case may be). As used herein, the term "Construction or Maintenance Activities" includes, but is not necessarily limited to, digging or excavation; the depositing of fill, debris or any other material or thing; the construction or alteration of any water control structure; any other construction that has the effect of modifying the Surface Water Management System; and any removal or destruction of wetland vegetation (whether by cutting, through the application of herbicides, or otherwise). Owners should address any questions regarding authorized activities within the Surface Water Management System to the Permitting Department of SFWMD.

B. Any violation of the restrictions set forth in subparagraph A above may result in SFWMD's prosecution of appropriate action to enforce such restrictions or redress their violation, which may include (but will not necessarily be limited to) a civil proceeding seeking injunctive relief and/or monetary penalties.

C. Prior to any dissolution of the Association, the Association shall cause all of its rights, powers and duties hereunder with respect to the governance and maintenance of the Surface Water Management System to be assigned and delegated to such not for profit corporation or governmental authority as the Association may reasonably deem appropriate (and, to the extent the Association is then vested with title to the Surface Water Management System, it shall also convey such title to the same corporation or governmental authority).

D. The provisions of this Section 11.26 may not be modified without the prior consent of SFWMD.

11.27 Lakefront Lots. Section 11.2 of this Declaration is not intended and shall not be construed to affect the rights of access to Lake Burden (including without limitation, the construction of private docks) by Owners of Lots that abut Lake Burden. Notwithstanding the foregoing, any such construction, installation, building, erection and/or placement shall be

subject to the prior written approval of the Reviewing Entity and any governmental authorities having jurisdiction thereof.

11.28 Compliance with Documents. Each Owner and his family members, guests, invitees, tenants, and their family members, guests, invitees and sub-tenants shall be bound by this Declaration. The conduct of the foregoing parties shall be considered to be the conduct of the Owner responsible for such individual's presence within the Property. Such Owner shall be liable to the Association for the cost of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness, or by that of any other of the foregoing parties which shall be immediately paid for by the Owner as a Specific Assessment as provided in Article VIII. Failure of an Owner to notify any Person of the existence of the covenants, conditions, restrictions and other provisions of this Declaration shall not in any way limit or divest the right to enforce these provisions against the Owner or such other Person.

11.29 Solar Panels. Any and all solar panels shall be submitted for review and approval by the Reviewing Entity. To the extent possible, all solar panels shall be screened from view so as not to be visible from the streets or from any other Lot within the Property.

11.30 Other Restrictions Established by the Association. The Association shall have the power and authority to enact such other rules and regulations as it shall deem appropriate; provided, however, that so long as there exists a Class B Membership, any such rules and regulations shall be subject to the prior written approval of Declarant. All such restrictions shall become as binding and shall be given the same force and effect as the restrictions set forth herein until the Association modifies such restrictions or promulgates new restrictions.

11.31 Property Maintenance. Each Lot and all improvements and landscaping thereon shall at all times be kept and maintained in a safe, clean, neat, wholesome and attractive condition and shall not be allowed to deteriorate, fall into disrepair or become unsafe or unsightly. In particular, no weeds, underbrush or other unsightly growth and no trash, rubbish, refuse, debris or unsightly objects of any kind shall be permitted or allowed to accumulate on a Lot. In the event an Owner of any Lot shall fail to maintain the premises and Improvements situated thereon in such a manner, the Owner shall be notified and given thirty (30) days within which to correct or abate the situation. If the Owner fails to do so, the Association shall have the right, but not the obligation, to enter upon the Lot for the purpose of repairing, maintaining, and restoring the Lot and the exterior of the Improvements located thereon at the sole cost of the Owner of the Lot. The cost of such repair, maintenance and restoration, together with reasonable attorneys' fees and costs for collection thereof incurred through all appellate levels, shall constitute an obligation of the Owner to the Association payable upon demand and, subject to the notice period prescribed by Section 8.5(D), shall also constitute a Specific Assessment secured by a lien upon the Owner's Lot, which lien shall become effective upon the filing of a written claim of lien. The form, substance and enforcement of the lien shall be in accordance with the construction lien law of the State of Florida, and the Owner of the Lot shall, by virtue of having acquired the Lot subject to these restrictions, be deemed to have authorized and contracted for such repair, maintenance and restoration. The lien herein provided will be subordinate to any First Mortgage.

11.32 No Implied Waiver. The failure of the Association or Declarant to object to an Owner's or other party's failure to comply with any provision of the Governing Documents shall in no event be deemed a waiver by Declarant or the Association, or any other Person having an interest therein, of that Owner's or other party's requirement and obligation to comply with this Declaration.

11.33 Association Waiver. The Association shall have the right and authority to waive any violation which, in its reasonable discretion, it determines is not of a nature to defeat the intent and purpose of this Declaration.

11.34 Rights of Declarant. Notwithstanding anything in this Declaration to the contrary, Declarant shall have the right to use any portion of the Property (other than Lots theretofore conveyed to third-party Owners) for (i) ingress and egress purposes, including for construction machinery and trucks, (ii) the construction and maintenance of a sales office, construction office and model area, and (iii) the display of signs. No Person shall in any way impede or interfere with Declarant, its employees or agents in the exercise of these rights, or interfere with the completion, sale or development of Lots and Improvements thereon, or the showing of the Property.

11.35 Responsibility for Surface Water Management System. Declarant shall have no liability or responsibility whatsoever (whether financial or otherwise) with respect to the operation, maintenance or management of the Surface Water Management System.

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## **ARTICLE XII INDEMNIFICATION**

12.1 Indemnification of Officers, Directors or Agents. The Association shall indemnify any Person who is made a party to, or is threatened in writing to be made a party to, any legal action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

12.2 Extent of Indemnification. To the extent that a director, officer, employee or agent of the Association is entitled to indemnification by the Association in accordance with this Article, such party shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith, and the indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, the Governing Documents, or by vote of the Members, or otherwise. As to action taken in an - official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a Person.

12.3 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any Person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him, in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

## **ARTICLE XIII AMENDMENTS**

13.1 Amendment by Declarant. For so long as there exists a Class B Membership, Declarant reserves to itself the right to unilaterally amend this Declaration and the Plat; provided, however, that no such amendment that materially and adversely affects one or more Owners shall be effective without the approval of Members holding at least fifty-one percent (51%) of the Class A Membership votes in the Association. For purposes of the foregoing sentence, and without limiting the generality of the foregoing, an amendment relating to the following matters shall be considered a material change:



- A. Voting rights;
- B. Assessment liens or the priority of Assessment liens; and
- C. Imposition of any restrictions on an Owner's right to sell or transfer its Lot and the Improvements thereon.

13.2 Amendment by the Association. The covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, or added to, at any time and from time to time, upon the approval of Members holding not less than fifty-one percent (51%) of the total votes in the Association at a duly called meeting of the Association at which a quorum is present; provided, however, that so long as there shall exist a Class B Membership, no such amendment or change shall be effective without the express written consent and joinder of Declarant. Any amendment of this Declaration must be recorded in the Public Records to be effective.

13.3 Amendment to Comply with Governmental Authority. For so long as there is a Class B Membership, Declarant reserves to itself the right to unilaterally amend this Declaration in order to comply with the requirements of the Department of Housing and Urban Development, Veteran's Administration, SFWMD, Federal National Mortgage Association, the County, or any other governmental agency.

13.4 Limitations on Amendments. Notwithstanding anything to the contrary set forth in this Declaration, the rights of Declarant and the Association to change, amend or modify the terms and provisions of this Declaration shall at all times be limited as follows:

A. To the extent that particular rights or interests are expressly reserved to, conferred upon or granted to the County or SFWMD pursuant to this Declaration, the particular terms and provisions of this Declaration pursuant to which any such rights and interests are reserved, conferred upon or granted to such parties shall not be changed, amended or modified without the prior written consent and joinder of such parties;

B. This Declaration may not be changed, amended or modified in such manner as to terminate or eliminate any easements granted or reserved herein to Declarant, the Association, SFWMD or the County, without the prior written approval of the applicable grantee, as the case may be, and any attempt to do so shall be void and of no force and effect.

C. This Declaration may not be changed, amended or modified in any fashion that would result in or facilitate the dissolution of the Association or the abandonment or termination of the obligation of the Association to provide for the maintenance of the Common Property or the Surface Water Management System, or the obligation of the Association to establish, levy, enforce and collect Assessments for such purposes.

D. This Declaration may not be changed, amended or modified in any fashion that would affect the use, operation or maintenance of the Surface Water Management System without the prior written consent and approval of SFWMD.

E. This Declaration may not be changed, amended or modified in such fashion as to change, amend, modify, eliminate or delete the provisions of this Section without the prior written consent and joinder of Declarant, and to the extent of any proposed change, amendment or modification which shall affect the rights of the County or SFWMD hereunder, the same shall require the written consent and joinder of the County or SFWMD, as the case may be.

#### **ARTICLE XIV** **MISCELLANEOUS**

14.1 Duration. The provisions of this Declaration shall continue and be binding upon Declarant and the Association and upon each Owner, from time to time, of any portion of the Property and their respective successors and assigns and all other persons, parties or legal entities having or claiming any right, title or interest in the Property, by, through or under any of them, for a period of thirty (30) years from the date this Declaration was recorded in the Public Records, after which time this Declaration and the covenants, conditions, restrictions and reservations set forth herein, as the same shall have been changed, amended or modified from time to time, shall be automatically extended for successive periods of ten (10) years each unless an instrument of termination is executed by Declarant or the Association, as applicable, upon the approval of Members holding not less than ninety-five percent (95%) of the total votes in the Association, with the consent and joinder of the County and SFWMD, and recorded among the Public Records at least one (1) year prior to the end of the initial term or any subsequent extension term of this Declaration. Each of the easements herein declared to be granted or reserved shall continue to be binding upon Declarant and the Association and upon each Owner and all Owners from time to time of any portion of the Property and their respective successors and assigns and all persons, parties and legal entities claiming by, through or under any of them in perpetuity, unless any such easement shall have been changed, amended, modified, released or terminated by the execution and recordation among the Public Records of a written instrument or court order, as the case may be, which, in either case, is otherwise legally sufficient in all respects to effect any such change, amendment, modification, release or termination of any such easement.

14.2 Enforcement. Subject to the provisions of Section 14.3 of this Declaration, the terms, provisions, covenants, conditions, restrictions, easements and reservations set forth in this Declaration, as changed, amended or modified from time to time, shall be enforceable by Declarant, the Association and any Owner. Additionally, to the extent that particular rights or interests are expressly conferred upon or granted to the County and/or SFWMD pursuant to this Declaration, the particular terms and provisions of this Declaration conferring or granting such rights or interests shall also be enforceable by such parties. Those so entitled to enforce the provisions of this Declaration shall have the right to bring proceedings at law or in equity against the party or parties violating or attempting to violate any of said covenants, conditions, restrictions, easements or reservations or against the party or parties defaulting or attempting to default in their obligations hereunder in order to (a) enjoin any such violation or attempted violation or any such default or attempted default, (b) cause any such violation or attempted violation or default or attempted default to be cured, remedied or corrected, (c) recover damages resulting from or occasioned by or on account of any such violation or attempted violation or default or attempted default and (d) recover costs and expenses, including attorneys fees, incurred in connection with the enforcement of this Declaration.

14.3 Limitations on Enforcement Rights. Notwithstanding anything to the contrary contained with this Declaration, the right to enforce the provisions of this Declaration shall be subject to and limited by the following provisions:

A. The Association shall have the exclusive right to collect Assessments and enforce Assessment liens;

B. Only Declarant and the Association shall have the right to enforce the provisions of Article X of this Declaration with respect to architectural and landscape control. It is expressly provided, however, that if both Declarant and the Association shall fail, refuse or be unable to commence enforcement of such provisions within thirty (30) days following written demand to do so from any Owner, any Owner who makes such demand and who otherwise has standing to do so, shall have the right to enforce the provisions of said Article X; provided, however, that such right of enforcement shall not include the right to seek judicial review of discretionary decisions made either by Declarant, the Association or the Reviewing Entity, where the discretion to make such decision is expressly conferred pursuant to this Declaration;

C. To the extent that specific rights, interests or reservations are conferred upon or granted or reserved to specific parties pursuant to this Declaration only those parties upon or to whom or which such rights, interests or reservations are conferred, granted or reserved shall have the right to enforce the provisions of this Declaration relating to such rights, interests or reservations.

14.4 Leases. No portion of the Property, including without limitation, any Lot or any Residence or other Improvement thereon, shall be leased, rented and/or demised for a term of less than three hundred sixty-five (365) consecutive days, except in the case of a shorter rental by or lease to a proposed purchaser incident to a bona fide purchase and sale agreement pending closing thereunder. No timesharing plan and/or interval ownership, or any similar plan of fragmented ownership and/or use shall be permitted on any Lot. No Owner shall adopt and/or impose any declaration of condominium and/or restrictive covenants of any type on any portion of the Property without the prior written approval of the Association and the Declarant (while the Declarant owns any portion of the Property).

14.5 Constructive Notice and Acceptance. Every Person which shall hereafter have, claim, own or acquire any right, title, interest or estate in or to any portion of the Property, whether or not such interest is reflected upon the Public Records, shall be conclusively deemed to have consented and agreed to each and every term, provisions, covenant, condition, restriction, easement and reservation contained or by reference incorporated in this Declaration, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such Person acquired such right, title, interest or estate in the Property or any portion thereof.

14.6 Personal Covenants. To the extent that the acceptance or conveyance of a Lot creates a personal covenant between the Owner of such Lot and Declarant, the Association or any other Owner or Owners, such personal covenant shall terminate and be of no further force or effect as to Assessments levied or claims that arise or accrue after the date on which a Person ceases to be an Owner.

14.7 Governing Law. The construction, validity, and enforcement of this Declaration shall be determined according to the laws of the State of Florida.

14.8 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles and the Bylaws, and the Articles shall take precedence over the Bylaws.

14.9 Headings. Article and Section headings contained in this Declaration are for convenience and reference only and in no way define, describe, extend or limit the intent, scope or content of the particular Articles or Sections in which they are contained or to which they refer and, accordingly, the same shall not be considered or referred to in resolving questions of interpretation or construction.

14.10 Usage. Whenever used herein the singular number shall include the plural, and the plural number shall include the singular and the use of any gender shall include all genders.

14.11 Time of Essence. Time is of the essence of this Declaration and in the performance of all covenants, conditions and restrictions set forth herein. Whenever a date or the expiration of any time period specified herein shall fall on a Saturday, Sunday or legal holiday, the date shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday.

14.12 Notice. Any notice required or permitted to be given pursuant to the provisions of this Declaration shall be in writing and may be delivered as follows:

A. Notice to an Owner shall be deemed to have been properly delivered when delivered to the Owner's Lot, whether said Owner personally receives said notice or not, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail within the County shall be deemed delivered two (2) business days after such deposit. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners on behalf of all co-owners and shall be deemed to be and constitute delivery on all such co-owners.

B. Notice to the Association shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished by the Association or to the address of its principal place of business. Any notice so deposited in the mail within the County shall be deemed delivered two (2) business days after such deposit.

C. Notice to Declarant shall be deemed to have been properly delivered when placed in the first class United States mail, postage prepaid, to the address furnished by Declarant to the Association or the address of its principal place of business. Any notice so deposited in the mail within the County shall be deemed delivered two (2) business days after such deposit.

D. The affidavit of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner at the address shown on the

records of the Association shall be deemed conclusive proof of such mailing, whether or not such notices are actually received.

14.13 Assignment of Declarant's Rights and Interests. The rights and interests of Declarant under this Declaration may be transferred and assigned by Declarant, in whole or in part, to any successor or successors to all or part of Declarant's interest in the Property by an express transfer, conveyance or assignment incorporated into any recorded deed or other instrument, as the case may be, transferring, conveying or assigning such rights and interests to such successor.

14.14 Development and Construction by Declarant. Nothing set forth in this Declaration shall be deemed, either expressly or impliedly, to limit the right of Declarant to change, alter or amend its development or other plans for the Property, or to construct such improvements as Declarant deems advisable prior to the completion of the development of all of the Property. Declarant reserves the right to alter its development and construction plans and designs as it deems appropriate from time to time, subject only to applicable Governmental Regulations.

14.15 Cooperation. Each Owner, by acceptance of a deed for a Lot or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to cooperate in, and support, any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions and other actions necessary or desired for development and/or improvement of the Property, including, without limitation, signing any required applications, plats, etc. as the owner of any portion of the Property owned or controlled thereby when necessary or requested.

Notwithstanding the foregoing, to the extent that said documents require the joinder of Owners, Declarant by its duly authorized officers may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents and the Owners, by virtue of their acceptance of deeds or other instrument of transfer or conveyance, irrevocably nominate, constitute and appoint Declarant, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section 14.15 shall recite that it is made pursuant to this Section 14.15.

In addition, the Association is obligated and shall be deemed to covenant and expressly agree to cooperate in, support and/or execute any and all zoning, administrative, governmental and/or quasi-governmental filings, applications, requests, submissions, deeds, corrective documents and any other actions necessary or desired for development and/or improvement of the Property, including, without limitation, signing any required applications, plats, corrective deeds, deeds, assignments and joinders as the owner of any portion of the Property or as the entity in control of any portion of the Property when necessary and/or requested by Declarant.

14.16 Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted

directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners hereby designate the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. All parties using easements granted in this Declaration shall use reasonable efforts to minimize interference with all other permitted uses of the easements and the property subject thereto and shall restore any damage to such property caused in the exercise of any rights granted in any such easement.

14.17 No Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS DECLARATION, NO REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, HAS BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF. IF ANY SUCH WARRANTY CANNOT BE DISCLAIMED, AND AS TO ANY CLAIMS WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

14.18 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Area to the public and/or for any public use.

14.19 Constructive Notice and Acceptance. Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Lot, shall be conclusively deemed to have consented and agreed to every limitation, restriction, rule, regulation, provision, easement, reservation, condition, lien and covenant contained in this Declaration, whether or not any reference to this Declaration is contained in the deed or any other instrument by which such person or entity acquired an interest in such Lot.

14.20 No Liability For Acts of Others. Owners, their family members, tenants, guests, agents, invitees, employees and any occupants of Lots, are responsible for their own personal safety and for their property in and/or on the Property. The Association may, but is not obligated to, maintain or support certain activities within the Property which are intended to promote or enhance safety or security within the Property. However, the Association, the Board and Declarant shall not in any way be considered insurers and/or guarantors of safety or security within the Property, nor shall they be held liable for any loss, damage, personal injury and/or death by reason of failure to provide adequate security or ineffectiveness of any security measures that may be undertaken.

**No representation or warranty is made that any systems or measures, including, without limitation, fire protection, burglar alarm, or other security monitoring systems, (or if there is any gate, barrier, and/or other mechanism or system for limiting access to the Property), cannot be compromised or circumvented, nor that any such systems or**

measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, agrees and shall be responsible for informing that Owner's family members, tenants, guests, invitees, agents, employees and all occupants of that Owner's Lot that the Association, the Board and its committees and Declarant are not insurers and/or guarantors of security or safety and that each Person within the Property has voluntarily assumed all risks of personal injury, death and loss or damage to property, including Lots and the contents of Lots, resulting from acts of others. Any gate, barrier and/or other mechanism or system for limiting traffic to the Property, if any, are solely intended to regulate traffic flow, and are not intended and/or designed to be a security feature, a safety feature, provide protection to persons and/or property, a warranty of personal safety, a guarantee of personal safety, a warranty of the safety of personal property and/or a guarantee of the safety of personal property. Any gate, barrier and/or other mechanism or system for limiting traffic to the Property will be used by the general public, and is not exclusive to the Owners. In addition, any gate, barrier and/or other mechanism or system for limiting traffic to the Property may be left completely open at any time to provide access to the public streets within the Property.

14.21 View Impairment. Neither Declarant nor the Association guarantee or represent that any view over, through and/or across the Lots, any open space or any other portion of the Property within the Property will be preserved without impairment. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Property) and Declarant have the right to relocate, prune, thin, or add trees and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes and/or for the passage of light and air are hereby expressly disclaimed.

14.22 Notices and Disclaimers as to Signal Reception. In recognition of the fact that interruptions in cable television, radio and satellite television will occur from time to time, neither Declarant nor the Association shall in any manner be liable for, and no Owner shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in any such services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Declarant or Association shall be entitled to retain any rebate, discount, or other compensation received from the provider of any such services in connection with the installation and/or operation of such systems within the Property.

14.23 Construction Activities. All Owners, occupants, and users of Lots are hereby placed on notice that Declarant and/or its agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, shall continue, from time to time, to conduct construction activities within the Property. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest in a Lot, and/or by using any portion of a Lot or the Property generally, Owners, occupants and users of Lots acknowledge, stipulate, and agree: (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Lot or any other portion of the Property where such activities are being conducted (even if not being actively conducted at the

time of entry, such as at night, a holiday or otherwise during non-working hours); (c) that Declarant and all of its agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable for any losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from and/or relating to any breach of this covenant; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of Lots within the Property.

14.24 Natural Conditions. The Property may contain a number of manmade, natural, and/or environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes, alligators, other reptiles, raccoons, foxes, wild dogs, wild cats, and other animals, some of which may pose hazards to persons and/or pets coming in contact with them. Each Owner and occupant of any Lot, and every Person entering the Property: (a) acknowledges and agrees that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within and/or through the Property; and (b) knowingly and voluntarily assumes all risk of property damage, personal injury and/or death arising from the presence of such plants and wildlife within the Property. Neither the Association, Declarant, nor the members, partners, affiliates, officers, directors, shareholders, attorneys, agents, and/or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife within the Property, nor shall they have any liability for any property damage, personal injury and/or death resulting from the presence, movement, and/or propagation of any plant or wildlife within or through the Property. The areas described in this Section 14.24 may also contain ponds, lakes, retention ponds, detention ponds, dry detention areas, intermittent pools of water, muddy areas and/or buffer areas, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Lot shall enter upon, or permit their guests, family members, invitees, agents, tenants, employees, contractors, subcontractors, visitors or any other Person acting on that Owner's behalf to enter upon and/or disturb any such areas in any way without the prior written approval of the Association.

## ARTICLE XV

### INSURANCE AND CASUALTY LOSSES

15.1 Insurance. The Board shall have the authority to and may obtain blanket all-risk casualty insurance, if reasonably and commercially available, for the Common Property, including without limitation, any structures, Improvements and/or facilities that may be located on the Common Property and/or any other real property owned by the Association. If blanket all-risk coverage is not reasonably available, then an insurance policy providing fire, casualty and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair and/or reconstruction in the event of damage and/or destruction from any insured hazard.

To the extent available on commercially reasonable terms and conditions, the Board may also obtain a public liability policy covering the Common Property, the Association and its



Members for all damage and/or injury caused by the negligence of the Association or any of its employees, Members and/or agents. The public liability should have at least a One Million Dollar (\$1,000,000.00) limit for bodily injury, personal injury, death and property damage from a single occurrence, and, if reasonably available, a Five Million Dollar (\$5,000,000.00) umbrella liability policy.

The Board may, in its discretion, also obtain additional insurance, including without limitation, fidelity bond coverage, Worker's Compensation insurance, flood insurance and directors and officers liability insurance. The insureds, deductibles, provisions and coverage types and amounts shall be determined by the Board, in the Board's discretion. Any fidelity bond coverage obtained by the Board shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal. The Association may self-insure against any risk.

Premiums for any insurance coverage obtained by the Association shall be part of the Common Expenses and shall be included in the Annual General Assessments, as described in this Declaration. Any insurance policy obtained by the Board may contain a reasonable deductible, and, in the case of casualty insurance, the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board shall be written in the name of the Association as trustee for the respective benefited parties. Such insurance shall be governed by the following provisions:

- A. All insurance policies shall be written with a company licensed to do business in the State of Florida;
- B. All insurance policies on the Common Property shall be for the benefit of the Association, its Members and Mortgagees providing construction financing on the Common Property.
- C. Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Board. However, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- D. In no event shall the insurance coverage obtained and maintained by the Board be brought into contribution with insurance purchased by individual Owners, occupants, tenants, or their Mortgagees.
- E. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons.

F. The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Board, its manager, its agent, the Owners, and their respective tenants, servants, agents, invitees and guests;

(2) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(3) a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;

(4) a statement that no insurance policy may be canceled, invalidated, suspended and/or subject to non-renewal on account of the conduct of any Director, officer, employee of the Association, agent of the Association and/or the Association's duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its agent, its manager, any Owner or Mortgagee;

(5) that any "other insurance" clause in any policy exclude the policies obtained by individual Owners from consideration; and

(6) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification or non-renewal.

15.2 Insurance Obtained by Owners. By virtue of taking title to a Lot, each Owner agrees to carry blanket all-risk casualty insurance on that Owner's Lot and any building, Residence, structure, Improvement and landscaping constructed, placed, built and/or located on that Lot. The insurance to be obtained by each and every Owner shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair and/or reconstruction in the event of damage or destruction from any insured hazard. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of the buildings, structures, Residence, Improvements, and/or landscaping on that Owner's Lot, the Owner shall proceed promptly to repair and/or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are or may be approved in accordance with this Declaration. The Owner shall pay any costs of repair and/or reconstruction which are not covered by insurance proceeds. If the Residence is totally destroyed, the Owner may decide not to rebuild and/or to reconstruct, in which case the Owner shall clear the Lot of all debris and return that Lot to substantially the natural state in which it existed prior to the beginning of construction, and thereafter that Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the terms, conditions and provisions of this Declaration.

### 15.3 Damage and Destruction.

A. Immediately after damage and/or destruction by fire, hurricane or other casualty to all or any part of the Property covered by insurance written in the name of the

Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged and/or destroyed Property. Repair and/or reconstruction, as used in this subsection, means repairing or restoring the Property to substantially the same condition in which the Property existed prior to the fire, hurricane or other casualty, allowing for any changes and/or improvements necessitated by changes in the then-applicable building codes.

B. Any damage and/or destruction to the Common Property shall be promptly repaired and/or reconstructed unless the Members representing at least seventy-five percent (75%) of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair and/or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage and/or destruction, and/or reliable and detailed estimates of the costs of repair and/or reconstruction are not made available to the Association within the sixty (60) day time period, then the period shall be extended until such information is made available to the Members. However, such extension shall not exceed one hundred twenty (120) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage and/or destruction to Common Property shall be repaired and/or reconstructed. This provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

C. If determined in the manner described above that the damage and/or destruction to the Common Area shall not be repaired and/or reconstructed, and no alternative improvements are authorized, then and in that event the affect portion of the Property shall be restored to their natural state that existed prior to the development and shall be maintained by the Association in a neat and attractive condition consistent with the terms, conditions and provisions of this Declaration.

15.4 Disbursement of Proceeds. If the damage and/or destruction for which the proceeds of insurance policies are paid is to be repaired and/or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs and/or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair and/or reconstruction to the Common Property shall be retained by and for the benefit of the Association and placed in either the Association's general operating account or any reserve account that has been established by the Association. If no repair and/or reconstruction is made, any proceeds remaining after making settlements necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) shall be retained by and for the benefit of the Association and placed in either the Association's general operating account or any reserve account that has been established by the Association. This is a covenant for the benefit of any Mortgagee of Lot and may be enforced by such Mortgagee.

15.5 Repair and/or Reconstruction. If the damage and/or destruction to the Common Property for which insurance proceeds are paid is to be repaired and/or reconstructed, and such insurance proceeds are not sufficient to defray the cost of such repair and/or reconstruction, the Board shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners calculated in the same manner as the Annual General Assessments. The damaged and/or destroyed portions of the Common Property shall be repaired and/or reconstructed to substantially the same condition in which that Common Property existed

prior to the damage and/or destruction, allowing for any changes and/or improvements necessitated by changes in the then-applicable building codes.

15.6 Negligence or Willful Misconduct. Each Owner shall be liable to the Association for the costs to repair, replace and/or reconstruct any portions of the Common Area damaged by reason of the negligence or willful misconduct of any Owner or that Owner's tenants, guests, invitees, agents and/or servants. In this situation, the Owner shall be liable to the Association for any amount not fully covered by any insurance policy of the Association, including but not limited to any deductible. In addition, the Association shall have the right to charge any Owner for the increase, if any, in the insurance premium attributable to damage caused by such Owner or that Owner's tenants, guests, invitees, agents and/or servants. The sums due from an Owner under this Section 15.6 shall be a Specific Assessment against the Owner and that Owner's Lot and may be collected as provided elsewhere in this Declaration for the collection of Specific Assessments.

15.7 Condemnation of Common Property. Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation and/or eminent domain, each Owner shall be entitled to notice thereof. The award, payment and/or settlement made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as herein provided:

If the taking involves a portion of the Common Property on which Improvements have been constructed, then unless within ninety (90) days after such taking Declarant (so long as Declarant has Class B membership) and Members representing at least two-thirds (2/3) of the total votes of the Association otherwise agree not to restore, repair and/or replace such Improvements, the Association shall restore, repair and/or replace such Improvements taken on the remaining land included in the Common Property to the extent lands are available therefor. If such Improvements are to be repaired, restored and/or replaced, the provisions of this Declaration regarding the disbursement of funds in respect to casualty damage and/or destruction which is to be repaired, replaced and/or restored shall apply. If the taking does not involve any Improvements on the Common Property, or if there is a decision made by not to repair, replace and/or restore, or if there are net funds or surplus remaining after any such restoration, repair and/or replacement is completed, then such award, settlement, payment, surplus and/or net funds shall be disbursed to the Association and used for any purposes as the Board shall determine.

15.8 No Partition. Except as is permitted in this Declaration or any amendments thereto, there shall be no physical partition of the Common Property or any part thereof, nor shall any Person, Owner or entity acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property has been removed from the provisions of this Declaration. This Section 15.8 shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property which may or may not be subject to this Declaration.

**[SIGNATURES BEGIN ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, Declarant has caused this Declaration to be made and executed as of the day and year first written above.

Signed, sealed and delivered in the presence of: **LAKE BURDEN INVESTMENTS, LLC**, a Florida limited liability company

*Lisa Dickey*  
Name: Lisa Dickey

*Deborah L. Gano*  
Name: Deborah L. Gano

By: *Ashton Harb*  
Name: Ashton Harb  
Title: Managing Member

STATE OF FLORIDA  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of April 2008, by A. Tom Harb, as the Managing Member of LAKE BURDEN INVESTMENTS, LLC, a Florida limited liability company, on behalf of the company.  He  She is personally known to me, or \_\_\_\_\_ has produced a valid driver's license as identification.

(NOTARY SEAL)



*Colette L. Wharton*  
Notary Public - State of Florida

Print Name: Colette L. Wharton  
Commission No.: DD720163  
My Commission Expires: 12-05-2011

**EXHIBIT "A"**

Legal Description of the Property

A parcel of land lying in Section 25, Township 23 South, Range 27 East and in Section 30, Township 23 South, Range 28 East, Orange County, Florida.

Being more particularly described as follows:

Commence at the Northeast corner of the Northeast  $\frac{1}{4}$  of the aforesaid Section 25 also being the Northwest corner of the Northwest  $\frac{1}{4}$  of the aforesaid Section 30; thence run North  $88^{\circ}59'21''$  East along the North line of said Northwest  $\frac{1}{4}$  of Section 30 for a distance of 1369.97 feet to the Northeast corner of the Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 30; thence departing said North line run South  $00^{\circ}51'18''$  West along the East line of the West  $\frac{1}{2}$  of said Northwest  $\frac{1}{4}$  of Section 30 for a distance of 1325.15 feet to the POINT OF BEGINNING; thence continuing along said East line run South  $00^{\circ}51'18''$  West for a distance of 662.57 feet to the Northeast corner of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said Northwest  $\frac{1}{4}$  of Section 30; thence departing said East line run South  $89^{\circ}31'20''$  West along the North line of said Southeast  $\frac{1}{4}$  for a distance of 674.46 feet to the Northwest corner of said Southeast  $\frac{1}{4}$ ; thence departing said North line run South  $00^{\circ}33'21''$  West along the West line of said Southeast  $\frac{1}{4}$  for a distance of 660.38 feet to the Southwest corner of said Southeast  $\frac{1}{4}$ ; thence departing said West line run North  $89^{\circ}42'13''$  East along the South line of said Southeast  $\frac{1}{4}$  for a distance of 670.97 feet to the Southeast corner of said Southeast  $\frac{1}{4}$ , also being a point on the East line of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the aforesaid Section 30; thence departing said South line run South  $00^{\circ}50'33''$  West along said East line for a distance of 669.19 feet to a point on the South line of the North  $\frac{1}{2}$  of said Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ ; thence departing said East line run South  $89^{\circ}26'17''$  West for a distance of 1335.08 feet to a point on the West line of said Southwest  $\frac{1}{4}$ , also being a point on the East line of the Southeast  $\frac{1}{4}$  of the aforesaid Section 25; thence run South  $89^{\circ}02'40''$  West along the South line of the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 25, and the Westerly extension thereof for a distance of 1637.48 feet to a point on the Easterly right-of-way line of Winter Garden Vineland Road, County Road 535 per Order of Taking Case #C195-4705 Division 33, Official Records Book 4922, Page 1875, Public Records of Orange County, Florida also being a point on a non-tangent curve concave Easterly and having a radius of 1041.88 feet; thence from a tangent bearing of North  $04^{\circ}48'45''$  West run Northerly along said Easterly right-of-way line and said curve through a central angle of  $12^{\circ}08'26''$  for an arc distance of 220.77 feet to a point; thence continuing along said Easterly right-of-way line run North  $07^{\circ}25'55''$  East for a distance of 56.54 feet; thence departing said Easterly right-of-way line run the following courses and distances: North  $30^{\circ}28'19''$  East for a distance of 529.80 feet; thence run North  $38^{\circ}54'54''$  East for a distance of 65.31 feet; thence run North  $39^{\circ}55'34''$  East for a distance of 78.79 feet; thence run North  $16^{\circ}04'51''$  East for a distance of 148.90 feet; thence run North  $50^{\circ}06'41''$  East for a distance of 90.71 feet; thence run North  $86^{\circ}56'00''$  East for a distance of 76.75 feet; thence run North  $74^{\circ}54'13''$  East for a distance of 30.08 feet; North  $00^{\circ}00'00''$  East for a distance of 149.55 feet; thence run North  $89^{\circ}59'04''$  East for a distance of 490.34 feet to a point on a non-tangent curve concave Southeasterly and having a radius of 100.00 feet; thence from a tangent bearing of North  $20^{\circ}44'18''$  East run Northeasterly along said curve through a central angle of  $61^{\circ}07'39''$  for an arc distance of 106.69 feet to a point of tangency; thence run North  $81^{\circ}51'57''$  East for a distance

of 355.80 feet to a point of curvature of a curve concave Southerly and having a radius of 1023.25 feet; thence run Easterly along said curve through a central angle of 01°39'33" for an arc distance of 29.63 feet to a point on a non-tangent curve concave Easterly and having a radius of 795.00 feet; thence from a tangent bearing of North 00°19'36" West run Northeasterly along said curve through a central angle of 49°05'16" for an arc distance of 681.11 feet to a point; thence run North 42°12'29" West for a distance of 48.09 feet to a point of curvature of a curve concave Southwesterly and having a radius of 23.00 feet; thence run Northwesterly along said curve through a central angle of 48°26'58" for an arc distance of 19.45 feet to a point of tangency, also being a point on a line parallel with and 50.00 feet South of the South line of the Northwest ¼ of the Northwest ¼ of the aforesaid Section 30; thence run South 89°20'34" West along said parallel line for a distance of 114.66 feet to a point on a line parallel with and 50.00 feet South of the South line of the Northeast ¼ of the Northeast ¼ of the aforesaid Section 35; thence run South 88°38'08" West along said parallel line for a distance of 1120.40 feet to a point on the aforesaid Easterly right-of-way line of Winter Garden Vineland Road, County Road 535; thence departing said parallel line run North 03°37'25" East along said Easterly right-of-way line for a distance of 50.19 feet to a point on the aforesaid South line of the Northeast ¼ of the Northeast ¼ of Section 25; thence departing said Easterly right-of-way line run North 88°38'08" East along said South line for a distance of 1116.34 feet to the Southeast corner of said Northeast ¼ of the Northeast ¼ of Section 25, also being the Southwest corner of the Northwest ¼ of the Northwest ¼ of the aforesaid Section 30; thence run North 89°20'34" East along said South line of the Northwest ¼ of the Northwest ¼ of Section 30 for a distance of 1355.93 feet to the aforesaid POINT OF BEGINNING.

Contains 92.412 acres more or less.

**EXHIBIT "A1"**

Legal Description of the Declarant Property

A parcel of land lying in Section 25, Township 23 South, Range 27 East and in Section 30, Township 23 South, Range 28 East, Orange County, Florida.

Being more particularly described as follows:

Commence at the Northeast corner of the Northeast  $\frac{1}{4}$  of the aforesaid Section 25 also being the Northwest corner of the Northwest  $\frac{1}{4}$  of the aforesaid Section 30; thence run North  $88^{\circ}59'21''$  East along the North line of said Northwest  $\frac{1}{4}$  of Section 30 for a distance of 1369.97 feet to the Northeast corner of the Northwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section 30; thence departing said North line run South  $00^{\circ}51'18''$  West along the East line of the West  $\frac{1}{2}$  of said Northwest  $\frac{1}{4}$  of Section 30 for a distance of 1325.15 feet to the POINT OF BEGINNING; thence continuing along said East line run South  $00^{\circ}51'18''$  West for a distance of 662.57 feet to the Northeast corner of the Southeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said Northwest  $\frac{1}{4}$  of Section 30; thence departing said East line run South  $89^{\circ}31'20''$  West along the North line of said Southeast  $\frac{1}{4}$  for a distance of 674.46 feet to the Northwest corner of said Southeast  $\frac{1}{4}$ ; thence departing said North line run South  $00^{\circ}33'21''$  West along the West line of said Southeast  $\frac{1}{4}$  for a distance of 660.38 feet to the Southwest corner of said Southeast  $\frac{1}{4}$ ; thence departing said West line run North  $89^{\circ}42'13''$  East along the South line of said Southeast  $\frac{1}{4}$  for a distance of 670.97 feet to the Southeast corner of said Southeast  $\frac{1}{4}$ , also being a point on the East line of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of the aforesaid Section 30; thence departing said South line run South  $00^{\circ}50'33''$  West along said East line for a distance of 669.19 feet to a point on the South line of the North  $\frac{1}{2}$  of said Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$ ; thence departing said East line run South  $89^{\circ}26'17''$  West for a distance of 1335.08 feet to a point on the West line of said Southwest  $\frac{1}{4}$ , also being a point on the East line of the Southeast  $\frac{1}{4}$  of the aforesaid Section 25; thence run South  $89^{\circ}02'40''$  West along the South line of the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 25, and the Westerly extension thereof for a distance of 1637.48 feet to a point on the Easterly right-of-way line of Winter Garden Vineland Road, County Road 535 per Order of Taking Case #C195-4705 Division 33, Official Records Book 4922, Page 1875, Public Records of Orange County, Florida also being a point on a non-tangent curve concave Easterly and having a radius of 1041.88 feet; thence from a tangent bearing of North  $04^{\circ}48'45''$  West run Northerly along said Easterly right-of-way line and said curve through a central angle of  $12^{\circ}08'26''$  for an arc distance of 220.77 feet to a point; thence continuing along said Easterly right-of-way line run North  $07^{\circ}25'55''$  East for a distance of 56.54 feet; thence departing said Easterly right-of-way line run the following courses and distances: North  $30^{\circ}28'19''$  East for a distance of 529.80 feet; thence run North  $38^{\circ}54'54''$  East for a distance of 65.31 feet; thence run North  $39^{\circ}55'34''$  East for a distance of 78.79 feet; thence run North  $16^{\circ}04'51''$  East for a distance of 148.90 feet; thence run North  $50^{\circ}06'41''$  East for a distance of 90.71 feet; thence run North  $86^{\circ}56'00''$  East for a distance of 76.75 feet; thence run North  $74^{\circ}54'13''$  East for a distance of 30.08 feet; North  $00^{\circ}00'00''$  East for a distance of 149.55 feet; thence run North  $89^{\circ}59'04''$  East for a distance of 490.34 feet to a point on a non-tangent curve concave



Southeasterly and having a radius of 100.00 feet; thence from a tangent bearing of North 20°44'18" East run Northeasterly along said curve through a central angle of 61°07'39" for an arc distance of 106.69 feet to a point of tangency; thence run North 81°51'57" East for a distance of 355.80 feet to a point of curvature of a curve concave Southerly and having a radius of 1023.25 feet; thence run Easterly along said curve through a central angle of 01°39'33" for an arc distance of 29.63 feet to a point on a non-tangent curve concave Easterly and having a radius of 795.00 feet; thence from a tangent bearing of North 00°19'36" West run Northeasterly along said curve through a central angle of 49°05'16" for an arc distance of 681.11 feet to a point; thence run North 42°12'29" West for a distance of 48.09 feet to a point of curvature of a curve concave Southwesterly and having a radius of 23.00 feet; thence run Northwesterly along said curve through a central angle of 48°26'58" for an arc distance of 19.45 feet to a point of tangency, also being a point on a line parallel with and 50.00 feet South of the South line of the Northwest ¼ of the Northwest ¼ of the aforesaid Section 30; thence run South 89°20'34" West along said parallel line for a distance of 114.66 feet to a point on a line parallel with and 50.00 feet South of the South line of the Northeast ¼ of the Northeast ¼ of the aforesaid Section 35; thence run South 88°38'08" West along said parallel line for a distance of 1120.40 feet to a point on the aforesaid Easterly right-of-way line of Winter Garden Vineland Road, County Road 535; thence departing said parallel line run North 03°37'25" East along said Easterly right-of-way line for a distance of 50.19 feet to a point on the aforesaid South line of the Northeast ¼ of the Northeast ¼ of Section 25; thence departing said Easterly right-of-way line run North 88°38'08" East along said South line for a distance of 1116.34 feet to the Southeast corner of said Northeast ¼ of the Northeast ¼ of Section 25, also being the Southwest corner of the Northwest ¼ of the Northwest ¼ of the aforesaid Section 30; thence run North 89°20'34" East along said South line of the Northwest ¼ of the Northwest ¼ of Section 30 for a distance of 1355.93 feet to the aforesaid POINT OF BEGINNING.

LESS THE FOLLOWING:

Tract "A", Tract "B" and Overstreet Road as shown on the Plat of CASA DEL LAGO, recorded in Plat Book 72, Page 4, Public Records of Orange County, Florida.

**EXHIBIT "A2"**

Legal Description of the Ashton Property

Tract "A", Tract "B" and Overstreet Road as shown on the Plat of CASA DEL LAGO,  
recorded in Plat Book 72, Page 4, Public Records of Orange County, Florida.

**EXHIBIT "B"**

Articles of Incorporation of the Association

FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

04 AUG 19 PM 1:13

ARTICLES OF INCORPORATION  
OF  
CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC.

The undersigned incorporator, for the purpose of forming a corporation not-for-profit pursuant to the laws of the State of Florida, Florida Statutes, Chapter 617, hereby adopts the following Articles of Incorporation (the "Articles"):

PREAMBLE

Addison Custom Homes of Lake Burden, LLC ("Declarant"), owns certain property in Orange County, Florida (the "Property"), and intends to execute and record in Orange County, Florida a "Declaration of Covenants, Conditions and Restrictions for Casa Del Lago" (the "Declaration") which will affect the Property. This corporation is being formed as the "Association" to administer the Declaration, and to perform the duties and exercise the powers pursuant to the Declaration, as and when the Declaration is recorded in the Public Records of Orange, County, Florida. For purposes of these Articles, the following terms shall have the following definitions and meanings:

1. "Common Property" shall mean all real property (including the improvements thereto) from time to time owned by the Association for the common use and enjoyment of the Owners. The Common Property may include, but is not limited to, roads, parking areas, sidewalks, paths, entryways, swale areas, conservation areas, ponds and open areas.

2. "Lot" shall mean any plot of land shown upon any recorded subdivision map or plat of the Property prepared by Declarant, or any subsequent Owner, other than any areas dedicated to the public use or designated as Common Property.

3. "Owner" shall mean the Person, including Declarant, holding fee simple title of record to any Lot or other piece or parcel of land within the Property, including sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

4. "Person" shall mean and include an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity.

**ARTICLE 1**  
**NAME AND ADDRESS**

The name of the corporation is "Casa Del Lago Homeowners Association, Inc.," hereinafter referred to as the "Association." The principal office and the mailing address of the Association is 9000 Glenlakes Boulevard, Brooksville, Florida, 34613.

**ARTICLE 2**  
**PURPOSES**

The Association is organized for the following purposes:

1. To operate as a corporation not-for-profit pursuant to Chapter 617 of the Florida Statutes.
2. To enforce and exercise the duties of the Association as provided in the Declaration.
3. To promote health, safety, welfare, comfort, and social and economic benefit of the members of the Association.
4. To do and perform any other lawful acts and employ all lawful powers which corporations may do, perform or employ under Florida law.

**ARTICLE 3**  
**POWERS**

The Association shall have the following powers:

1. All of the common law and statutory powers of a corporation not-for-profit under the laws of the State of Florida, including, but not limited to those powers set forth in Section 617.0302, Florida Statutes, as amended, or any statute of similar import.
2. To administer, enforce, carry out and perform all of the acts, functions, rights and duties provided in, or contemplated by, the Declaration, including but not limited to, the following:
  - 2.1. To acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, buy, sell, lease, transfer, convey, encumber or otherwise deal in or with real or personal property (or any interest therein, including easements) which is, or upon its acquisition by the Association shall thereupon become, Common Property.

2.

2.2. To establish, levy, enforce and collect all assessments.

2.3. To establish, maintain and administer such capital expenditure reserves as shall, in the discretion of the board of directors of the Association (the "Board"), be necessary or desirable to assure the availability of funds for the care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property and all other easements and facilities, and for such other purposes as the Board shall, in its discretion, deem necessary.

2.4. To sue or be sued and to defend any suits brought against it.

2.5. To borrow money in such an amount as may be reasonably required, in the discretion of the Board.

2.6. To discharge and perform the duties, obligations and responsibilities imposed upon it by these Articles and the Bylaws.

2.7. To employ such persons or to contract with such independent contractors or managing agents as may be reasonably required, in the discretion of the Board, in order for the Association to perform and discharge all or any part of the duties, obligations and responsibilities imposed upon it by these Articles and the Bylaws.

2.8. To provide equipment, facilities and personnel, or to contract with an independent contractor, to administer controlled access to and provide internal security services for and within the Property.

2.9. To take such steps as may be necessary, in the discretion of the Board, to enforce the provisions of this Declaration, including, without limitation, the employment of counsel and the prosecution of litigation.

#### **ARTICLE 4** **MEMBERS**

1. The members of the Association shall consist of all Owners of any tract, piece, parcel or lot that is included within the Property, having voting rights as described in Section 3 of this Article 4. Membership shall be established as to each of the Lots upon the recording of the Declaration. Upon the transfer of ownership of fee title to, of fee interest in, a Lot, whether by conveyance, devise, judicial decree, foreclosure, or otherwise, and upon the recordation amongst the public record in the county in which the Property is located of the deed or other instrument establishing the acquisition and designating the Lot affected thereby, the new Owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior Owner as to the designated Lot shall be terminated; provided, however, that

3.

the Association shall not have the responsibility or obligation of recognizing any such change in membership until it has been delivered a true copy of the applicable deed or other instrument, or is otherwise informed of the transfer of ownership of the Lot.

2. The share of each member in the funds and assets of the Association and any membership in this Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Lot for which that membership is established.

3. The Association shall have two (2) classes of voting Membership, Class A Members and Class B Members:

3.1. Class A Members shall be all Owners of any tract, piece, parcel or Lot that is included within the Property (the "Class A Membership"). Each Class A Member shall be entitled to one (1) vote for each Lot owned by such Member. If more than one (1) Person should hold an interest in any Lot, the vote for such Lot shall be exercised by a majority of all such Persons as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

3.2. The Class B Member shall be the Declarant (the "Class B Membership"). The Class B Member shall be entitled to three (3) times the total number of votes of the Class A Members plus one. The Class B Membership shall cease and convert to Class A Membership on the date of the happening of any of the following events, whichever occurs first (the "Turnover Date"):

(a) Three (3) months have elapsed after the conveyance by Declarant of ninety percent (90%) of all of the Lots intended to be governed by the Declaration; or

(b) Fifteen (15) years from the date of the recording of the Declaration;  
or

(c) At the election of Declarant.

Upon termination of the Class B Membership in accordance with the provisions of Section 3.2 of this Article 4, all provisions of these Articles referring to Class B Membership shall be void and without further force or effect. Regardless of any provision of these Articles to the contrary, Declarant shall be entitled to elect at least one (1) member of the Board as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots of the Property. Subsequent to the date that Declarant relinquishes control of the Association, Declarant may exercise the right to vote the Class A Membership which it then holds in the Association in the same manner as any other Class A Member.

4.

Notwithstanding anything above to the contrary, in the event additional Lots are added to the Property by or in consequence of annexation after the Class B Membership has ceased pursuant to Section 3.2 of this Article 4, the Class B Membership and voting rights shall, at the option of Declarant (which may be exercised in its sole discretion), be immediately reinstated and resumed, and shall continue until the subsequent occurrence of one of the above events.

4. The Bylaws shall provide for an annual meeting of the members of the Association and shall make provision for special meetings.

**ARTICLE 5**  
**TERMS OF EXISTENCE**

The Association shall have perpetual existence.

**ARTICLE 6**  
**INCORPORATOR**

The name and street address of the incorporator is: David Craighead, 9000 Glenlakes Boulevard, Brooksville, Florida, 34613.

**ARTICLE 7**  
**DIRECTORS**

1. The property, business and affairs of the Association shall be managed by a Board which shall consist of not less than three (3) directors. The Bylaws may provide for a method of determining the number of directors from time to time. In the absence of a determination as to the number of directors, the Board shall consist of three (3) directors. Directors are not required to be members of the Association.

2. All of the duties and powers of the Association existing under the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board, its agents, contractors or employees, subject to approval by the members only when specifically required.

3. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the Bylaws.

4. The names and addresses of the initial directors, who shall hold office until their successors are appointed or elected, are as follows:

5.



David Craighead

9000 Glenlakes Boulevard  
Brooksville, Florida 34613

Dennis R. Simm

9000 Glenlakes Boulevard  
Brooksville, Florida 34613

Daniel Latoria

9000 Glenlakes Boulevard  
Brooksville, Florida 34613

**ARTICLE 8**  
**BY-LAWS**

The first By-laws shall be adopted by the Board and may be altered, amended or rescinded by the Declarant, the Directors and/or members in the manner provided by the Bylaws.

**ARTICLE 9**  
**AMENDMENTS**

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

1. For so long as there exists a Class B Membership, the Declarant shall have the right to unilaterally amend these Articles; provided, however, that no amendment in the qualifications for membership nor in the voting rights of the members shall be effective without the approval of Members holding at least two-thirds (2/3) of the Class A Membership votes in the Association.

2. The Articles may also be amended in the following manner:

2.1. A majority of the Board shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the members of the Association, which may be the annual or a special meeting.

2.2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member of the Association entitled to vote thereon within the time and in the manner provided in the Bylaws for the giving of notice of a meeting of the members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

2.3. At such meeting, a vote of the members of the Association entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of two-thirds (2/3) of the total votes in the

Association plus the vote of the Class B Member so long as there shall exist a Class B Member.

2.4. Any number of amendments may be submitted to the members and voted upon by them at any one meeting.

2.5. No amendment shall be made that is in conflict with the Declaration.

**ARTICLE 10**  
**DISSOLUTION**

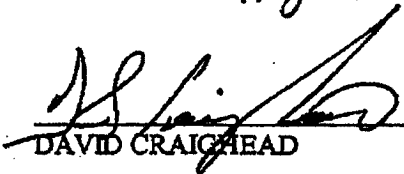
In the event of dissolution or final liquidation of the Association, the assets, both real and personal, of the Association, shall be dedicated to a public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization as the Association may reasonably deem appropriate. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded Declaration unless made in accordance with the provisions of such Declaration.

**ARTICLE 11**  
**INITIAL REGISTERED OFFICE**  
**ADDRESS AND NAME OF REGISTERED AGENT**

The initial registered agent of this corporation shall be David Craighead, and the initial registered office of this corporation shall be 9000 Glenlakes Boulevard, Brooksville, Florida, 34613. This corporation shall have the right to change such registered agent and registered office as provided by law.

*[Signature page to follow]*

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation for the uses and purposes therein stated this 12 day of August, 2004

  
\_\_\_\_\_  
DAVID CRAIGHEAD

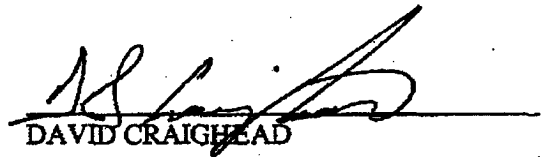
8.

**CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC.**

**ACCEPTANCE OF SERVICE AS REGISTERED AGENT**

DAVID CRAIGHEAD, having been named as registered agent to accept service of process for the above-named corporation, at the registered office designated in the Articles of Incorporation, hereby agrees and consents to act in that capacity. The undersigned is familiar with and accepts the duties and obligations of Section 617.0503, Florida Statutes.

DATED this 17 day of August, 2004.

  
DAVID CRAIGHEAD

FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
04 AUG 19 PM 1:13

**EXHIBIT "C"**

Bylaws of the Association

\*\*\*\*\*

**BY-LAWS**

**OF**

**CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC.**

\*\*\*\*\*

**BY-LAWS  
OF  
CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC.**

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**BY-LAWS**  
**OF**  
**CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**

**Offices**

**Section 1. PRINCIPAL OFFICE.** The principal office of CASA DEL LAGO HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association") shall be in the City of Brooksville, County of Hernando and State of Florida.

**Section 2. OTHER OFFICES.** The Association may also have offices at such other places both within and without the State of Florida as the Board of Directors may from time to time determine or the business of the Association may require.

**ARTICLE II**

**Definitions**

The definitions set forth in the "Declaration of Covenants, Conditions and Restrictions for Casa Del Lago," as amended and supplemented from time to time, recorded or to be recorded in the public records of Orange County, Florida (the "Declaration") are incorporated by reference herein.

**ARTICLE III**

**Members**

Any person or entity who is the Owner of record of any Lot and entitled to the beneficial enjoyment thereof shall be a member of the Association. Ownership of a Lot shall be sole qualification for membership and membership shall not run to persons who hold an interest in a Lot merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The Association will admit individuals of any race, religion, national origin, sex, age or color to membership in the Association and to all the rights and privileges generally accorded to members of the Association.

## ARTICLE IV

### Membership Meetings

**Section 1. ANNUAL MEETING.** The annual meeting of the members of the Association shall be held between January 1 and December 31, inclusive, in each year for the purpose of electing directors and for the transaction of such other proper business as may come before the meeting, the exact date to be established by the Board of Directors from time to time.

**Section 2. SPECIAL MEETINGS.** Special meetings of the members of the Association may be called, for any purpose or purposes, by the President or the Board of Directors and shall be called by the President or the Secretary if members holding not less than ten percent (10%) of all votes of the members plus the Class B Member, so long as there shall exist the Class B Member, sign, date and deliver to the Association's Secretary one or more written demands for a special meeting, describing the purpose(s) for which it is to be held. Notice and call of any such special meeting shall state the purpose or purposes of the proposed meeting, and business transacted at any special meeting of the members of the Association shall be limited to the purposes stated in the notice thereof.

**Section 3. PLACE OF MEETING.** The Board of Directors may designate any place, either within or without the State of Florida, as the place of meeting for any annual or special meeting of the members of the Association. A waiver of notice signed by all members of the Association entitled to vote at a meeting may designate any place, either within or without the State of Florida, as the place for the holding of such meeting. If no designation is made, the place of meeting shall be the principal office of the Association in the State of Florida.

**Section 4. NOTICE OF MEETING.** Written notice stating the place, day and hour of an annual or special meeting and the purpose or purposes for which it is called shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by first-class United States mail. If mailed via first-class United States mail, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at the member's last known address.

**Section 5. NOTICE OF ADJOURNED MEETING.** If an annual or special membership meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before an adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted on the original date of the meeting. If, however, a record date for the adjourned meeting is or must be fixed under law, notice of the adjourned meeting must be given to persons who are members of the Association as of the new date and who are otherwise entitled to notice of such meeting.

**Section 6. WAIVER OF CALL AND NOTICE OF MEETING.** Call and notice of any meeting of the members of the Association may be waived by any member before or after the date and time stated in the notice. Such waiver must be in writing signed by the member of the Association and delivered to the Association. Neither the business to be transacted at nor the purpose of any special or annual meeting need be specified in such waiver. A member's attendance at a meeting (a) waives such member's ability to object to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting; and (b) waives such member's ability to object to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member of the Association objects to considering the matter when it is presented.

**Section 7. QUORUM.** Except as otherwise provided in these by-laws or in the Articles of Incorporation or the Declaration, the presence of ten percent (10%) of all votes of the members, represented in person or by proxy, shall constitute a quorum at any meeting of the members of the Association. Once a member of the Association is represented for any purpose at a meeting, the member is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting, unless a new date is or must be set for that adjourned meeting, and the withdrawal of members of the Association after a quorum has been established at a meeting shall not effect the validity of any action taken at the meeting or any adjournment thereof.

**Section 8. ADJOURNMENT; QUORUM FOR ADJOURNED MEETING.** If less than ten percent (10%) of all votes of the members are represented at a meeting, in person or by proxy, a majority of the votes so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented or deemed to be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed.

**Section 9. VOTING ON MATTERS OTHER THAN ELECTION OF DIRECTORS.** At any meeting at which a quorum is present, action on any matter other than the election of directors shall be approved if the votes cast by the members of the Association represented at the meeting and entitled to vote on the subject matter favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by these by-laws, the Declaration, the Articles of Incorporation or by law.

**Section 10. VOTING FOR DIRECTORS.** Directors shall be elected by a plurality of the votes cast by the members entitled to vote at a meeting at which a quorum is present.

**Section 11. VOTING.** The Association shall have two (2) classes of voting membership, Class A Members and Class B Members:

- (a) Class A Members shall be all Owners of any tract, piece, parcel or Lot that is included within the Property (the "Class A Membership"). Each Class A Member shall be entitled to one (1) vote for each Lot owned by such Member. If more than one (1) Person

should hold an interest in any Lot, the vote for such Lot shall be exercised by a majority of all such Persons as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) The Class B Member shall be the Declarant (the "Class B Membership"). The Class B Member shall be entitled to three (3) times the total number of votes of the Class A Members plus one. The Class B Membership shall cease and convert to Class A Membership on the date of the happening of any of the following events, whichever occurs first (the "Turnover Date"):

- (i) Three (3) months have elapsed after the conveyance by Declarant of ninety percent (90%) of all of the Lots intended to be governed by the Declaration; or
- (ii) Fifteen (15) years from the date of the recording of the Declaration; or
- (iii) At the election of Declarant.

Upon termination of the Class B Membership in accordance with the provisions of Section 11 of this Article IV, all provisions of these by-laws referring to Class B Membership shall be void and without further force or effect. Regardless of any provision of these by-laws to the contrary, Declarant shall be entitled to elect at least one (1) member of the Board as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots of the Property. Subsequent to the date that Declarant relinquishes control of the Association, Declarant may exercise the right to vote the Class A Membership which it then holds in the Association in the same manner as any other Class A Member.

Notwithstanding anything above to the contrary, in the event additional Lots are added to the Property by or in consequence of annexation after the Class B Membership has ceased pursuant to Section 11 of this Article IV, the Class B Membership and voting rights shall, at the option of Declarant (which may be exercised in its sole discretion), be immediately reinstated and resumed, and shall continue until the subsequent occurrence of one of the above events.

**Section 12. PROXIES.** At all meetings of members of the Association, a member may vote by proxy, executed in writing and delivered to the Association; but, no proxy shall be valid after eleven (11) months from its date, unless the proxy provides for a longer period. Each proxy shall be filed with the Secretary of the Association before or at the time of the meeting. In the event that a proxy shall designate two or more persons to act as proxies, a majority of such persons present at the meeting, or, if only one is present, that one, shall have all of the powers conferred by the proxy upon all the persons so designated, unless the instrument shall provide otherwise.

**Section 13. INFORMAL ACTION BY MEMBERS.** Unless otherwise provided in the Declaration or the Articles of Incorporation, any action required or permitted to be taken at a meeting of the members of the Association may be taken without a meeting, without prior notice and without a vote if one or more consents in writing, setting forth the action so taken, shall be signed by the number of members owning lots representing not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. No written consent shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the date of the earliest dated consent delivered to the Secretary, written consent signed by members of the Association representing the minimum number of votes required to take action is delivered to the Secretary. If authorization of an action is obtained by one or more written consent but less than all members so consent, then within ten (10) days after obtaining the authorization of such action by written consents, notice must be given to each member who did not consent in writing and to each member who is not entitled to vote on the action.

**Section 14. INSPECTORS.** For each meeting of the members of the Association, the Board of Directors or the President may appoint two inspectors to supervise the voting; and, if inspectors are so appointed, all questions respecting the qualification of any vote, the validity of any proxy, and the acceptance or rejection of any vote shall be decided by such inspectors. Before acting at any meeting, the inspectors shall take an oath to execute their duties with strict impartiality and according to the best of their ability. If any inspector shall fail to be present or shall decline to act, the President shall appoint another inspector to act in his place. In case of a tie vote by the inspectors on any question, the presiding officer shall decide the issue.

## ARTICLE V

### Board of Directors

**Section 1. GENERAL POWERS.** The business and affairs of the Association shall be managed by its Board of Directors, which may exercise all such powers of the Association and do all such lawful acts and things as are not by law, the Articles of Incorporation, the Declaration or these by-laws directed or required to be exercised or done only by the members of the Association.

**Section 2. NUMBER, TENURE AND QUALIFICATIONS.** The number of directors of the Association shall be not less than three (3) nor more than fifteen (15), the number of the same to be fixed by the members of the Association at any annual or special meeting. Each director shall hold office until the next annual meeting of the members and until such director's successor shall have been duly elected and shall have qualified, unless such director sooner dies, resigns or is removed by the members at any annual or special meeting. It shall not be necessary for directors to be members of the Association. All directors shall be natural persons who are 18 years of age or older.

**Section 3. ANNUAL MEETING.** After each annual meeting of the members of the Association, the Board of Directors shall hold its annual meeting at the same place as and immediately

following such annual meeting of the members for the purpose of the election of officers and the transaction of such other business as may come before the meeting; and, if a majority of the directors are present at such place and time, no prior notice of such meeting shall be required to be given to the directors. The place and time of such meeting may be varied by written consent of all the directors.

**Section 4. REGULAR MEETINGS.** Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall be determined from time to time by the Board of Directors.

**Section 5. SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by the Chairman of the Board, if there be one, or the President. The person or persons authorized to call special meetings of the Board of Directors may fix the place for holding any special meetings of the Board of Directors called by him or them, as the case may be. If no such designation is made, the place of meeting shall be the principal office of the Association in the State of Florida.

**Section 6. NOTICE.** Whenever notice of a meeting is required, written notice stating the place, day and hour of the meeting shall be delivered at least two (2) days prior thereto to each director, either personally, or by first-class United States mail, telegraph, teletype, facsimile or other form of electronic communication, or by private mail carriers handling nationwide mail services, to the director's business address. If notice is given by first-class United States mail, such notice shall be deemed to be delivered five (5) days after deposited in the United States mail so addressed with postage thereon prepaid or when received, if such date is earlier. If notice is given by telegraph, teletype, facsimile transmission or other form of electronic communication or by private mail carriers handling nationwide mail services, such notice shall be deemed to be delivered when received by the director. Any director may waive notice of any meeting, either before, at or after such meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and so states at the beginning of the meeting or promptly upon arrival at the meeting.

**Section 7. QUORUM.** A majority of the total number of directors as determined from time to time shall constitute a quorum.

**Section 8. ADJOURNMENT; QUORUM FOR ADJOURNED MEETING.** If less than a majority of the total number of directors are present at a meeting, a majority of the directors so present may adjourn the meeting from time to time without further notice. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally noticed.

**Section 9. MANNER OF ACTING.** If a quorum is present when a vote is taken, the act of a majority of the directors present at the meeting shall be the act of the Board of Directors.

**Section 10. REMOVAL.** Any director may be removed by the members of the Association with or without cause at any meeting of the members of the Association called expressly for that purpose, but such removal shall be without prejudice to the contract rights, if any, of the person removed. This by-law shall not be subject to change by the Board of Directors.

**Section 11. VACANCIES.** Any vacancy occurring in the Board of Directors, including any vacancy created by reason of an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by the members of the Association, unless otherwise provided in the Articles of Incorporation. A director elected to fill a vacancy shall be elected for the unexpired term of such director's predecessor in office.

**Section 12. COMPENSATION.** By resolution of the Board of Directors, the directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors, but no salary shall be paid to the directors. No payment shall preclude any director from serving the Association in any other capacity and receiving compensation therefor.

**Section 13. PRESUMPTION OF ASSENT.** A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless such director objects at the beginning of the meeting (or promptly upon his arrival) to the holding of the meeting or the transacting of specified business at the meeting or such director votes against such action or abstains from voting in respect of such matter.

**Section 14. INFORMAL ACTION BY BOARD.** Any action required or permitted to be taken by any provisions of law, the Declaration, the Articles of Incorporation or these by-laws at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if each and every member of the Board or of such committee, as the case may be, signs a written consent thereto and such written consent is filed in the minutes of the proceedings of the Board or such committee, as the case may be. Action taken under this section is effective when the last director or committee member, as the case may be, signs the consent, unless the consent specifies a different effective date, in which case it is effective on the date so specified.

**Section 15. MEETING BY TELEPHONE, ETC.** Directors or the members of any committee thereof shall be deemed present at a meeting of the Board of Directors or of any such committee, as the case may be, if the meeting is conducted using a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time.

## ARTICLE VI

### Officers

7.



**Section 1. NUMBER.** The officers of the Association shall consist of a President, a Secretary and a Treasurer, each of whom shall be appointed by the Board of Directors. The Board of Directors may also appoint a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries and Assistant Treasurers and such other officers as the Board of Directors shall deem appropriate. The same individual may simultaneously hold more than one office in the Association.

**Section 2. APPOINTMENT AND TERM OF OFFICE.** The officers of the Association shall be appointed annually by the Board of Directors at its annual meeting. If the appointment of officers shall not be made at such meeting, such appointment shall be made as soon thereafter as is convenient. A duly appointed officer may appoint one or more officers or assistant officers if authorized by the Board of Directors. Each officer shall hold office until such officer's successor shall have been duly appointed and shall have qualified, unless such officer sooner dies, resigns or is removed by the Board. The appointment of an officer does not itself create contract rights.

**Section 3. RESIGNATION.** An officer may resign at any time by delivering notice to the Association. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective date. An officer's resignation shall not affect the Association's contract rights, if any, with the officer.

**Section 4. REMOVAL.** The Board of Directors may remove any officer at any time with or without cause. Any officer or assistant officer, if appointed by another officer, may likewise be removed by such officer. An officer's removal shall not affect the officer's contract rights, if any, with the Association.

**Section 5. VACANCIES.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 6. DUTIES OF OFFICERS.** The Chairman of the Board of the Association, or the President if there shall not be a Chairman of the Board, shall preside at all meetings of the Board of Directors and of the members. The President shall be the chief executive officer of the Association. The Secretary shall be responsible for preparing minutes of the directors' and members' meetings and for authenticating records of the Association. Subject to the foregoing, the officers of the Association shall have such powers and duties as ordinarily pertain to their respective offices and such additional powers and duties specifically conferred by law, the Declaration, the Articles of Incorporation and these by-laws, or as may be assigned to them from time to time by the Board of Directors or an officer authorized by the Board of Directors to prescribe the duties of other officers.

**Section 7. SALARIES.** The salaries of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving a salary by reason of the fact that the officer is also a director of the Association.

**Section 8. DELEGATION OF DUTIES.** In the absence or disability of any officer of the Association, or for any other reason deemed sufficient by the Board of Directors, the Board may delegate the powers or duties of such officer to any other officer or to any other director for the time being.

**Section 9. DISASTER EMERGENCY POWERS OF ACTING OFFICERS.** Unless otherwise expressly prescribed by action of the Board of Directors taken pursuant to Article XVIII of these by-laws, if, as a result of some catastrophic event, a quorum of the Association's directors cannot readily be assembled and the President is unable to perform the duties of the office of President and/or other officers are unable to perform their duties, (a) the powers and duties of President shall be held and performed by that officer of the Association highest on the list of successors (adopted by the Board of Directors for such purpose) who shall be available and capable of holding and performing such powers and duties; and, absent any such prior designation, by that Vice President who shall be available and capable of holding and performing such powers and duties whose surname commences with the earliest letter of the alphabet among all such Vice Presidents; or, if no Vice President is available and capable of holding and performing such powers and duties, then by the Secretary; or, if the Secretary is likewise unavailable, by the Treasurer; (b) the officer so selected to hold and perform such powers and duties shall serve as Acting President until the President again becomes capable of holding and performing the powers and duties of President, or until the Board of Directors shall have elected a new President or designated another individual as Acting President; (c) such officer (or the President, if such person is still serving) shall have the power, in addition to all other powers granted to the President by law, the Declaration, the Articles of Incorporation, these by-laws and the Board of Directors, to appoint acting officers to fill vacancies that may have occurred, either permanently or temporarily, by reason of such disaster or emergency, each of such acting appointees to serve in such capacity until the officer for whom the acting appointee is acting is capable of performing the duties of such office, or until the Board of Directors shall have designated another individual to perform such duties or shall have elected or appointed another person to fill such office; (d) each acting officer so appointed shall be entitled to exercise all powers invested by law, the Declaration, the Articles of Incorporation, these by-laws and the Board of Directors in the office in which such person is serving; and (e) anyone transacting business with the Association may rely upon a certificate signed by any two officers of the Association that a specified individual has succeeded to the powers and duties of the President or such other specified office. Any person, firm, corporation or other entity to which such certificate has been delivered by such officers may continue to rely upon it until notified of a change by means of a writing signed by two officers of the Association.

## ARTICLE VII

### **Executive and Other Committees**

**Section 1. CREATION OF COMMITTEES.** The Board of Directors may designate an Executive Committee and one or more other committees, each to consist of two (2) or more of the directors of the Association.

**Section 2. EXECUTIVE COMMITTEE.** The Executive Committee, if there shall be one, shall consult with and advise the officers of the Association in the management of its business, and shall have, and may exercise, except to the extent otherwise provided in the resolution of the Board of Directors creating such Executive Committee, such powers of the Board of Directors as can be lawfully delegated by the Board.

**Section 3. ARCHITECTURAL COMMITTEE.** As provided in the Declaration, the Board of Directors of the Association may appoint an Architectural Committee, composed of three (3) or more persons appointed by the Board, or, in the Board's discretion, the Board from time to time may constitute itself the Architectural Committee. To the extent not inconsistent with the Declaration, the provisions of this Article VII shall apply to the Architectural Committee.

**Section 4. OTHER COMMITTEES.** Such other committees, to the extent provided in the resolution or resolutions creating them, shall have such functions and may exercise such powers of the Board of Directors as can be lawfully delegated.

**Section 5. REMOVAL OR DISSOLUTION.** Any committee of the Board of Directors may be dissolved by the Board at any meeting; and any member of such committee may be removed by the Board of Directors with or without cause. Such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**Section 6. VACANCIES ON COMMITTEES.** Vacancies on any committee of the Board of Directors shall be filled by the Board of Directors at any regular or special meeting.

**Section 7. MEETINGS OF COMMITTEES.** Regular meetings of any committee of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by such committee and special meetings of any such committee may be called by any member thereof upon two (2) days notice of the date, time and place of the meeting given to each of the other members of such committee, or on such shorter notice as may be agreed to in writing by each of the other members of such committee, given either personally or in the manner provided in Section 6 of Article V of these by-laws (pertaining to notice for directors' meetings).

**Section 8. ABSENCE OF COMMITTEE MEMBERS.** The Board of Directors may designate one or more directors as alternate members of any committee of the Board of Directors, who may replace at any meeting of such committee, any member not able to attend.

**Section 9. QUORUM OF COMMITTEES.** At all meetings of committees of the Board of Directors, a majority of the total number of members of the committee as determined from time to time shall constitute a quorum for the transaction of business.

**Section 10. MANNER OF ACTING OF COMMITTEES.** If a quorum is present when a vote is taken, the act of a majority of the members of any committee of the Board of Directors present at the meeting shall be the act of such committee.

**Section 11. MINUTES OF COMMITTEES.** Each committee of the Board of Directors shall keep regular minutes of its proceedings and report the same to the Board of Directors when required.

**Section 12. COMPENSATION.** Members of any committee of the Board of Directors may be paid compensation in accordance with the provisions of Section 12 of Article V of these by-laws (pertaining to compensation of directors).

**Section 13. INFORMAL ACTION.** Any committee of the Board of Directors may take such informal action and hold such informal meetings as allowed by the provisions of Sections 14 and 15 of Article V of these by-laws.

## ARTICLE VIII

### Indemnification of Directors and Officers

**Section 1. GENERAL.** To the fullest extent permitted by law, the Association shall indemnify any person who is or was a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or other type of proceeding (other than an action by or in the right of the Association), whether civil, criminal, administrative, investigative or otherwise, and whether formal or informal, by reason of the fact that such person is or was a director or officer of the Association or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against judgments, amounts paid in settlement, penalties, fines (including an excise tax assessed with respect to any employee benefit plan) and expenses (including attorneys' fees, paralegals' fees and court costs) actually and reasonably incurred in connection with any such action, suit or other proceeding, including any appeal thereof, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any such action, suit or other 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 that such person reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any

criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

**Section 2. ACTIONS BY OR IN THE RIGHT OF THE ASSOCIATION.** To the fullest extent permitted by law, the Association shall indemnify any person who is or was a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or other type of proceeding (as further described in Section 1 of this Article VIII) by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Association or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees, paralegals' fees and court costs) and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the estimated expenses of litigating the action, suit or other proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such action, suit or other proceeding, including any appeal thereof, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this Section 2 in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such action, suit or other proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses that such court shall deem proper.

**Section 3. OBLIGATION TO INDEMNIFY.** To the extent that a director or officer has been successful on the merits or otherwise in defense of any action, suit or other proceeding referred to in Section 1 or Section 2 of this Article VIII, or in the defense of any claim, issue or matter therein, such person shall, upon application, be indemnified against expenses (including attorneys' fees, paralegals' fees and court costs) actually and reasonably incurred by such person in connection therewith.

**Section 4. DETERMINATION THAT INDEMNIFICATION IS PROPER.** Indemnification pursuant to Section 1 or Section 2 of this Article VIII, unless made under the provisions of Section 3 of this Article VIII or unless otherwise made pursuant to a determination by a court, shall be made by the Association only as authorized in the specific case upon a determination that the indemnification is proper in the circumstances because the indemnified person has met the applicable standard of conduct set forth in Section 1 or Section 2 of this Article VIII. Such determination shall be made either (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit or other proceeding to which the indemnification relates; (2) if such a quorum is not obtainable or, even if obtainable, by majority vote of a committee duly designated by the Board of Directors (the designation being one in which directors who are parties may participate) consisting solely of two or more directors not at the time parties to such action, suit or other proceeding; (3) by independent legal counsel (i) selected by the Board of Directors in accordance with the requirements of subsection (1) or by a committee designated under subsection (2) or (ii) if a quorum of the directors cannot be obtained and a

committee cannot be designated, selected by majority vote of the full Board of Directors (the vote being one in which directors who are parties may participate); or (4) by the members of the Association by a majority vote of a quorum consisting of votes of the members of the Association who were not parties to such action, suit or other proceeding or, if no such quorum is obtainable, by a majority vote of the votes cast by the members of the Association who were not parties to such action, suit or other proceeding.

**Section 5. EVALUATION AND AUTHORIZATION.** Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as is prescribed in Section 4 of this Article VIII for the determination that indemnification is permissible; provided, however, that if the determination as to whether indemnification is permissible is made by independent legal counsel, the persons who selected such independent legal counsel shall be responsible for evaluating the reasonableness of expenses and may authorize indemnification.

**Section 6. PREPAYMENT OF EXPENSES.** Expenses (including attorneys' fees, paralegals' fees and court costs) incurred by a director or officer in defending a civil or criminal action, suit or other proceeding referred to in Section 1 or Section 2 of this Article VIII shall be paid by the Association in advance of the final disposition thereof upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if such person is ultimately found not to be entitled to indemnification by the Association pursuant to this Article VIII.

**Section 7. NONEXCLUSIVITY AND LIMITATIONS.** The indemnification and advancement of expenses provided pursuant to this Article VIII shall not be deemed exclusive of any other rights to which a person may be entitled under any law, by-law, agreement, vote of the members of the Association or disinterested directors, or otherwise, both as to action in such person's official capacity and as to action in any other capacity while holding office with the Association, and shall continue as to any person who has ceased to be a director or officer and shall inure to the benefit of such person's heirs and personal representatives. The Board of Directors may, at any time, approve indemnification of or advancement of expenses to any other person that the Association has the power by law to indemnify, including, without limitation, employees and agents of the Association. In all cases not specifically provided for in this Article VIII, indemnification or advancement of expenses shall not be made to the extent that such indemnification or advancement of expenses is expressly prohibited by law.

**Section 8. CONTINUATION OF INDEMNIFICATION RIGHT.** Unless expressly otherwise provided when authorized or ratified by the Association, indemnification and advancement of expenses as provided for in this Article VIII shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors, and administrators of such person. For purposes of this Article VIII, the term "Association" includes, in addition to the resulting Association, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director or officer of a constituent corporation, or is or was serving at the request of a constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other

enterprise, is in the same position under this Article VIII with respect to the resulting or surviving Association as such person would have been with respect to such constituent corporation if its separate existence had continued.

**Section 9. INSURANCE.** The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or who is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against the liability under Section 1 or Section 2 of this Article VIII.

## ARTICLE IX

### Interested Parties

**Section 1. GENERAL.** No contract or other transaction between the Association and any one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested shall be either void or voidable because of such relationship or interest, because such director or directors were present at the meeting of the Board of Directors or of a committee thereof which authorizes, approves or ratifies such contract or transaction or because such director's or directors' votes are counted for such purpose if: (a) the fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; (b) the fact of such relationship or interest is disclosed or known to the members of the Association entitled to vote on the matter, and they authorize, approve or ratify such contract or transaction by vote or written consent; or (c) the contract or transaction is fair and reasonable as to the Association at the time it is authorized by the Board of Directors, a committee thereof or the members.

**Section 2. DETERMINATION OF QUORUM.** Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies a contract or transaction referred to in Section 1 of this Article IX.

**Section 3. APPROVAL BY MEMBERS.** For purposes of Section 1(b) of this Article IX, a conflict of interest transaction shall be authorized, approved or ratified if it receives a majority of the votes cast by the members entitled to vote under this Section 3. The vote of members representing Lots owned by or voted under the control of a director who has a relationship or interest in the transaction described in Section 1 of this Article IX may not be counted in a vote of members to determine whether to authorize, approve or ratify a conflict of interest transaction under Section 1(b) of this Article IX. The vote of members representing Lots owned by or voted under the control

of a director who has a relationship or interest in the transaction described in Section 1 of this Article IX, shall be counted, however, in determining whether the transaction is approved under other sections of the Association's by-laws and applicable law. A majority of the total votes that would be entitled to be cast by the members, if present, in a vote on the transaction under this Section 3 shall constitute a quorum for the purpose of taking action under this Section 3.

## **ARTICLE X**

### **Fiscal Year**

The fiscal year of the Association shall be the period selected by the Board of Directors as the year of the Association for federal tax purposes, unless the Board of Directors specifically establishes a different fiscal year.

## **ARTICLE XI**

### **Agents and Representatives**

The Board may appoint such agents and representatives of the Association with such powers and to perform such acts or duties on behalf of the Association as the Board may see fit, so far as may be consistent with these by-laws to the extent authorized or permitted by law.

## **ARTICLE XII**

### **Exempt Activities**

Notwithstanding any other provisions of these by-laws, no trustee, officer, employee or representative of the Association shall take any action or carry on any activity by or on behalf of the Association not permitted to be taken or carried on by an organization exempt under Section 528 of the Internal Revenue Code of 1986, as amended, or any statute of similar import (the "Code") and the regulations issued thereunder.



## ARTICLE XIII

### Assessments

As more fully addressed in the Declaration, each member of the Association is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made.

## ARTICLE XIV

### Seal

The corporate seal shall have the name of the Association, the word "SEAL" and the year of incorporation inscribed thereon, and may be a facsimile, engraved, printed or impression seal. An impression of said seal appears on the margin hereof.

## ARTICLE XV

### Stock or Membership in Other Corporations

Shares of stock or membership in other corporations held by the Association shall be voted by such officer or officers or other agent of the Association as the Board of Directors shall from time to time designate for the purpose or by a proxy thereunto duly authorized by said Board.

## ARTICLE XVI

### Amendments

These by-laws may be altered, amended or repealed and new by-laws may be adopted by the Board of Directors; provided that any by-law or amendment thereto as adopted by the Board of Directors may be altered, amended or repealed by vote of the members of the Association entitled to vote thereon, or a new by-law in lieu thereof may be adopted by the members of the Association, and the members of the Association may prescribe in any by-law made by them that such by-law shall not be altered, amended or repealed by the Board of Directors; provided further that at no time shall the by-laws conflict with the Articles of Incorporation or the Declaration.

## ARTICLE XVII

### Declaration

The provisions of these by-laws are supplemented by the Declaration. The provisions of the Declaration, the Articles of Incorporation and these by-laws are intended to be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflicts necessarily result, however, the provisions of the Declaration shall take precedence over and supersede the provisions of these by-laws and the Articles of Incorporation.

## ARTICLE XVIII

### Emergency By-laws

**Section 1. SCOPE OF EMERGENCY BY-LAWS.** The emergency by-laws provided in this Article XVIII shall be operative during any emergency, notwithstanding any different provision set forth in the preceding articles hereof or the Articles of Incorporation. For purposes of the emergency by-law provisions of this Article XVIII, an emergency shall exist if a quorum of the Association's directors cannot readily be assembled because of some catastrophic event. To the extent not inconsistent with the provisions of this Article, the by-laws provided in the preceding Articles shall remain in effect during such emergency and upon termination of such emergency, these emergency by-laws shall cease to be operative.

**Section 2. CALL AND NOTICE OF MEETING.** During any emergency, a meeting of the Board of Directors may be called by any officer or director of the Association. Notice of the date, time and place of the meeting shall be given by the person calling the meeting to such of the directors as it may be feasible to reach by any available means of communication. Such notice shall be given at such time in advance of the meeting as circumstances permit in the judgment of the person calling the meeting.

**Section 3. QUORUM AND VOTING.** At any such meeting of the Board of Directors, a quorum shall consist of any one or more directors, and the act of the majority of the directors present at such meeting shall be the act of the Association.

**Section 4. APPOINTMENT OF TEMPORARY DIRECTORS.**

(a) The director or directors who are able to be assembled at a meeting of directors during an emergency may assemble for the purpose of appointing, if such directors deem it necessary, one or more temporary directors (the "Temporary Directors") to serve as directors of the Association during the term of any emergency.

(b) If no directors are able to attend a meeting of directors during an emergency, then such members of the Association as may reasonably be assembled shall have the right, by majority vote of the votes entitled to be cast by those assembled, to appoint Temporary Directors to serve on the Board of Directors until the termination of the emergency.

(c) If no members of the Association can reasonably be assembled in order to conduct a vote for Temporary Directors, then the President or his successor, as determined pursuant to Section 9 of Article VI herein shall be deemed a Temporary Director of the Association, and such President or his successor, as the case may be, shall have the right to appoint additional Temporary Directors to serve with him on the Board of Directors of the Association during the term of the emergency.

(d) Temporary Directors shall have all of the rights, duties and obligations of directors appointed pursuant to Article V hereof, provided, however, that a Temporary Director may be removed from the Board of Directors at any time by the person or persons responsible for appointing such Temporary Director, or by vote of the majority of the votes entitled to be cast by the members of the Association present at any meeting of the members of the Association during an emergency, and, in any event, the Temporary Director shall automatically be deemed to have resigned from the Board of Directors upon the termination of the emergency in connection with which the Temporary Director was appointed.

**Section 5. MODIFICATION OF LINES OF SUCCESSION.** During any emergency, the Board of Directors may provide, and from time to time modify, lines of succession different from that provided in Section 9 of Article VI in the event that during such an emergency any or all officers or agents of the Association shall for any reason be rendered incapable of discharging their duties.

**Section 6. CHANGE OF PRINCIPAL OFFICE.** The Board of Directors may, either before or during any such emergency, and effective during such emergency, change the principal office of the Association or designate several alternative head offices or regional offices, or authorize the officers of the Association to do so.

**Section 7. LIMITATION OF LIABILITY.** No officer, director or employee acting in accordance with these emergency by-laws during an emergency shall be liable except for willful misconduct.

**Section 8. REPEAL AND CHANGE.** These emergency by-laws shall be subject to repeal or change by further action of the Board of Directors or by action of the members of the Association, but no such repeal or change shall modify the provisions of Section 7 above with regard to actions taken prior to the time of such repeal or change. Any amendment of these emergency by-laws may make any further or different provision that may be practical or necessary under the circumstances of the emergency.

**EXHIBIT "D"**

SFWMD Permit



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
 ENVIRONMENTAL RESOURCE  
 STANDARD GENERAL PERMIT NO. 48-01039-P  
 DATE ISSUED: January 23, 2004**

Form #0941  
08/95

<b>RECEIVED</b>	
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**PERMITTEE:** ADDISON CUSTOM HOMES OF NORTH  
 BURDEN LLC  
 9000 GLEN LAKES BLVD  
 BROOKSVILLE, FL 34613

**PROJECT DESCRIPTION:** This application is a modification request for construction and operation of a surface water management system to serve a 42.01 acre project known as Lake Burden North P.D.

**PROJECT LOCATION:** ORANGE COUNTY, SEC 25 TWP 23S RGE 27E  
 SEC 30 TWP 23S RGE 28E

**PERMIT DURATION:** See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 031125-11, dated November 25, 2003. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 6 ),
3. the attached 16 Special Conditions (See Pages : 5 - 6 of 6 ) and
4. the attached 12 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 23rd day of January, 2004, in accordance with Section 120.60(3), Florida Statutes.

BY: Thomas P. Genovese  
 Thomas P. Genovese  
 Service Center Director  
 Orlando Service Center

Certified mail number 7003 2260 0005 8162 2813

**40E-4.321 Duration of Permits**

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, 10-3-95

**GENERAL CONDITIONS**

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the

## GENERAL CONDITIONS

- approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.
8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
  9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
  10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
  11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
  12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
  13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
  14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
  15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
  16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and



### GENERAL CONDITIONS

- 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
  18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
  19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

### SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on January 23, 2009.
2. Operation of the surface water management system shall be the responsibility of ADDISON CUSTOM HOMES OF NORTH BURDEN LLC. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

#### Basin: NB-1

1-7' WIDE SHARP CRESTED weir with crest at elev. 109.5' NGVD.  
1-6" dia. DRAWDOWN PIPE with invert at elev. 107.8' NGVD.  
25 LF of 30" dia. REINFORCED CONCRETE PIPE culvert.  
50 LF of 30" dia. REINFORCED CONCRETE PIPE culvert.

Receiving body : LAKE BURDEN  
Control elev : 107.8 feet NGVD. /107.8 FEET NGVD DRY SEASON.

#### Basin: NB-2

1-3.5' WIDE SHARP CRESTED weir with crest at elev. 110.9' NGVD.  
1-3.25" dia. DRAWDOWN PIPE with invert at elev. 110' NGVD.  
73 LF of 36" dia. REINFORCED CONCRETE PIPE culvert.  
35 LF of 24" dia. REINFORCED CONCRETE PIPE culvert.

Receiving body : LAKE BURDEN  
Control elev : 110 feet NGVD. /110 FEET NGVD DRY SEASON.

4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 5:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. Silt fencing shall be installed at the limits of construction to protect all of the preserve areas from silt and sediment deposition during the construction of the project. A floating turbidity barrier shall be installed during the construction of the final discharge structure into the adjacent water body. The silt fencing and the turbidity barrier shall be installed in accordance with "Florida Land Development Manual" Chapter 6 "Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas" and the attached exhibits. The sediment controls shall be installed prior to the commencement of any clearing or construction and the installation must be inspected by the District's Environmental Resource Compliance staff. The silt fencing and turbidity barriers shall remain in place and be maintained in good functional condition until all adjacent construction activities have been completed and all fill slopes have

### SPECIAL CONDITIONS

10. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
11. A maintenance program shall be implemented in accordance with the attached exhibits for the preserved wetlands and upland buffers on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation area is maintained free from Category 1 exotic vegetation (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) immediately following a maintenance activity. Coverage of exotic species shall not exceed 5% and coverage of nuisance plant species shall not exceed 10% of total cover between maintenance activities. In addition, the permittee shall manage the conservation areas such that exotic/nuisance plant species do not dominate any one section of those areas.
12. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
13. Prior to the commencement of construction resulting in wetland impacts and in accordance with the work schedule (see attached exhibit), the permittee shall submit two certified copies of the recorded conservation easement for the wetland areas and associated buffers. The data should also be supplied in a digital CAD (.dxf) or GIS (ESRI Coverage) format. The files should be in the Florida State Plane coordinate system, East Zone (3601) with a data datum of NAD83, HARN with the map units in feet. This data should reside on a CD or floppy disk and be submitted to the District's Environmental Resource Compliance Division in the service area office where the application was submitted.

The recorded easement shall be in substantial conformance with the Deed of Conservation Easement (see attached exhibit). Any proposed modifications to the approved form must receive prior written consent from the District. The easement must be free of encumbrances or interests in the easement which the District determines are contrary to the intent of the easement. In the event it is later determined that there are encumbrances or interests in the easement which the District determines are contrary to the intent of the easement, the permittee shall be required to provide release or subordination of such encumbrances or interests.

14. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
15. Minimum building floor elevation: BASIN: NB-1 - 113.25 feet NGVD. BASIN: NB-2 - 114.45 feet NGVD.
16. Minimum road crown elevation: Basin: NB-1 - 111.75 feet NGVD. Basin: NB-2 - 113.00 feet NGVD.

**EXHIBIT "E"**

**JOINDER AND CONSENT OF  
ASHTON WOODS ORLANDO LIMITED PARTNERSHIP**


Ashton Woods Orlando Limited Partnership, a Florida limited partnership ("Ashton"), being the record owner of title to a portion of the real property more particularly described in Exhibit "A" of the Declaration of Covenants, Conditions and Restrictions for Casa del Lago (the "Declaration") to which this Joinder and Consent is attached, hereby joins in and consents to the Declaration for the sole purpose of submitting such real property that is owned by Ashton to the terms and conditions of the Declaration but said submission shall not impose upon Ashton any liabilities, obligations or responsibilities under the Declaration. Ashton hereby knowingly and voluntarily agrees that all right, title and interest of Ashton, and its successors, successors-in-interest and/or assigns, in and to the real property described in said Exhibit "A" shall forever be subject to, subordinate to and bound by the Declaration.

IN WITNESS WHEREOF, this Joinder and Consent has been executed on the 18<sup>TH</sup> day of APRIL, 2008.


Signed, sealed and delivered  
in the presence of:

**ASHTON WOODS ORLANDO  
LIMITED PARTNERSHIP, a  
Florida limited partnership**

By: Ashton Woods Lakeside, L.L.C., a  
Nevada limited liability company, as  
its General Partner

  
\_\_\_\_\_

Print Name: PAMELA CHAN

  
\_\_\_\_\_

Print Name: MADIHA KHAN

By:   
\_\_\_\_\_

Print Name: HARRY ROSENBAUM

Title: Manager

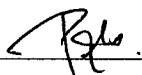
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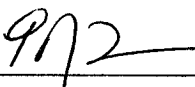
PROVINCE OF ONTARIO

COUNTRY OF CANADA

I, PAMELA CHAN (subscribing witness), do solemnly declare that I was present, and did see Harry Rosenbaum, the Manager of Ashton Woods Lakeside, L.L.C., a Nevada limited liability company, the general partner of Ashton Woods Orlando Limited Partnership, a Florida limited partnership, to me personally known to be the person described in and who executed the within affidavit on behalf of the said company and partnership, signed and executed the same. The signature of Harry Rosenbaum was subscribed before me and the other subscribing witness.

And I have signed  (signature of one subscribing witness)

Solemnly declared before me at Toronto this 18<sup>TH</sup> day of APRIL, 2008

  
Print Name: PHYLLIS JOYCE TENN

Commission of Oaths (Affix Seal)

Phyllis Joyce Tenn, Notary Public, City of Toronto,  
limited to the attestation of instruments and the taking  
of affidavits, for Great Gulf Group of Companies.  
Expires August 8, 2010.