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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE PRESERVE AT LAKE CHARM**

THIS DECLARATION of Covenants, Conditions and Restrictions of THE PRESERVE AT LAKE CHARM, is made and entered into this 13th day of February, 2007, by ILM Properties, LLC., a Florida not-for-profit limited liability company, (the "Declarant").

**WITNESSETH**

WHEREAS, Declarant is the owner of certain real property located in the City of Oviedo, Seminole County, Florida, described on Exhibit "A" attached hereto and made a part hereof (the "Property").

WHEREAS, Declarant intends to develop the Property into a residential community to be known as The Preserve at Lake Charm.

WHEREAS, the Property shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration.

WHEREAS, the Developer intends that certain common areas, including recreational facilities, entranceways, open space, conservation areas, water retention and detention facilities, parks, walkways, surface water or storm water management systems, sprinkler systems, streets and street lights serve all of said residential community; and

WHEREAS, in order to preserve and enhance the value of said real property and to provide for maintenance of said common areas, and to undertake such duties as may be required by governmental entities, including, but not limited to, the St. Johns River Water Management District and the City, to preserve and protect conservation areas and surface water or storm-water management systems, the Developer desires to submit said real property to various covenants, restrictions, easements, charges, and liens, all as provided herein, and

WHEREAS, to facilitate the objective contained in this Declaration, the developer has formed a Florida not-for-profit corporation, the name of which is The Preserve at Lake Charm Homeowner's Association, Inc., to maintain and administer the Common Areas (as that term is defined herein) and to enforce the covenants, restrictions, easements, charges and liens created by this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions

which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE I - DEFINITIONS

1.1 "ACC"

Shall mean the Architectural Control Committee established pursuant to Article VIII hereof.

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, as same may be amended from time to time, a copy of this is attached hereto as Exhibit "B".

1.3 "Association"

Shall mean The Preserve at Lake Charm Homeowners' Association, Inc., its successors and assigns.

1.4 "Board"

Shall mean the board of directors of the Association.

1.5 "Bundled Services"

Shall mean various services which may include, but not be limited to, cable television, telephone, internet and property monitoring which may be provided to the Association and all Lots pursuant to an agreement between the Declarant and one or more service providers, the fees for which will be a Common Expense payable by the Association and will be included within the annual budget for which the assessments are levied each year.

1.6 "Bylaws"

Shall mean the bylaws of the Association, as same may be amended from time to time, a copy of this is attached hereto as Exhibit "C".

1.7 "City"

Shall mean and be defined as the City of Oviedo, Florida (hereinafter referred to as "City") a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.

1.8 "Commencement Assessments"

Shall mean assessments or charges of Five Hundred Dollars and xx/100's (\$500.00) each, levied against each and every Lot/Residence to fund Common Expenses in accordance with this Declaration which shall be paid directly to the Association at the time of closing by each Person purchasing a Lot/Residence.

1.9 "Common Areas"

Shall mean and refer to that portion of The Properties now or hereafter owned by or dedicated to the Association or dedicated to the public or to a public entity and now or hereafter used and

designated for the use and benefit of the Owners of property within the Development or shown on any plat as to be maintained by the Association, together with the landscaping and any improvement thereon, including, without limitation, all recreational facilities, entranceways, open space, parks, walkways, surface water or storm water management system (including the waters of all lakes, ponds, and streams, surface water or storm water management structures, pipes, and equipment), sprinkler systems, streets, and street light, if any, but excluding any public utility installations thereon. Declarant may convey Common Area to the Association at any time in fee simple, free of any mortgages or other liens, except ad valorem taxes for the year of conveyance. The Association shall accept title to any real property or personal property offered to the Association by Declarant.

1.10 "Common Assessments"

Shall mean assessments or charges levied against all Lots to fund Common Expenses in accordance with this Declaration.

1.11 "Common Expenses"

Shall mean the actual and estimated expenses incurred by the Association for the operation, maintenance and repair of the Common Area (and all improvements and amenities thereon), the Surface Water Management System, and the Common Maintenance Area, or for the general benefit of all Owners, including, if so determined by the Board, any reasonable reserves, all as may be found to be necessary or appropriate by the Board pursuant to the Governing Documents.

1.12 "Common Maintenance Area"

Shall mean all real property from time to time designated by Declarant or the Board as a maintenance responsibility of the Association for the common use and enjoyment of the Owners, together with all improvements, fixtures, and tangible personal property now or hereafter situated thereon.

1.13 "Community Completion Date"

Shall mean the date upon which all Residences in the Property, as ultimately planned and as fully developed, have been conveyed by Declarant to Owners.

1.14 "Community Standards"

Shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Article VIII hereof.

1.15 "Conservation Area" or "Conservation Easement Areas"

Shall mean all conservation areas designated by Declarant or its successors and assigns upon the Plats (as hereinafter defined), or in any easements, dedications, or restrictions made or imposed pursuant to conservation ordinances, laws, rules, or regulations of governmental authorities.

1.16 "Declarant"

Shall mean ILM Properties, LLC., a Florida limited liability company, and its designees (including its affiliated or related entities which conduct land development, homebuilding and sales activities), successors and assigns. Declarant may assign all or a portion of its rights hereunder. Such assignment need not be recorded in the Public Records in order to be effective.

In the event of a partial assignment, the assignee shall not be deemed Declarant but may exercise such rights of Declarant specifically assigned to it. Any such assignment may be made on a nonexclusive basis.

1.17 "Declaration"

Shall mean this Declaration of Covenants, Conditions, and Restrictions of The Preserve at Lake Charm.

1.19 "Governing Documents"

Shall mean and collectively refer to this Declaration, the Articles and the Bylaws.

1.20 "Institutional Lender"

Shall mean a bank, savings and loan association, insurance company, Federal National Mortgage Association, or other lender generally recognized as an institution type lender, which holds a mortgage on one or more of the Lots.

1.21 "Waterfront Lot"

Shall mean any Lot containing, within the Lot lines, a portion of a lake or pond, or any Lot having frontage on or near a lake or pond, or any Lot having common boundaries with a lake or pond.

1.22 "Lawn Maintenance Standards"

Shall have the meaning set forth in Section 9.1.

1.23 "Lot"

Shall mean and refer to any Lot on the plat of The Properties, which plat is designated by Developer hereby or by any other recorded instrument to be subject to these covenants and restrictions and to the extent the Developer is not the Owner thereof, then designated by the Developer joined by the Owner thereof, and Lot shown upon any re-subdivision of any such plat, and any other property hereafter declared as a Lot by the Developer and thereby made subject to this Declaration.

1.24 "Member"

Shall mean every person or entity who is an Owner and in being such the Owners comprise the membership of the Association.

1.25 "Monitoring System"

Shall mean any electronic surveillance and/or monitoring system intended to control access, provide alarm service, and/or enhance the welfare of the Property. By way of example, and not of limitation, the term Monitoring System may include a central alarm system, electronic entrance gates, gatehouses, wireless communication to Residences, or any combination thereof. THE PROVISION OF A MONITORING SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN THE PROPERTY. DECLARANT AND THE ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY

MONITORING SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE MONITORING SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH RESIDENCE ACKNOWLEDGES THAT DECLARANT AND THE ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR RESIDENCES, OR THE PERSONAL PROPERTY LOCATED WITHIN RESIDENCES. DECLARANT AND THE ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

1.26 "Owner"

Shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.27 "Person"

Shall mean an individual, corporation, governmental agency, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest or any other legal entity.

1.28 "Plat" or "Plats"

Shall mean the plat or plats subdividing the Property, as recorded from time to time in the Public Records of the Seminole County.

1.29 "Property"

Shall mean the real property described on Exhibit A attached hereto and, when added in accordance with the terms and conditions hereof, shall also include such real property as is in the future subjected to this Declaration.

1.30 "Residence"

Shall mean any residential dwelling unit constructed or to be constructed on or within any Lot, together with any appurtenant improvements, which is susceptible to ownership in fee simple.

1.31 "Rules and Regulations"

Shall mean the Rules and Regulations governing the Property as adopted by the Board from time to time.

1.32 "SJRWMD"

Shall mean the St. Johns River Water Management District.

1.33 "Special Assessments"

Shall mean assessments or charges levied against all Lots to fund or cover unbudgeted expenses or expenses in excess of those budgeted in accordance with this Declaration.

1.34 "Specific Assessments"

Shall mean assessments or charges levied against a particular Owner's Lot or Residence to recover any indebtedness of that Owner to the Association arising under any provision of the Governing Documents in accordance with this Declaration.

1.35 "Streets"

Shall mean the rights-of-way of and for all streets, roads, drives, courts, ways and cul-de-sacs within the Property as the same are described in and depicted on the Plats, together with all paving, curbing, gutters, sidewalks and other improvements, facilities, and appurtenances from time to time located therein, including street lights and utility lines, conveyed by Declarant to the Association as Common Area pursuant to the provisions of this Declaration; but, specifically excluding, however, such utility lines, facilities and appurtenances as are located within such rights-of-way as may be owned by private or public utility companies or governmental agencies from time to time providing utility services to the Property.

1.36 "Surface Water Management System"

Shall mean the surface water management and drainage system for the Property which is designed, constructed, implemented, and operated to collect, store, retain, detain, inhibit, absorb, treat, convey, drain, use, reuse, and otherwise manage and control surface-drainage on and discharges from the Property in order to prevent or reduce flooding, over-drainage, water pollution, or other environmental degradation or otherwise affect the quality, and/or rate of flow of surface storm-water drainage on and discharges from the Property in accordance with, and pursuant to the permit or permits issued by SJRWMD (the "Permit") and as reflected on the construction plans approved by the City, and includes all land, easements, improvements, facilities and appurtenances which together constitute and comprise those portions of the surface water management and drainage system for the Property. A copy of the Permit is attached hereto as Exhibit "D". The Surface Water Management System shall include all land located in the environmental and conservation easement areas, drainage easement areas and other water management areas in the Property.

1.37 "Turnover Date"

Shall mean the date on which transition of control of the Association from Declarant to Owners occurs.

1.38 "Water Areas"

Shall mean any lakes, ponds, storm-water retention and detention areas, and other water areas within the Property.

## ARTICLE II - PROPERTY RIGHTS

2.1 Owners' Easement of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title of every Lot, subject to the following provisions:

- 2.1.1 The right of the Association to suspend the voting rights and right to use Common Area Facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- 2.1.2 The right of the Association to mortgage or convey the Common Area to any homeowner association, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage or conveyance shall be effective unless such mortgage, dedication, or transfer is approved by the affirmative vote (in person or by proxy) or written consent or any combination thereof, of Owners holding not less than two-thirds (2/3) of the total votes of each class of the Association and an instrument agreeing to such mortgage, dedication, or transfer is recorded in the public records of the County. If any Owner's ingress or egress to his Residence is through the Common Area, any conveyance or encumbrance of such section of the Common Area is subject to that Owner's easement.

## 2.2 Delegation of Use.

Any Owner may delegate, in accordance with the Governing Documents, his right or enjoyment to the Common Area and facilities to members of his family, his tenants, or contract purchasers who reside on his Lot whether on a permanent or transient basis.

## 2.3 Utility Easements.

There are hereby created, declared, granted to and reserved for the benefit of Declarant, the City, the Association, all Owners, all Lots and all public or private providers of utility services to the Property and their respective successors and assigns a non-exclusive perpetual easement for utility purposes over, under, upon and within the rights-of-way of and for all Common Area and all utility easements and utility easement areas shown on the Plats or otherwise reserved, declared, or created pursuant to this Declaration for the purposes of constructing, installing, inspecting, operating, maintaining, repairing, and replacing, from time to time, any and all utility lines, mains, systems, equipment, 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 and other telecommunication services. Declarant also hereby reserves for itself and for the Association, and their respective successors, assigns, agents, and contractors, as the case may be, a non-exclusive perpetual easement for utility purposes to install, operate, maintain, repair and replace electricity, gas, water, cable television and telephone lines and facilities over or under any Lot or Residence; provided, however, that any such electricity, gas, water, cable television and/or telephone lines must be installed inside of a conduit.

## 2.4 Drainage Easements.

There is hereby created, declared, granted to and reserved for the benefit of Declarant, the Association, all Owners, and all Lots a non-exclusive perpetual easement for storm water collection, retention, detention, treatment, and drainage over, under, upon and within the rights-of-way of and for all Streets and all drainage easements and drainage easement areas, if any.

shown on the Plats or otherwise created, declared, granted or reserved by Declarant pursuant to this Declaration, together with an easement and license to enter upon such Streets and such drainage easements and drainage easement areas for the purposes of constructing, installing, inspecting, operating, maintaining, repairing, and replacing any and all storm water drainage and surface water management systems, improvements, and facilities from time to time located therein or thereon in accordance with and as required by the Permit as defined herein. Additionally, Declarant, for the benefit of itself, the Association, all Owners and all Lots, hereby reserves drainage easements over any and all other portions of the Property, including the Common Area, 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 Owners of the particular Lots or the Common Area affected thereby or any improvements from time to time placed, located, constructed, erected, or installed thereon. The drainage easements hereinabove created, declared, granted, and reserved contemplate the construction of all storm water drainage improvements and facilities shown on the plans for the Surface Water Management System as approved by the City and SJRWMD pursuant to the latter's Permit, as supplemented, modified and amended from time to time and any replacement or supplemental permits, including, without limitation construction permits, issued by SJRWMD, and such additional or supplemental facilities as may reasonably be required to provide adequate storm water drainage and surface water management to all portions of the Property. No alterations of the Surface Water Management System and its facilities and appurtenances shall be permitted without the prior written consent and approval of SJRWMD, the City and Declarant.

#### 2.5 Emergency Drainage Easement.

There is hereby created, declared and granted to and for the benefit of the City and SJRWMD, a non-exclusive perpetual easement over, under, upon and within the rights-of-way of and for all Streets and all drainage easements and drainage easement areas comprising and appurtenant to the Surface Water Management System for the purpose of undertaking emergency maintenance and repairs to the Surface Water Management System in the event that inadequate maintenance or repair of the Surface Water Management System by the Association shall create a hazard to the public health, safety or general welfare. It is expressly provided, however, that the creation, declaration, grant and reservation of such Emergency Drainage Easement shall not be deemed to impose upon the City and/or SJRWMD 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 Surface Water Management System or any portion or portions thereof for any reason or reasons whatsoever.

#### 2.6 Construction and Sales Easement.

There is hereby created, declared, granted and reserved for the benefit of Declarant and/or its affiliate(s) together with the right to grant, assign and transfer the same to their respective sales agents and/or sales representatives as well as to builders or building contractors approved by Declarant for the construction of Residences within the Property, an easement for construction activities upon Lots and an easement for sales, marketing and promotional activities including the installation and maintenance of signs on Lots and for the construction and maintenance on Lots from time to time of a sales, administrative center and construction trailer, in which and from which Declarant and/or its affiliate(s) and their respective authorized sales agents and sales



representatives and approved builders and building contractors may engage in marketing, sales and promotional activities and related or supportive administrative activities of a commercial and construction nature.

**2.7 Public Easements.**

Fire, police, health and sanitation, and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Property for the purpose of providing public services to the Owners.

**2.8 Association's Access Easement.**

The Association's duly authorized representatives or agents shall, at all reasonable times, have and possess an access easement and a reasonable right of entry and inspection upon the Property, and upon, over and under each Lot and Residence, for the purpose of fully and truthfully discharging the duties of the Association, including, but not limited to, performing maintenance, repair or installation of any sort. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to perform its services required and authorized hereunder, so long as none shall unreasonably interfere with the use of any Lot. Furthermore, a non-exclusive easement is hereby created over all utility easements and drainage easements located on any Lot, whether now existing or hereafter created including, but not limited to, all utility easements and drainage easements contained on the Plat, which easement is in favor of the Association, including its agents and designees, in perpetuity, to utilize for all proper purposes of the Association, as determined by the Board.

**2.9 Lot Line Encroachment.**

Certain Residences and other improvements constructed on Lots by Declarant may be situated so that a portion thereof, including, but not limited to, an exterior wall of such Residence, roof overhangs, air conditioning units, or concrete pads may be located upon, immediately adjacent to, overhang, or encroach upon, the boundary line between the Lot upon which said Residence is located and either an adjoining Lot or a portion of the Common Area. In all such cases, said adjoining Lot or portion of the Common Area shall be subject to an easement and appurtenant rights, including the right of ingress and egress, in favor of the encroaching Lot and its respective Owner, which easement and appurtenant rights shall be for the purpose of (i) permitting the existence of the encroachment, and (ii) allowing ingress and egress for the performance of proper and normal maintenance to the encroaching improvement, including meter reading. All such improvements which have been constructed by Declarant and approved by applicable building authorities are deemed to have been reasonably constructed, notwithstanding any such encroachment. In no instance shall the exercise of any such easement and appurtenant rights created pursuant to this section unreasonably interfere with the use of the Lot subject to same.

**2.10 Access.**

Declarant reserves unto itself, including its designees from time to time, and hereby grants to the Association and all Owners, including their respective tenants, guests and invitees, perpetual, non-exclusive easements of ingress and egress over and across those portions of the Common Area lying adjacent to and between the boundary line(s) of their Lot(s) to and from dedicated rights of way.

#### 2.11 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, at any time hereafter, grant to itself, the Association, the City or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole and absolute discretion of Declarant, for the future orderly development of the Property in accordance with the objects and purposes set forth in this Declaration. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon the Lots 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 Residence site. The easements contemplated by this Section may include, without limitation, such easements as may be required for utility, drainage, road right-of-way or other purposes reasonably related to the orderly development of the Property in accordance with the objects and purposes specified in this Declaration, such further or additional easements may be hereafter created, granted, or reserved by Declarant without the necessity for the consent or joinder of the owner of the particular portion of the Property over which any such further or additional easement is granted or required.

#### 2.12 Development Easement.

In addition to the rights reserved elsewhere herein, Declarant reserves an easement for itself or its nominees over, upon, across, and under the Property as may be required in connection with the development of the Property and other lands designated by Declarant and to promote or otherwise facilitate the development, construction and sale and/or leasing of Lots and Residences, and other lands designated by Declarant. Without limiting the foregoing, Declarant specifically reserves the right to use all paved roads and rights of way within the Property for vehicular and pedestrian ingress and egress to and from construction sites. Without limiting the foregoing, at no time shall Declarant be obligated to pay any amount to Association on account of Declarant's use of the Property for construction purposes. Further, Declarant may market other Residences and commercial properties located outside of the Property from Declarant's sales facilities located within the Property. Declarant has the right to use all portions of the Property in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model Residences, installing signs and displays, holding promotional parties and picnics, and using the Property for every other type of promotional or sales activity that may be employed in the marketing of new and used residences. The easements created by this Section, and the rights reserved herein in favor of Declarant, shall be construed as broadly as possible and supplement the rights of Declarant set forth in Article XV of this Declaration. At no time shall Declarant incur any expense whatsoever in connection with its use and enjoyment of such rights and easements.

#### 2.13 Support and Maintenance Easement.

An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across the Property (including Lots and Residences) for the reasonable and necessary maintenance of the Property, utilities, cables, wires and other similar facilities.

**2.14 Landscape and Fence Easements.**

The Developer shall have an easement over all land within The Properties in order to maintain landscaping and fences.

**2.15 Paramount Right of Declarant.**

Notwithstanding anything to the contrary herein, prior to the Community Completion Date Declarant shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of the Property for various public purposes or for the provision of utilities, Bundled Services or other services or to make any portions of the Property part of the Common Area, or to create and implement a special taxing district which may include all or any portion of the Property. In addition, the Common Area of the Property may include decorative improvements and berms. Declarant may remove, modify, eliminate or replace these items from time to time in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE ONLY CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE PROPERTY. DECLARANT RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DECLARANT DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

**2.15 Survival.**

Any and all easements, licenses, or other rights granted or reserved pursuant to this Article shall survive any termination of this Declaration.

**ARTICLE III. - MEMBERSHIP AND VOTING RIGHTS**

**3.1 Membership Appurtenant.**

Every Owner of a Lot/Residence shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot/Residence which is subject to assessment.

**3.2 Ownership By Entity.**

In the event that an Owner is other than a natural person, that Owner shall, prior to occupancy of the Residence, designate one or more persons who are to be the occupants of the Residence and register such persons with the Association. All provisions of this Declaration and Rules and Regulations promulgated pursuant thereto shall apply to both such Owner and the designated occupants.

**3.3 Transfer.**

The transfer of the fee simple title to a Residence, whether voluntary or by operation of law, terminating the Owner's title to that Residence shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Residence and shall terminate such Owner's membership in the Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Residence. The Owner of each Residence is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in the provisions of this Declaration. All parties acquiring any right, title and interest in and to any

Residence shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon, its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Residence, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. In addition to the Commencement Fee and the Annual Common Assessment, each owner, upon transfer, shall pay a Three Hundred Dollar and xx/100's (\$300.00) Transfer Fee to cover the cost of monitoring such transfer.

#### 3.4 Voting Rights.

The Association shall have two classes of voting membership:

3.4.1 Class A Membership. "Class A Members" or "Class A Membership" shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot/Residence owned. When more than one Person holds an interest in any Lot/Residence, all such Persons shall be Members. The vote for such Lot/Residence shall be executed by a majority of all such Members as they determine, but in no event shall more than one (1) vote be cast with respect to such a Lot/Residence.

3.4.2 Class B Membership. "Class B Member" or "Class B Membership" shall be the Declarant. The Class B Member shall be entitled to nine (9) votes for each Lot/Residence owned by the Declarant. The Class B Membership shall cease and be converted to Class A Membership three months after the date when ninety percent (90%) of all the Lots or Residences that may be ultimately constructed on the Property have been conveyed to Owners or ten (10) years has passed since the recording of this Declaration, whichever occurs first. Alternatively, Declarant may elect to convert its Class B Membership to Class A Membership upon thirty (30) days written notice to the Board (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association). Upon the earlier occurrence of any of the events described in this Section 3.4.2, the Class B Member shall be deemed a Class A Member entitled to one (1) vote for each Lot/Residence in which it holds the interest required for Membership under Section 3.4.1 hereof.

3.4.3 Notwithstanding any of the foregoing, Declarant shall be entitled to appoint at least one member of the Board for so long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of all the Lots or Residences that may ultimately be constructed on the Property.

#### 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, and occupied subject to this

## Declaration.

### 4.2 Additions to the 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 in the manner set forth below and such additional real property shall be subject to the provisions of this Declaration.

### 4.3 Annexation Without Association Approval.

Declarant may from time to time within ten (10) years of the date of this Declaration bring, in whole or in part, additional real property under the provisions of this Declaration by recorded supplemental declarations which shall not require the consent of the existing Owners or the Association, or any mortgagee, or the Department of Housing and Urban Development or the Veterans Administration. To the extent that additional real property shall be made a part of the Property, reference herein to the Property should be deemed to be a reference to all of such additional property where such references are intended to include property other than that legally described herein. Nothing herein shall prevent Declarant from rezoning and changing the development plans, with respect to such future portions, or adding additional or other property to the Property. The additional lands annexed in accordance with the provisions hereof shall become subject to the provisions of this Declaration upon recording, in the Public Records of the County, an amendment or supplement hereto properly executed by Declarant, and without the consent of the Members of the Association. Until such amendment or supplement is recorded, no provision of this Declaration shall be effective as to all or any portion of the additional real property, nor shall this Declaration constitute a cloud or encumbrance on the title of said additional real property.

### 4.4 Additions or Modifications.

Such amendments or supplements to this Declaration may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the additional real property, which is the subject of such amendments or supplements to this Declaration, as determined by Declarant. Further, such amendments or supplements to this Declaration may contain provisions relating to such additional real property, or any portions thereof, dealing with, among other things, assessments and the basis thereof, rules and regulations, architectural controls, and other provisions pertaining to all or part of such additional real property to the exclusion of other portions of the Property.

### 4.5 Other Annexation of Property.

Land, other than sections of any additional real property annexed to the Property in accordance with Section 4.3 of this Article, may be annexed to the Property upon the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3) of the total votes of the Association. Such annexation shall become effective upon recording of an amendment or supplement to this Declaration in the Public Records of the County. Thereafter, such real property described therein shall be committed to the covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated herein as Property.

4.6 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.

4.7 Amendment.

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

4.8 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 any other association as the Board may feel is in the best interests of the Association and its Members. A merger or consolidation of the Association must be approved by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3) of the total votes of the Association. Upon a merger or consolidation of the Association with another association, all Common Area, rights, and obligations shall, by operation of law, be transferred to the surviving or consolidated association or, alternatively, the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. 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 supplement upon any other properties as one scheme.

4.9 Withdrawal of Property.

Declarant shall have the right to withdraw portions of the Property from the terms and conditions of this Declaration, if consented to by the owner of the Property, without the joinder, ratification, or approval of the Association, any Owner or any lien holder (the "Withdrawn Property"). In order to withdraw the Withdrawn Property from the terms and conditions of this Declaration, Declarant shall record in the Public Records of the County an instrument signed by the owner of the Property which shall make reference to this Declaration, state that the purpose of this instrument is to withdraw the Withdrawn Property from the terms and conditions of this Declaration, and contain a legal description of the Withdrawn Property. Upon the withdrawal of the Withdrawn Property from the terms and conditions of this Declaration, the Withdrawn Property shall no longer be subject to the terms of this Declaration. Declarant shall have the right to later convey previously Withdrawn Property to the Association as Common Area.

4.10 Special Taxing Districts.

In the event that a special taxing district or community development district (hereinafter "Taxing District") is established to provide any services currently rendered by or which are 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, 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 the Taxing District. The Association shall have the right to convey or transfer all or portions of the Common Area to the Taxing District so long as the

Members shall have the right to use and enjoy the Common Area. If the 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. - FUNCTIONS OF THE ASSOCIATION

##### 5.1 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 Articles or Bylaws. In the absence of a specific requirement of approval by Members, the Board may act on its own through its proper officers.

##### 5.2 Required Services.

In addition to those other responsibilities specified in the Governing Documents, the Association or its management company, if applicable, shall be required to provide the following services as and when deemed necessary or appropriate by the Board and shall have easement rights necessary to perform same:

- 5.2.1 All maintenance of the Common Area and repair and replacement of all improvements thereon (including, but not limited to, entrance gates or gate house, streets, sidewalks, drainage facilities, buildings and structures) as and when deemed appropriate by the Board.
- 5.2.2 Payment of ad valorem taxes and personal property taxes, if applicable, with respect to the Common Area.
- 5.2.3 Operation of the Common Area in accordance with the rules and other standards adopted by the Board from time to time.
- 5.2.4 Taking any and all actions necessary to enforce all covenants, restrictions, and easements affecting the Property and performing any of the functions or services delegated to the Association in the Governing Documents.
- 5.2.5 Conducting business of the Association, including arranging for administrative services such as legal, accounting, financial, and communication services such as informing Owners of activities, meetings, and other important events.
- 5.2.6 Purchasing insurance as may be required hereby or by the Bylaws and any other insurance to the extent deemed necessary or desirable by the Board.
- 5.2.7 Acceptance of any instrument of conveyance with respect to the Common Area delivered to the Association.
- 5.2.8 The maintenance, operation, and repair of the Surface Water Management System. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm-water management capabilities as

permitted by SJRWMD or the City. Any repair or reconstruction of the Surface Water Management System shall be as permitted or, if modified, as approved by SJRWMD or the City, if applicable.

5.2.8(a) In furtherance of the Association's responsibilities for the operation, maintenance and repair of the surface water and storm water management system, the Association shall be responsible at all times for ensuring the compliance with Conservation Easement (the recorded Easement for which is attached hereto as Exhibit "E") granted to the City and the SJRWMD.

5.2.8(b) In the event of repairs or replacement of the surface water management system requiring excavation and/or removal of pipes between homes, the use of sheeting, shoring or other type of trench protection shall be utilized to minimize trench width and prevent damage to adjacent homes.

5.2.9 Monitoring and maintenance of the irrigation area, if any, described in the Permit shall be the responsibility of the Association. The Association must successfully complete the mitigation and satisfy Permit conditions.

### 5.3 Authorized Services.

The Association shall be authorized, but not required, to provide the following functions and services and shall have easement rights necessary to perform same:

5.3.1 Maintenance and repair of entrance gates or gate house to the Property as well as any other items relating thereto including, but not limited to, admittance or security devices, mechanisms and utilities, automated systems, gatehouses and communication systems.

5.3.2 Cleanup, landscaping, maintenance, dredging, water treatment or other care of lakes, ponds, canals, roads, or other property (public or private), adjacent to or near the Property, or other property designated Common Maintenance Area by Declarant or the Association to the extent 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 other Person authorized to grant such right, including, but not limited to, any appropriate governmental authority.

5.3.3 Coordinate, establish, execute and enter into an agreement(s) with one or more service companies for the provision of various services including, but not limited to, cable television, telephone, internet and property monitoring to the Association and all Lots (said services collectively referred to herein as the "Bundled Services"). If such agreement(s) is/are established, the fees for the Bundled Services payable to the service provider will be a Common Expense payable by the Association and will be included within the annual budget for which the assessments are levied each year. No Member or Owner may avoid or escape liability for any portion of the assessments for the Bundled Services as the result



of an election by any Member or Owner not to utilize all or a portion of the Bundled Services.

5.3.4 Such other services as are authorized in the Governing Documents.

5.4 Regulating Use of Common Area by Third Parties.

In order to promote the health, safety and welfare of the Owners and occupants of the Property and provide for the maintenance and preservation of the Common Areas and Property, the Declarant and the Association shall be entitled (but not obligated) to establish and enforce conditions governing the use of the Common Areas by third parties, including (without limitation) parties providing utility or other services to the Property. Accordingly, all third parties utilizing the Common Area shall be required to comply with such conditions as may be determined by the Association and/or the Declarant, as applicable, to be reasonable and necessary to maintain, preserve and protect the Common Areas and the Property, and to preserve and protect the safety of persons and property from time to time located upon or within the Property. Conditions may be imposed, in particular, on any person or entity utilizing the Common Areas for the installation, maintenance, repair or replacement from time to time of utilities or another improvements or facilities (a "Service Provider") pursuant to any easement, permit, license, right of use or similar right or privilege granted by either the Declarant or the Association (whether or not pursuant to this Declaration, a plat of the Property or any other agreement or instrument) in order to accomplish the foregoing purposes and in order to avoid, if possible, the installation of improvements which interfere with the use of the Common Areas and/or detract from the appearance of the Common Areas and the Property. Such conditions may include, without limitation, the right of the Association or Declarant to:

- (a) Require that the Service Provider submit a written request for authorization to utilize the Common Areas, in form and content (and accompanied by such additional documents and information) as are reasonably required by the Association or the Declarant to adequately review and process same;
- (b) Require the Service Provider to pay a processing fee in an amount reasonably determined by the Association or the Declarant to compensate it for the cost of processing, reviewing and approving such request;
- (c) Require that improvements be installed below ground to the maximum extent practicable;
- (d) Approve the location of any improvements;
- (e) Approve the size and composition of any above-ground improvements;
- (f) Approve the plans and specifications for all improvements;
- (g) Supervise construction, installation, repair and other activities;
- (h) Establish appropriate times for such activities to be conducted;

- (i) Require screening or landscaping around above-ground improvements;
- (j) Minimize interference with other uses of the Common Areas and Property;
- (k) Impose safety, security and traffic control requirements;
- (l) Establish and enforce reasonable rules and regulations;
- (m) Require the Service Provider to reimburse the Association or the Declarant for any actual, out-of-pocket expenses incurred or payable by the Association or the Declarant to others in order to perform any activities contemplated in this Section, including, without limitation, costs, or fees of consultants, contractors and others who may be engaged to perform such activities or to monitor or enforce the provisions of this Section with respect to such Service Provider; and;
- (n) Take such actions as are reasonable or appropriate in furtherance of the foregoing.

Nothing contained herein, however, shall be construed to impose upon the Declarant or the Association an affirmative obligation to establish such conditions, nor any particular condition listed above, nor shall either the Declarant or the Association be liable to each other or any Owner, Member or other person for failure to establish or enforce any such conditions.

#### 5.5 Establish Required Association Accounts.

The Board shall create, deposit monies into, retain in perpetuity and replenish from-time-to-time the following accounts, which are referred to in this Article collectively as the "Required Association Accounts":

- a. a routine infrastructure and maintenance account;
- b. a capital repair/streets account;
- c. a capital repair/drainage pond account; and
- d. a capital repair/other infrastructure account.

Each of these accounts must be separate and apart from all other funds and accounts of the Association, and for accounting purposes the Association may not commingle these accounts, either with each other or with other funds and accounts of the Association. However, notwithstanding the foregoing, the monies in the above accounts may be commingled with monies in other Association accounts for banking and investment purposes, and may be pooled with other Association monies in common investment programs, so long as the financial books and records of the Association account for these monies separately and apart from all other Association monies and keep such monies earmarked for the purposes set forth below. All earnings from the investment of monies in the required Association accounts shall remain in their respective accounts and shall follow their respective principal.

#### 5.6 Use of Accounts.

A. Routine-Infrastructure-Maintenance Account. Monies on deposit in the routine-infrastructure-maintenance account, including any investment earnings, may be sued by the Association, or by Declarant with the written consent of the Board of the Association, only

for scheduled maintenance and for unscheduled repair of the streets, drainage system, including the storm water detention/retention areas, sidewalks, curbing, bike paths, traffic control signage and other Association infrastructure appurtenant to the private roads and drainage systems. The monies on deposit in the account may also be used for scheduled maintenance and unscheduled maintenance and repair of the entrance and exit gates and their related facilities, but streets and drainage systems maintenance and repair take priority over the maintenance and repair of gates and related facilities. Until Turnover, all maintenance and repair of streets, sidewalks and the drainage system, including storm water detention/retention areas, shall be the responsibility of the Declarant. Prior to Turnover, Declarant may expend monies in the routine-infrastructure-maintenance account for such maintenance and repair, but only with the written consent of the Board of Directors of the Association. Insufficiency of monies in the routine-infrastructure-maintenance account shall not act to relieve Declarant of any responsibility to maintain and repair the streets, sidewalks, drainage system (including storm water detention/retention areas) properly prior to Turnover.

**B. Capital-Repair/Streets Account.** Monies on deposit in the capital-repair/streets account, including any investment earnings, may be used by the Association only for resurfacing and related reconstruction of the street in the subdivision, generally every twelve (12) years after issuance by the City of the certificate of completion for the streets. The monies on deposit in the account may not be expended earlier than the twelfth anniversary of the issuance of the certificate of completion for the streets. The monies on deposit in the account may not be expended earlier than the twelfth anniversary of the issuance of the certificate of completion without the consent of no less than a simple majority of the Owners (excluding the Declarant), which consent may consist of written consent and/or voting consent at a meeting called in accordance with the Bylaws of the Association, and the consents will be valid only if obtained after Turnover. Under no circumstances may the monies in the account be expended before Turnover.

**C. Capital-Repair/Drainage Pond Account.** Monies on deposit in the capital-repair/drainage pond account, including any investment earnings, may be used by the Association only for major repair and reconstruction of the storm water detention/retention areas of the drainage system, generally every ten (10) years, after issuance by the City of the certificate of completion for the storm water-drainage system. The reconstruction and repair of the detention/retention/areas will include, but not be limited to, dredging and sediment removal. The monies on deposit in the account may not be expended earlier than the tenth (10<sup>th</sup>) anniversary of the issuance of the certificate of completion without the written consent of no less than a simple majority of the Owners (excluding the Declarant), which consent may consist of written consent and/or voting consent at a meeting called in accordance with the Bylaws of the Association, and the consent will be valid only if obtained after Turnover. Under no circumstances may monies in the account be expended before Turnover.

**D. Capital-Repair/Other Infrastructure Account.** Monies on deposit in the capital-repair/other infrastructure account, including any investment earnings, may be used by the Association only for major repair, reconstruction, resurfacing, and replacement of the other parts of the infrastructure related to the private streets and replacement of the other parts of the infrastructure related to the private streets and drainage systems, such as the storm water

conveyance systems, sidewalks, curbing and bike paths. Monies on deposit in the account may also be used for the major repair, reconstruction and replacement of the entrance and exit gates and related facilities, but the repair, reconstruction and replacement of the former items of infrastructure take priority over the repair, construction and replacement of the entrance and exit gates and their related facilities.

5.7 Required Funding: Required Assessments.

A. Routine-Infrastructure-Maintenance Account. The Association must deposit each year into the routine-infrastructure-maintenance account an amount of money sufficient to perform all scheduled maintenance and unscheduled repair of the streets, drainage system and other infrastructure during the subsequent year. The amount deposited, when added to investment earnings, must be no less than the amounts recommended by the City in the City of Oviedo Code of Ordinances (or its successor's provisions). Deposits each year must be increased by amounts sufficient to cover the costs of maintenance and repair of the entrance and exit gates and their related facilities.

B. Capital-Repair/Streets Account. The Association must deposit each year into the capital-repair/streets account an amount of money sufficient for the streets to be resurfaced and, as related to the resurfacing, reconstructed no less frequently than every twelve (12) years, and the amount must be estimated by Declarant and approved by the City prior to issuance of a certificate of completion for the streets. Deposits to the account must begin in the year in which the City issues its certificate of completion and must be completed no later than the year of the twelfth anniversary of issuance of the certificate. The amount deposited by the Association must be no less than one-twelfth (1/12) of the estimate approved by the City. However, after Turnover the schedule of deposits may be altered such that one or more annual deposits is less than one-twelfth (1/12) of the estimate, but only if a simple majority or more of all Owners consent in writing and/or by voting at a meeting called in accordance with the Bylaws of the Association to approve the altered schedule. If the Owners consent in writing to a different schedule of deposits, the revised schedule must in the aggregate amount of deposits during the twelve (12) year period being equal to or in excess of the estimate approved by the City. At the end of each twelve (12) year period, the Association shall revise and update the estimated cost of resurfacing and, as related to the resurfacing, reconstruction of the streets at the end of the next twelve (12) year period, taking into consideration actual costs incurred and expected increases in road construction costs, and shall adjust the annual deposits to the account accordingly. If for any reason expenditures are made from the account prior to the end of the twelve (12) year period, the amount of deposits to the account in the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the twelve (12) year period to pay the costs of all expected repair and/or reconstruction and resurfacing requirements.

C. Capital-Repair/Drainage Pond Account. The Association must deposit each year into the capital-repair/drainage pond account an amount sufficient for the storm water detention/retention areas in the drainage system to be restored and repaired no less frequently than once every ten (10) years, and the amount must be estimated by Declarant and approved by the City prior to the issuance of a certificate of completion for the drainage system. Deposits to the account must begin in the year of which the city and/or county issues its certificate of completion for the drainage system and must be completed no later than the year of the tenth

(10<sup>th</sup>) anniversary of the issuance of the certificate. The amount deposited each year by the Association must be no less than one-tenth (1/10) of the estimate approved by the City. However, after Turnover, the schedule of deposits may be altered such that one (1) or more annual deposits is less than one-tenth (1/10) of the estimate, but only if a simple majority or more of all Owners consent in writing and/or by voting at a meeting called in accordance with the Bylaws of the Association to approve the altered schedule. If the property owners consent to a different schedule of deposits, the revised schedule must result in the aggregate amount of deposits during the ten (10) year period being equal to or in excess of the estimate approved by the City. At the end of each ten (10) year period, the Association shall revise and update the estimate of the cost of restoring and repairing the storm water detention areas at the end of the next ten (10) year period, taking into consideration actual costs incurred and expected increases in drainage system construction costs and shall adjust the amount of its annual deposits to the account accordingly. If for any reason expenditures are made from the account prior to the end of the ten (10) year period, the amount of deposits to the account in the remaining years will be adjusted so as to ensure that the account contains an amount sufficient at the end of the ten (10) year period to pay the costs of all expected restoration and repair requirements.

**D. Capital-Repair/Other Infrastructure Account.** The Association must deposit each year into the capital-repair/other infrastructure account an amount sufficient for other subdivision infrastructure related to the streets and drainage system, such as storm water conveyance systems, sidewalks, curbing and bike paths, to be reconstructed and/or repaired no less frequently than once every fifty (50) years, and the amount must be approved by the City prior to issuance of a certificate of completion for those improvements. If the City's engineer is of the opinion that the subdivision has substantially deteriorated at the time a plat is approved, the City may require an additional payment of assessments by the developer to address loss of useful life. Deposits to the account must begin in the year in which the City issues its certificate of completion for the improvements and must be completed no later than the fiftieth (50<sup>th</sup>) anniversary of the issuance of the certificate. The amount deposited each year by the Association must be no less than one-fiftieth (1/50) of the estimate approved by the City. However, after Turnover, the schedule of deposits may be altered such that one (1) or more annual deposits is less than one-fiftieth (1/50) of the estimate, but only if a simple majority or more of all Owners consent in writing and/or by voting at a meeting called in accordance with the Bylaws of the Association approve that altered schedule. If the Owners consent to a different schedule of deposits, the revised schedule must in the aggregate amount of deposits during the fifty (50) year period being equal to or in excess of the estimate approved by the City. At the end of each fifty (50) year period, the Association shall revise and update the estimated cost of reconstruction and/or repairing the improvements, taking into consideration actual costs incurred and expected increases in reconstruction and repair costs, and shall adjust the annual deposits to the account accordingly. If for any reason expenditures are made from the account prior to the end of the fifty (50) year period, the amount of deposits to the account in the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the fifty (50) year period to pay the costs of all expected reconstruction and/or repair requirements.

**E. Required Assessments.** The obligation to collect and pay assessments shall commence as of the date of which the City issues its certificate of completion for the streets, drainage system, and other related improvements for the subdivision. However, if no plat has

been recorded as of that date, the obligation to collect and pay assessments shall commence as of the date the plat is recorded in the Public Records of Seminole County, Florida. *The Association shall impose and collect assessments against each Lot, including Lots owned or controlled by Declarant and by any builder, without exception. The assessments shall be uniform and equitable and shall be imposed and collected in amounts sufficient, when added to investment earnings and other available revenues of the Association, if any, to make all required deposits to each of the required Association accounts.*

**5.8 Financial Reports and Other Requirements.** Each year the Association shall cause a financial report of the required Association accounts to be performed and prepared, and a copy of the report shall be submitted to each Owner as required by Chapter 720, Florida Statutes. At a minimum, the report shall confirm the existence of each of the required Association accounts and report the amounts of deposits into and expenditures from the required Association accounts. Finally, the financial report shall disclose whether any of the required Association accounts has less than the amount required under this Declaration.

**5.9 Infrastructure Inspection after Turnover.** After Turnover of control of the Association, or Turnover of control of the subdivision infrastructure:

A. the Association shall obtain an inspection of the streets, sidewalks and drainage systems, including storm water detention/retention areas, by a Florida registered engineer experienced in subdivision construction no less frequently than once every three (3) years after the initial engineer's inspection; and

B. using good engineering practice, and in accordance with standards that may be established and revised from time-to-time by the City Engineer or his or her designee, or in accordance with such other standards as may be adopted from time-to-time by the Association, or in accordance with such standards as the Association's engineer may determine to be appropriate, the inspection shall determine the level of maintenance and repair (both scheduled and unscheduled) needed, the amounts of funding needed each year for the next three (3) years in the routine-infrastructure-maintenance account to pay for such maintenance and repair, and any repairs then needed; and

C. the inspection shall be written in a report format; and

D. a copy of each engineering report shall be provided to each owner of property in the gated community within 15 (fifteen) days of completion of the report, and;

E. within one hundred eighty (180) days of receipt of each tri-annual engineering report, the Association shall complete all remedial work identified and recommended by the engineer.

**5.10 Enforcement of the Declaration.**

A. The Association, any member of the association and any and all owners of land in the subdivision shall have the right jointly and severally to enforce against Declarant the requirements of the Declaration required thereunder, with the prevailing party being entitled to attorneys' fees and costs;

B. Any member of the Association and all owners of land in the subdivision shall have the right to enforce against the Association the requirements of and the provisions of the Declaration required hereunder, with the prevailing party being entitled to attorneys' fees and costs; and

C. Venue for any such enforcement action shall be in Judicial Circuit Court of Florida, in Seminole County.

5.11 Miscellaneous.

A. Declarant (so long as Declarant retains control of the Board of Directors of the Association) and the Association expressly indemnify and hold the City of Oviedo and its officers and employees harmless from any cost of maintenance, repair and reconstruction of, or tort liability or award of damages related to or arising in connection with, the streets, sidewalks, drainage system (including storm water detention/retention area) and/or any other subdivision infrastructure.

B. Owners shall receive no discount in property or other taxes because of private streets or drainage.

C. Each initial purchaser of a residential lot in the Property for the personal or family use of the purchase shall receive a copy of this Declaration at or prior to the time the sales contract is executed, together with the current budget for the Association, including a schedule disclosing the then-existing amounts of the periodic assessments for each of the Association accounts required by this Article and a copy of the most recent year-end financial statement for the Association, and if none are then existing, a good faith estimate of the Association's operating budget, along with a form to be signed by such initial purchaser acknowledging receipt of a copy of the Declaration, budget, financial statement or good faith estimate, and that the original of the form acknowledging receipt of a copy of the Declaration is to be attached to the sales contract as an exhibit or appendix.

D. Upon any default by the Association or Declarant in any requirements of either this Article or the Declaration required under the City's Code Enforcements, the City at its option and after due notice of its declaration of a default and a reasonable time to cure, may prohibit closure of the gates and, upon dedication or conveyance of the rights-of-way to the City, assume responsibility for maintenance, using all Association monies on deposit in the routine-infrastructure-maintenance account and the several capita-repair accounts or, if no monies exist or if an insufficient amount exists, using such other revenues or financing methods as the City may elect, including (but not limited to) special assessments against the subdivision lots, blocks, and tracts.

E. Enforcement of traffic laws within the gated community, as requested by the Association, shall be by the sheriff and that all costs of enforcement incurred by the sheriff shall be paid by the Association.

F. If and when the subdivision is annexed to a municipality, the rights and privileges inuring to the City's benefit under this Article shall be deemed assigned to the municipality and shall inure automatically to the municipality's benefit.

G. At the time of sale to the initial homebuyer, a schedule disclosing the then-existing amounts of the periodic assessments for the Association accounts required by this Article shall be delivered to such homebuyer. The periodic assessments for the Association

accounts required by the Article do not include assessments for either the routine maintenance of or the capital repair and replacement of Association facilities not related to subdivision infrastructure (such as common area landscaping, entrance and exit gates, walls, swimming pools, clubhouse, parks, other recreation areas, etc.)

H. Any transfer subdivision infrastructure (including the property on which the subdivision infrastructure is located) to the City or other governmental entity is prohibited without the concurrence of two-thirds (2/3) of the Owners approval.

5.12 Disclosure. No contract for the initial sale of a home or lot within the Property shall be valid, effective or enforceable unless a disclosure identical to the following has been presented to the buyer thereof and been reviewed and executed by said buyer:

**IF YOU ARE BUYING A HOME IN A PRIVATE GATED COMMUNITY IN THE CITY OF OVIEDO, YOU SHOULD KNOW THESE BASIC FACTS:**

**A. THE CITY OF OVIEDO CANNOT PAY TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE IN THIS COMMUNITY BECAUSE THESE THINGS ARE PRIVATE PROPERTY AND THE GENERAL PUBLIC CANNOT ACCESS THE COMMUNITY.**

**B. ALTHOUGH THE COST OF PROPERLY MAINTAINING AND REPAIRING ROADS, SIDEWALKS AND DRAINAGE SYSTEMS CAN BE VERY HIGH, ONLY THE OWNERS OF HOMES AND LOTS IN THIS COMMUNITY WILL SHARE THESE EXPENSES. TAX DOLLARS WILL NOT BE USED. THE MEMBERS MUST ALSO PAY FOR THE COST OF LIABILITY INSURANCE AND TRAFFIC ENFORCEMENT ON THE COMMUNITY'S ROADS.**

**C. UNDER FLORIDA LAW, NO REDUCTION IN YOUR TAX BURDEN WILL RESULT FROM LIVING IN THIS COMMUNITY.**

**D. MEMBERS OF THIS COMMUNITY, THROUGH THEIR MANDATORY HOMEOWNERS' ASSOCIATION, MUST SET ASIDE ADEQUATE RESERVES TO PROPERLY MAINTAIN, REPAIR AND REPLACE THE ROADS, SIDEWALKS AND DRAINAGE SYSTEMS, AND MUST HAVE A PROFESSIONAL ENGINEER REGULARLY INSPECT THE ROADS, SIDEWALKS, AND DRAINAGE SYSTEM(S) AND REPORT WHAT WORK IS NECESSARY TO MAINTAIN AND/OR REPAIR THEM. THE MANDATORY HOMEOWNERS' ASSOCIATION IS OBLIGATED TO DO THE NECESSARY WORK REPORTED AND THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION PAY FOR THE WORK THROUGH THEIR ASSESSMENTS.**

**E. THE EXTRA EXPENSES YOU INCUR TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE IN YOUR COMMUNITY ARE IN ADDITION TO OTHER EXPENSE CHARGED BY YOUR HOMEOWNERS' ASSOCIATION TO PAY FOR PRIVATE RECREATIONAL, SECURITY AND OTHER AMENITIES AND**



SERVICES THE COMMUNITY MAY OFFER, INCLUDING THE COMMUNITY'S GATES.

F. AS WITH ANY ASSESSMENT, THE FAILURE OR INABILITY TO PAY MAY LEAD TO A LIEN BEING PLACED ON YOUR HOME. IF A LIEN IS PLACED AND FORECLOSED UPON, YOU COULD LOSE YOUR HOME.

G. THE HOMEOWNERS' ASSOCIATION IS ALSO REQUIRED TO MAINTAIN LIABILITY INSURANCE ADEQUATE TO PAY CLAIMS FOR INJURIES AND PROPERTY DAMAGE ARISING ON THE PRIVATE ROADWAY, SIDEWALKS, DRAINAGE PONDS AND OTHER COMMON AREAS IN THE NEIGHBORHOOD.

H. IF THE CITY OF OVIEDO DETERMINES THAT THE COMMUNITY IS NOT MEETING ITS OBLIGATIONS, IT MAY REVOKE THE COMMUNITY'S PRIVILEGE TO CLOSE ITS GATES SO THAT THE ROADS IN THE COMMUNITY BECOME AVAILABLE FOR PUBLIC USE.

I. IF THE COMMUNITY FAILS TO MAINTAIN ITS ROADS, SIDEWALKS AND DRAINAGE SYSTEMS, THE CITY OF OVIEDO MAY REQUIRE THAT THE GATES BE REMOVED. IN THE EVENT THE GATES ARE REMOVED, AND THE HOMEOWNER'S ASSOCIATION DEDICATES THE ROADS AND OTHER INFRASTRUCTURE TO THE COUNTY, ALL COSTS AND EXPENSE WHICH INCURS FOR SUCH MAINTENANCE ARE RECOVERABLE FROM THE COMMUNITY. FUNDS WHICH HAVE BEEN SET ASIDE BY THE COMMUNITY MAY BECOME THE PROPERTY OF THE CITY OF OVIEDO, AND THE ROADS IN YOUR COMMUNITY SHALL PERMANENTLY BECOME OPEN TO THE PUBLIC. THE CITY OF OVIEDO WILL NOT MAINTAIN YOUR RECREATIONAL, SECURITY AND OTHER AMENITIES UNDER ANY CIRCUMSTANCES.

J. BEFORE YOU SIGN A CONTRACT, BE SURE THAT YOU RECEIVE WRITTEN INFORMATION ABOUT THE COSTS OF LIVING IN THIS COMMUNITY.

5.13 Mediation. In the event of a dispute between any Owner and Declarant, or between the Association and Declarant, with respect to the repair and maintenance of the streets, sidewalks and drainage systems, and/or funding for such maintenance and repair within the Property, the Party shall submit the dispute to non-binding mediation with a mediator certified by the chief judge of the Judicial Circuit Court for Seminole County, Florida. In the event the parties are unable to resolve the dispute at such mediation, the mediator shall deliver a written statement to both parties to that effect. Either party shall then be free to file a lawsuit over such dispute. The cost of the mediation shall be evenly divided between the parties to the mediation.

5.14 Insurance Mandated by The City of Oviedo. To the extent not already addressed elsewhere in this instrument, pursuant to The City of Oviedo code, the Association shall carry an insurance policy insuring itself from the liability for damages related to or arising in connection with the streets, sidewalks, drainage system (including detention/retention areas). The minimum

amount of insurance required shall be established by The City of Oviedo Board of City Commissioners.

#### ARTICLE VI. - COMMUNITY WALLS

##### 6.1 Community Walls.

Declarant or the Association may construct walls or fences (the "Community Wall(s)") in the Common Area, easement, or elsewhere on the Property (between Lots) as a visual barrier, decorative architectural or safety feature, or for any other reason at the sole discretion of Declarant or the Association, or as a requirement of any municipality or governing authority for the benefit of the Association.

##### 6.2 Maintenance of Community Walls.

Community Wall maintenance and repair shall be performed by the Association, as determined by the Board of Directors. Should the Board determine that maintenance and/or repair is necessary as a result of negligence or abuse by an Owner, charges for maintenance and/or repair will be assessed to such Owner.

##### 6.3 Easement for Community Walls.

An easement is hereby created in favor of Declarant and the Association for the construction, management, inspection, painting, maintenance, and repair of Community Walls located within the Property. The easement shall extend five (5) feet into each affected Lot from the Community Wall. Entry upon a Lot by Declarant, the Association, or their agents, as provided herein, shall not be deemed a trespass.

#### ARTICLE VII. - COVENANT FOR ASSESSMENTS

##### 7.1 Creation of the Lien and Personal Obligation of Assessments.

Declarant, for each Lot owned, hereby covenants and each Owner, by acceptance of a deed to his Lot, is deemed to covenant and agree to pay to the Association: Commencement Assessments, Common Assessments, Special Assessments, Specific Assessments, and assessments for the costs of maintenance and operation of the Surface Water Management System. All assessments, together with late fees, interest, costs, and reasonable attorneys' fees for collection thereof shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs, and reasonable attorneys' fees for collection thereof, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment became due until paid.

##### 7.2 Purpose of Assessments.

The regular Assessments levied by the Association shall be exclusively for the costs of taxes, insurances, labor, equipment, material, management, improvement and maintenance of the Common Areas and any easement in favor of the Association, supplemental maintenance of the retention areas, regular maintenance by any governmental body, if any, for capital improvements, required reserves and to promote the health, safety, welfare and recreational opportunities of the Members of the Association and their families residing with them, their

guests and tenants, and for any other expense on behalf of the Association, including but not limited to the cost of repair and maintenance (including resurfacing) of the streets, and further including repair and maintenance of the surface water or storm water management system, including but not limited to work within retention areas, drainage structures and drainage easements. The Association shall be and is hereby authorized, empowered and directed to establish, levy, make, impose, enforce and collect during each calendar year a Common Assessment in order to provide funds required for the payment of Common Expenses to be incurred by the Association during such calendar year in the performance of its duties and obligations pursuant to this Declaration. Such Common Assessments shall be established, made, levied, imposed, enforced, collected and otherwise governed by the provisions contained in this Declaration.

**7.4 Maximum Annual Common Assessment.**

Until January 1 of the year immediately following the conveyance of the first Lot/Residence to any Owner, the maximum annual Common Assessment shall be paid in annual installments of Three Thousand Dollars and xx/100's, (\$3,000.00) per Lot/Residence. The foregoing annual assessment is in addition to any and all assessments and other financial obligations which an Owner may have to the Association.

7.4.1 From and after January 1 of the year immediately following the conveyance of the first Lot/Residence to an Owner, the maximum annual Common Assessment may be increased each year by fifteen percent (15%) above the maximum annual Common Assessment for the previous year unilaterally by the Board without the affirmative vote of or confirmation by the Members.

7.4.2 From and after January 1 of the year immediately following the conveyance of the first Lot/Residence to an Owner, any increase in the maximum annual Common Assessment more than fifteen percent (15%) of the prior year's maximum annual Common Assessment, requires the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3) of the votes of the Association present at a meeting duly called for that purpose.

7.4.3 The Board may fix the Common Assessment at an amount not in excess of the maximum.

**7.5 Commencement Assessment.**

A commencement assessment of Five Hundred Dollars and xx/100's (\$500.00) per Lot/Residence, shall be paid directly to the Association at the time of closing by the Person first purchasing a Lot/Residence from Declarant or its successor. The Association may use the Commencement Assessment for any purpose and services set forth in this Declaration.

**7.6 Special Assessments.**

In addition to other authorized assessments, the Association may levy assessments or charges from time to time to cover unbudgeted expenses or expenses in excess of those budgeted ("Special Assessment"), provided that any such Special Assessment shall require the affirmative

vote (in person or by proxy) or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3) of the votes of the Association present at a meeting duly called for that purpose.

**7.7 Specific Assessments.**

The Association may levy assessments or charges against a specific Owner's Lot to recover any indebtedness of that Owner to the Association arising under any provision of the Governing Documents, including any indemnity, or by contract, express or implied, or because of any act or omission of the Owner or any occupant of such Owner's Lot, or arising by reason of Owner's failure to properly maintain his Lot and Residence as herein provided.

**7.8 Uniform Rate of Assessment.**

All Common Assessments and Special Assessments must be fixed at a uniform rate for all Lots.

**7.9 Capital Improvements.** Funds in excess of \$50,000.00 (fifty thousand dollars and no/100) in any one case which are, necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas under the jurisdiction of the Association, and which have not previously been collected as reserve or are otherwise available to the Association, shall be levied by the Association as special assessments only upon approval of a majority of the Board of Directors of the Association and upon approval by two-thirds (2/3) favorable vote of the Members of the Association voting at a meeting or by ballot as may be provided in the Bylaws of the Association.

**7.10 Trust Funds.** Subject to the Requirements of Article VII herein below, the portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Association for the Owners of all Lots, as their interest may appear, and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or saving and loan institutions the deposits of which are insured by an agency of the United States.

**7.11 Street and Surface Water or Storm Water Management System Fund.** The portion of all assessments collected by the Association for the management, improvement, or maintenance of the surface water or storm water management systems, street paving, street lighting, fixtures and appurtenances shall be held in accounts separate and apart from all other Association funds. The Association shall prepare an annual financial statement or report (in form and detail acceptable to the Comptroller) confirming the existence of such separate funds, shall provide a copy of such annual financial statement or report to each owner within the time frame required by Chapter 720, Florida Statutes, and shall otherwise comply with all other reporting requirements set forth in this Declaration herein below.

**7.12 Reserves.**

The Association shall maintain such reserves as it deems reasonable or necessary for (i) working capital, (ii) contingencies, (iii) replacements, and (iv) the performance of such other coordinating or discretionary functions not contrary to the terms of this Declaration which the Board may from time to time approve, which may be collected as part of the Common Assessment as provided above. The Declarant's obligation to fund the Declarant's "Deficiency Obligation", as

defined herein, shall not include a responsibility to fund any reserve component of the budget. The amount and manner of collection of reserves shall be as determined by the Board, in its sole discretion. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including any Owner's nonpayment of Common Assessments, the Board may, at any time, levy a Special Assessment by establishing a budget for such Special Assessment and then, after approved by the Board, levy such Special Assessment, which may be payable in a lump sum or in installments as the Board may determine. In the event there is a balance of reserves at the end of any fiscal year, and the Board so determines, any excess reserves may be taken into account in establishing the next year's budget and may be applied to defray general expenses incurred there under.

**7.13 Date of Commencement of Common Assessments, Due Dates.**

The Common Assessments shall commence as to all Lots on the date (which shall be the first day of the month) fixed by the Board to be the date of commencement. Each subsequent Common Assessment shall be imposed for the year beginning January 1 and ending December 31. The Common Assessment shall be payable in advance in monthly installments, or in annual, semi-annual, or quarter-annual installments if so determined by the Board. The first Common Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the assessment shall be sent to every Owner subject thereto. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**7.14 Declarant's Obligation for Assessments.**

Notwithstanding anything herein to the contrary, as long as the Class B Membership exists, Declarant may elect not to pay any assessments on unoccupied Lots owned by Declarant. Should Declarant elect not to pay the assessments, Declarant shall pay all costs incurred by the Association in accomplishment of the purposes set forth in Section 7.2 of this Article, in excess of the total amount collected by the Association through all assessments, but Declarant shall not be responsible for funding any reserves of the Association. This obligation of Declarant shall hereinafter be referred to as Declarant's "Deficiency Obligation". The Declarant's Deficiency Obligation to fund the deficit shall not include an obligation to fund any reserve component of the budget. Irrespective of any election on the part of Declarant, any Residence located on any Lot owned by Declarant which is occupied as a Residence shall be subject to one hundred percent (100%) of any and all applicable assessments. Declarant may at any time revoke this election and place himself in the position of being obligated to pay the full impact of all assessments for each Lot owned by Declarant at the time said revocation is presented to the Association.

**7.15 Effect of Nonpayment of Assessments, Remedies of the Association.**

Any assessment not paid within fifteen (15) days after the due date shall bear a late fee of Twenty-Five Dollars (\$25) and interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law for money damages against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot, and said

Owner shall also pay to the Association all reasonable attorneys' fees and costs the Association incurs in relation to such action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**7.16 Assumption of Delinquent Assessments by Successors.**

The personal component of the obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. Irrespective of the assumption of the personal component of the obligation by any successor in title, the lien for delinquent assessments shall continue to be a lien upon the Lot until such time as it is fully paid.

**7.17 Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an Institutional Lender. Any unpaid assessment which cannot be collected as a lien against any Lot by any reason of the provisions of this section shall be deemed to be an assessment divided equally among, payable by and a lien against all Lots subject to assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place. Notwithstanding any contrary provision hereof, no Institutional Lender acquiring title to a Lot through foreclosure or conveyance in lieu of foreclosure, and no purchaser at a foreclosure sale, and no persons claiming by, through or under such Institutional Lender or purchaser, shall be personally obligated to pay assessments that accrue prior to the Institutional Lender's or the foreclosure purchaser's acquiring title. Failure to pay assessments shall not constitute a default in any mortgage unless provided in such mortgage. Nothing contained in this Declaration shall be construed to impose a duty on any mortgagee to collect assessments.

**7.18 Exempt Property.**

The following Property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

7.18.1 All Property dedicated or deeded to and accepted by the Association, a Taxing District, or a public authority, devoted to public use.

7.18.2 All Common Area.

7.18.3 Any Property not designated as Lots.

**ARTICLE VIII. - ARCHITECTURAL CONTROL**

**8.1 Architectural Control Committee.**

The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to the Property. The ACC shall consist of a minimum of three (3) members who shall initially be named by Declarant and who shall hold office at the pleasure of Declarant. Until the Community Completion Date, Declarant shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Declarant shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of

any of the members appointed by Declarant, Declarant shall have the right to replace any member within thirty (30) days of such occurrence. If Declarant fails to replace that member, the remaining members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Declarant with respect to the ACC.

#### 8.2 Membership.

There is no requirement that any member of the ACC be an Owner or a member of the Association.

#### 8.3 General Plan.

General Plan is the intent of this Declaration to create a general plan and scheme for development of the Property. Accordingly, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within the Property by Owners other than Declarant. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Declarant, which may be granted or denied in its sole discretion.

#### 8.4 Master Plan.

Declarant has established an overall Master Plan for the Property. However, notwithstanding the above, or any other document, brochures or plans, Declarant reserves the right to modify the Master Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DECLARANT AND/OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS REPRESENTING THE PROPERTY. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS, ARE NOT A GUARANTEE OF HOW THE PROPERTY WILL APPEAR UPON COMPLETION AND DECLARANT RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DECLARANT DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

#### 8.5 Community Standards.

Each Owner and its contractors and employees shall observe, and comply with the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Declarant shall have the right to approve the Community Standards, which approval may be granted in its sole discretion.

**8.6 Quorum.**

A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. In lieu of a meeting, the ACC may act in writing.

**8.7 Power and Duties of the ACC.**

No improvements shall be constructed on any portion of the Property, no exterior of a Residence shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on any portion of the Property, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Declarant (visible from the exterior of the Residence) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ACC.

**8.8 Procedure.**

In order to obtain the approval of the ACC, each Owner shall observe the following:

- 8.8.1 Each applicant shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ACC such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, landscaping and irrigation plans prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands, a surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.
- 8.8.2 In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.
- 8.8.3 No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability



of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within said thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

8.8.4 Construction of all improvements shall be completed within the time period set forth in the application and approved by the ACC.

8.8.5 In the event that the ACC disapproves any plans and specifications, the applicant may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ACC fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed disapproved.

8.8.6 Upon final disapproval (even if the members of the Board and ACC are the same), the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefore. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within said sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

#### 8.9 Alterations.

Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

#### 8.10 Variances.

Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

#### 8.11 Permits.

The Owner is solely responsible to obtain all required building and other permits from all

governmental authorities having jurisdiction.

**8.12 Construction by Owners.**

The following provisions govern construction activities by Owners after consent of the ACC has been obtained. This section shall not be applicable to Declarant:

8.12.1 Each Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Owner. Each construction site on the Property shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in the Property shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept on the Property and no construction materials shall be stored in the Property subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any pond or waterway or on any Common Area or other Lots/Residences on the Property or be placed anywhere outside of the Residence upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail in any regard to comply with the requirement of this Section, the ACC may require that such Owner of contractor post security with Association in such form and amount deemed appropriate by the ACC in its sole discretion.

8.12.2 There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Contractor and their employees shall utilize those roadways and entrances into the Property as are designated by the ACC for construction activities. The ACC shall have the right to require that each Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

8.12.3 Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ACC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five

(5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in the Property.

8.12.4 The ACC may from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within the Property. Each Owner and Contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within the Property and each Owner shall include the same therein.

#### 8.13 Inspection.

There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of the Property at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

#### 8.14 Violation.

Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ACC, cause such improvement to be removed or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy incurred by Association or ACC. The costs shall be deemed specific Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards by any legal or equitable remedy.

#### 8.15 Court Costs.

In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

#### 8.16 Certificate.

In the event that any Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Residence stating that the improvements on the Residence fail to meet the requirements of this Declaration and that the Residence is subject to further enforcement remedies. Failure by the ACC to record a Certificate of Non-Compliance will not relieve an Owner or future Owner to comply with the Community Standards as set forth herein.

#### 8.17 Certificate of Compliance.

If requested by an Owner, prior to the occupancy of any improvement constructed or erected on any Residence by other than Declarant, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 18.13 herein.

#### 8.18 Exemption.

Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Declarant or its nominees, including, without limitation, improvements made or to be made to the Common Areas or any Residence, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards.

#### 8.19 Exculpation.

Declarant, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Declarant, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Residence, that it shall not bring any action or suit against Declarant, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Declarant, Association or ACC or their respective members, officers, or directors in connection with the provisions of this Article. Association does hereby indemnify, defend and hold Declarant and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Declarant, Association, its directors or officers, the ACC or its members or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

### ARTICLE IX. - MAINTENANCE BY OWNERS

All lawns, landscaping and sprinkler systems and any property, structures, improvements and appurtenances shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of the Property by the Owner of each Lot/Residence. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of a Lot/Residence.

#### 9.1 Lawn Maintenance Standards.

The following maintenance standards (the "Lawn Maintenance Standards") apply to landscaping

maintained by an Owner:

- 9.1.1 Replacement of Annuals. Annuals are to be replaced at a minimum of semiannually.
- 9.1.2 Trees. Trees are to be pruned as needed.
- 9.1.3 Shrubs. All shrubs are to be trimmed as needed.
- 9.1.4 Grass Cutting Schedule. Grass shall be maintained in a neat and appropriate manner. In no event shall an Owner's lawn get in excess of six inches (6") in height.
- 9.1.5 Edging. Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.
- 9.1.6 Mulch. Mulch is to be turned two (2) times per year and shall be replenished as needed on a yearly basis.
- 9.1.7 Insect Control and Disease. Disease and insect control shall be performed on an as needed basis.
- 9.1.8 Fertilization. Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year during the following months: February, June and October.
- 9.1.9 Irrigation. Sprinkler heads shall be maintained on a monthly basis. Pump stations and valves shall be checked as needed by an independent contractor to assure proper automatic operation.
- 9.1.10 Weeding. All beds are to be weeded upon every cut. Weeds growing in curb joints, driveways, and expansion joints shall be removed as needed. Chemical treatment is permitted.
- 9.1.11 Trash Removal. Dirt, trash, plant and tree cuttings and debris resulting from all operations shall be removed and all areas left in clean condition before the end of the day.
- 9.1.12 Right of Association to Enforce. Association shall have the right to enforce the foregoing Lawn Maintenance Standards by all necessary legal action. In the event that Association is the prevailing party with respect to any litigation respecting the Lawn Maintenance Standards, it shall be entitled to recover all of its attorney's fees and paraprofessional fees, and costs, at trial and upon appeal.

9.2 Exterior Maintenance.

The exterior of all lots including, but not limited to roofs, walls, doors, windows, patio areas,

pools, screenings, and awnings shall be maintained in a first class condition and repair and in a neat and attractive manner.

#### 9.3 Lawn Maintenance.

The initial landscaping of any Lot/Residence, and any material modifications, additions, or substitutions thereof, must have the prior written approval of the ACC. Each Owner shall maintain the landscaping and lawn on the Lot in accordance with the landscaping plans approved by the ACC and in accordance with the provisions of this Declaration and requirements of any controlling governmental authority. All landscaping shall be maintained in a first class condition and appearance. All landscaped areas shall be primarily of grass, and shall not be paved or covered with gravel or any artificial surface without ACC consent.

#### 9.4 Weeds and Refuse.

No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Residence. All dead or diseased sod, plants, shrubs, trees or flowers shall be promptly removed and replaced. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot/Residence.

#### 9.5 Driveway Easement.

Each Owner shall be responsible to repair any damage to a driveway which comprises part of a Lot, including, but not limited to, any damage caused by Association or by the holder of any easement over which such driveway is constructed. All sidewalks, driveways, and parking areas within the Owner's Lot or serving the Owner's Lot shall be cleaned and kept free of debris; and cracks, damaged and/or eroding areas on the same shall be repaired, replaced and/or resurfaced as necessary. Each Owner, by acceptance of a deed to a Lot, shall be deemed to have agreed to indemnify and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Lot and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

### ARTICLE X. - USE RESTRICTIONS

The Property shall be subject to the following restrictions, reservations, and conditions, which shall be binding upon Declarant and each Owner who shall acquire hereafter a Lot or any portion of the Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns. In addition, all references in this Article X to the Owner shall be deemed to include the invitees, guests, lessees, tenants and renters of the Owner unless the context clearly indicates otherwise.

#### 10.1 Alterations and Additions.

No material alteration, addition or modification to a Lot or Residence, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and

obtained from the ACC as required by this Declaration.

#### 10.2 Animals.

No animals of any kind shall be raised, bred or kept within the Property for commercial purposes. Otherwise, Owners may keep domestic pets as permitted by City, ordinances up to a limit of two (2) such pets and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Residence only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Residence is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash, except within a fenced-in yard. No pet shall be permitted outside a Residence unless such pet is kept on a leash or under the supervision of the Owner. No pet or animal shall be "tied out" on the exterior of the Residence or in the common area Property, or left unattended in a yard or on a balcony, porch, or patio. No dog runs, doghouses or other enclosures shall be permitted on any Residence. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within the Property designated for such purpose, if any, or on that Owner's Lot. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

#### 10.3 Artificial Vegetation.

No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Residence or Lot, unless approved by the ACC.

#### 10.4 Beaches/Lake Banks.

No Owner shall create any beach or sandy area contiguous to any lake, retention pond or canal within the Property.

#### 10.5 Boundaries of Maintenance.

Each Owner shall maintain his or her Lot and any contiguous property between the Lot and the pavement edge of any abutting road

#### 10.6 Bundled Services.

Declarant or Association may coordinate, establish, execute and enter into an agreement(s) with one or more service companies for the provision of various services including, but not limited to, cable television, telephone, internet and property monitoring to the Association and all Lots (said services collectively referred to herein as the "Bundled Services"). If such agreement(s) is/are established, the fees for the Bundled Services payable to the service provider will be a Common Expense payable by the Association and will be included within the annual budget for which the assessments are levied each year. No Member or Owner may avoid or escape liability for any portion of the assessments for the Bundled Services as a result of an election by any Member or Owner not to utilize all or a portion of the Bundled Services.

#### 10.7 Cars and Trucks.

10.7.1 **Parking.** Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of the Property or a Lot except on the surfaced parking area thereof. All lawn maintenance vehicles shall park in such a way as to not block traffic nor emergency vehicles. To the extent the Property has any guest parking, Owners are prohibited from parking in such guest parking spaces. No vehicles used in business for the purpose of transporting goods, equipment and the like, or any trucks or vans which are larger than three-quarter (3/4) ton shall be parked on the Property except during the period of a delivery.

10.7.2 **Repairs and Maintenance of Vehicles.** No vehicle which cannot operate on its own power shall remain on the Property for more than twelve hours, except in the garage of a Residence. No repair or maintenance, except emergency repair, of vehicles shall be made within the Property, except in the garage of a Residence. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

10.7.3 **Prohibited Vehicles.** No commercial vehicle, limousines, recreational vehicle, boat, trailer including, but not limited to, boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept on the Property except in the garage of a Residence. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (i.e., Broncos, Blazers, Explorers, Navigators, etc.) or clean "non-commercial" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Declarant of Residences or any other improvement within the Property. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on the Property. For any Owner who drives an automobile issued by the City or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Residence.

10.7.4 No vehicles known as "three wheelers" or "two wheel dirt bikes" or "all terrain vehicles" or any other form of motorized transportation shall be allowed on the property.

#### 10.8 Casualty Destruction to Improvements.

In the event that a Residence or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Residence or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Residence or improvement and restore or repair the Residence as approved by the ACC. As to any such



reconstruction of a destroyed Residence or improvements, the same shall only be replaced as approved by the ACC.

#### 10.9 Commercial Activity.

Except for normal construction activity, sale and re-sale of a Residence, sale or re-sale of other property owned by Declarant or administrative offices of Declarant, no commercial or business activity shall be conducted in any Residence within the Property. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a Residence business office within a Residence for such Owner's personal use; provided, however, business invitees customers and clients shall not be permitted to meet with Owners in Residences unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within the Property. No solicitors of a commercial nature shall be allowed within the Property, without the prior written consent of Association. No garage sales are permitted, except as permitted by the Association. No day care center or facility may be operated out of a Residence. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Declarant.

#### 10.10 Common Area.

Other than improvements and landscaping constructed or installed by Declarant, no improvements or landscaping shall be constructed or installed upon any portion of the Common Area nor shall any alterations or additions be made to said improvements or landscaping without the approval of the Board. The following shall apply to the Common Area:

10.10.1 No activities constituting a nuisance shall be conducted upon the Common Area.

10.10.2 No rubbish, trash, garbage or other discarded items shall be placed or allowed to remain upon the Common Area.

10.10.3 The Association may from time to time adopt reasonable rules and regulations concerning use of the Common Area which shall be binding upon all Members.

10.10.4 Nothing shall be stored, constructed within or removed from the Common Area other than by Declarant or the Association, except with the prior written approval of the Board.

#### 10.11 Completion and Sale of Units.

No person or entity shall interfere with the completion and sale of Residences within the Property. Without limiting the foregoing, each Owner, by acceptance of a deed, agrees that picketing and posting negative signs is strictly prohibited.

#### 10.12 Control of Contractors.

Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

#### 10.13 Decorations.

No decorative objects including, but not limited to, birdbaths, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of the Property without the prior written approval of the ACC. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Residence and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed not later than January 15th of the following year. The ACC may establish standards for holiday lights. The ACC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Residence).

#### 10.14 Disputes as to Use.

If there is any dispute as to whether the use of any portion of the Property complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Declarant, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

#### 10.15 Drainage System.

Once a drainage system or drainage facilities are installed by Declarant, the maintenance of such system and/or facilities thereafter shall be the responsibility of the Owner of the Lot/Residence which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, water body slopes, or other improvements) is adversely affected by landscaping, fences, structures, or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Lot/Residence containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Lot/Residence plants a tree (pursuant to ACC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Lot/Residence, the Owner who plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Lot/Residence. Notwithstanding the foregoing, Association and Declarant shall have no responsibility or liability for drainage problems of any type whatsoever.

#### 10.16 Fences/Walls/Screens.

No walls or fences shall be erected or installed without prior written consent of the ACC. No chain link fencing of any kind shall be allowed except as installed by Declarant. All screening and screened enclosures shall have the prior written approval of the ACC. Screening shall be charcoal in color. All enclosures of balconies or patios, including addition of vinyl windows, shall be approved by the ACC and all decks shall have the prior written approved of the ACC.

#### 10.17 Fuel Storage.

No fuel storage shall be permitted within the Property, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces or similar devices.

#### 10.18 Garages.

Each Residence will have its own garage. All garages must have a minimum width of eighteen (18) feet for a two-car garage; twenty-six (26) feet for a three car garage; inside walls of garage. No garage shall be converted into a general living area unless specifically approved by the ACC.

Garage doors shall remain closed at all times, except when vehicular or pedestrian access is required.

**10.19 Garbage Cans.**

Trash collection and disposal procedures established by Association shall be observed. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Lot/Residence so as to be visible from outside the Residence or Lot. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Residence for pick-up earlier than 6:00 p.m. on the day preceding the pick-up and must be picked up no later than 6:00 a.m. on the day following garbage pick-up.

**10.20 General Use Restriction.**

Each Residence and any portion of the Property shall not be used in any manner contrary to the Governing Documents.

**10.21 Hurricane Shutters.**

Any hurricane shutters or other protective devices visible from outside a Residence shall be of a type as approved by the ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season. Any such approved hurricane shutters may be installed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event.

**10.22 Irrigation.**

Due to water quality, irrigation systems may cause staining on Residences, other structures or paved areas. It is each owner's responsibility to treat and remove any such staining. Association may require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). No Owner whose Residence adjoins a waterway or lake may utilize the waterway or lake to irrigate unless so provided by Declarant as part of original construction, subject to applicable permitting. BY ACCEPTANCE OF A DEED TO A RESIDENCE OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DECLARANT OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Declarant and Association shall have the right to use one or more pumps to remove water from lakes and water bodies for irrigation purposes at all times, subject to applicable permitting.

**10.23 Lakes and Ponds.**

Any lakes or ponds, which may be located on the Property, are intended for drainage purposes only. No swimming or motorized boating or dumping of garbage or any refuse is allowed within the Property.

**10.24 Laundry.**

Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no mops or laundry of any kind, or any other similar type article, shall be hung or exposed so as to be visible from outside the Residence or Lot.

**10.25 Lawful Use.**

No immoral, improper, offensive, unlawful or obnoxious use shall be made of any portion of the Property. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of the Property shall be the same as the responsibility for maintenance and repair of the property concerned.

**10.26 Leases.**

Residences may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Residence. Individual rooms of a Residence may not be leased on any basis. No transient tenants may be accommodated in a Residence. All leases or occupancy agreements shall be in writing and a copy of all leases of Residences shall be provided to Association if so requested by Association. No Residence may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No time-share or other similar arrangement is permitted. The Owner must make available to the lessee or occupants copies of the Governing Documents. No lease term shall be less than six (6) months.

**10.27 Minor's Use of Facilities.**

Parents shall be responsible for all actions of their minor children at all times in and about the Property. Declarant and Association shall not be responsible for any use of the facilities by anyone, including minors.

**10.28 Nuisances.**

No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of the Property is permitted. No firearms shall be discharged within the Property. Nothing shall be done or kept within any portion of the Property, including a Residence or Lot which will increase the rate of insurance to be paid by Association.

**10.29 Oil and Mining Operations.**

No oil, drilling development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

**10.30 Personal Property.**

All personal property of Owners or other occupants of Residences shall be stored within the Residences. No personal property, except usual patio furniture, may be stored on, nor any use made of, any Lot or Residence, or any other portion of the Property, which is unsightly or which interferes with the comfort and convenience of others.

#### 10.31 Pools.

No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ACC as set forth in this Declaration. The design must incorporate, at a minimum, the following: (i) the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the ACC; (iii) pool cages and screens must be of a design, color and material approved by the ACC and shall be no higher than twelve (12) feet unless otherwise approved by the ACC; and (iv) pool screening shall in no event be higher than the roof line of the Residence. Pool screening shall not extend beyond the sides of the Residence without express approval by the ACC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Declarant, no diving boards, slides, or platforms shall be permitted without ACC approval.

#### 10.32 Removal of Soil and Additional Landscaping.

Without the prior consent of the ACC, no Owner shall remove soil from any portion of the Property, change the level of the land within the Property, or plant landscaping which results in any permanent change in the flow and drainage of surface water within the Property. Owners may place additional plants, shrubs, or trees within any portion of the Property with the prior approval of the ACC.

#### 10.33 Roofs and Driveways.

Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be cleaned within thirty (30) days of notice by the ACC. No surface applications to driveways shall be permitted without the prior written approval of the ACC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk.

#### 10.34 Rules and Regulations.

Prior to Turnover Date, the Declarant, and thereafter Association, shall have the right to adopt Rules and Regulations governing the Property. The Rules and Regulations need not be recorded in the Public Records. The Rules and Regulations shall not apply to the Declarant or to any property owned by Declarant, or adversely affect the interests of the Declarant. Without limiting the foregoing, Declarant, and/or its designees or assigns, shall have the right to: (i) develop and construct Residences and related improvements within the Property, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Residences and (b) Residences and properties located outside of the Property), general office and construction operations within the Property; (iii) place, erect or construct portable, temporary or accessory buildings or structure within the Property for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash and rubbish in connection with the development or construction of any portion of the Property; (v) post, display, inscribe or affix to the exterior of any portions of the Property owned by Declarant, signs and other materials used in developing, constructing, selling or promoting the sale of any portion the Property including, without limitation, Lots and Residences; (vi) excavate fill from any lakes or waterways within and/or contiguous to the Property by dredge or dragline, store fill within the

Property and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Property and use and/or sell excess plants and trees; and (vii) undertake all activities which, in the sole opinion of Declarant, are necessary for the development and sale of any lands and improvements comprising the Property.

**10.35 Satellite Dishes and Antennae.**

No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Residence or Lot without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration. The ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Residences. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

**10.36 Servants.**

Servants and domestic help of any Owner may not gather or lounge on or about the Property.

**10.37 Signs and Flags.**

No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in or upon any part of the Property that is visible from the outside without the prior written approval thereof being first had and obtained from the ACC as required by this Declaration. Declarant/Builder is exempt from this Section. No in-ground flag poles (except as Declarant may use) shall be permitted within the Property, unless written approval of the ACC is obtained. Notwithstanding the foregoing, flags which are no larger than 24" x 36", attached to a Residence and displayed for the purpose of a holiday, shall be permitted without ACC approval. Additionally, any Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day may display in a respectful manner portable, removable official flags, not larger than 4 1/2 feet by 6 feet, which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard. A permanent flagpole for display of the American Flag or any other flag shall be permitted only if displayed in a respectful way and only if first approved in writing by the ACC as to its size, placement, and safety.

**10.38 Sports Equipment.**

No recreational, playground or sports equipment shall be installed or placed within or about any portion of the Property without prior written consent of the ACC. No basketball backboards, skateboard ramps or play structures will be permitted without written approval by the ACC. Such approved equipment shall be located at the rear of the Residence or on the inside portion of corner Residences within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Residence. No basketball hoops shall be attached to a Residence and any portable basketball hoops must be stored inside the Lot/Residence.

#### 10.39 Storage.

No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Declaration. Water softeners, trash containers, propane tanks, and other similar devices shall be properly screened from the street in a manner approved by the ACC.

#### 10.40 Subdivision and Regulation of Land.

No portion of any Residence or Lot shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to the Property, without the prior written approval of Declarant, which may be granted or deemed in its sole discretion.

#### 10.41 Substances.

No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of the Property or within any Residence or Lot, except those which are required for normal household use.

#### 10.42 Swimming, Boating and Docks.

Swimming will not be permitted in any water body within the Property. Motorized boating on the lakes and water bodies within the Property is not permitted; however, non-motorized boats (i.e. sailboats) are permitted. No private docks may be erected within any water body.

#### 10.43 Use of Residences.

Except as specifically provided for in this Declaration, no use shall be made of Residences or Lots other than for residential purposes. The term "residential" is intended to prohibit any commercial use, including professional office use of any portion of any Lot or Residence except as specifically set forth herein, but shall not prohibit use for rental purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than Residences designed for residential use. The foregoing shall not prohibit the Declarant from using Residences as models or offices.

#### 10.44 Visibility on Corners.

Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ACC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

#### 10.45 Wells and Septic Tanks.

Except as may be installed by Declarant, no individual wells will be permitted on any Lot and no individual septic tanks will be permitted on any Lot.

#### 10.46 Wetlands Areas.

The Property may contain preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same.

**10.47 Window or Wall Units.**

No window or wall air conditioning unit may be installed in any window or wall of a Residence.

**10.48 Window Treatments.**

Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Residence or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Residence without prior written approval of the ACC. No awnings, canopies or shutters shall be affixed to the exterior of a Residence without the prior written approval of the ACC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ACC.

**10.49 No Implied Waiver.**

The failure of the Association or Declarant to object to an Owner's or other party's failure to comply with this Declaration or any other 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 Owners or other party's requirement and obligation to abide by this Declaration.

**10.50 Mail Boxes.**

The ACC will specify a single mailbox type, which will be uniform throughout The Properties. If and when the United States mail service or the newspaper or newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to the improvement, each Owner, on the request of the ACC, shall replace the boxes or receptacles previously employed for such purposes with wall receptacles attached to the improvements.

**10.51 Solar Heating.**

For aesthetic purposes, the location, type and design of solar heating panels must be approved by the Architectural Control Committee prior to installation, which may require landscape screening and shall be installed so as not to face any street.

**10.52 Children's Play Structures.**

Prior to placement on the Owner's property, the location of any children's play structure shall be pre-approved by the Architectural Control Committee, in its sole discretion. Children's play structures shall not have any material covering or canopies, except those approved by the ACC, which may require a specific type, design, material and color. The ACC, in its sole discretion, may require children's play structure to be partially screened by landscaping, trees, fencing, or walls provided elsewhere herein and approved by the ACC.

**ARTICLE XI. - SURFACE WATER MANAGEMENT SYSTEM AND WATER AREAS**

**11.1 Surface Water Management System.**

The Association shall own, operate, maintain, and manage the Surface Water Management



System in a manner consistent with SJRWMD Permit requirements and applicable District rules, and shall assist SJRWMD in the enforcement of the restrictions and covenants contained therein. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, treatments, conveyance or other surface water or storm-water management capabilities as permitted by SJRWMD. The Association shall be responsible for such maintenance operation of the entire Surface Water Management System within the Property including but not limited to, all lakes, canals, swale areas, retention area, culverts, pipes, and related appurtenances of the Surface Water Management System shall be as permitted, or if modified, as approved by SJRWMD.

- 11.1.1 No structure of any kind shall be constructed or erected within, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of any drainage areas or the Surface Water Management System, nor shall any grading, alteration, or other modifications to these areas be made without the prior written permission of the Board and SJRWMD.
- 11.1.2 No Owner shall remove native vegetation that becomes established within the Surface Water Management System without prior written approval from SJRWMD and the Board. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Owners should address any questions regarding authorized activities within the Surface Water Management System to SJRWMD Permitting Department.
- 11.1.3 No Owner shall in any way deny or prevent ingress and egress by Declarant, the Association, the City, or SJRWMD to any drainage areas or the Surface Water Management System for maintenance or landscape purposes. The Right of ingress and egress, and easements therefore are hereby specifically reserved and created in favor of Declarant, the Association, SJRWMD, the City, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.
- 11.1.4 No Lot shall be increased in size by filling in any drainage areas or other portion of the Surface Water Management System. No Owner shall fill, dike, rip-rap, block, divert, or change the established drainage areas or the Surface Water Management System without the prior written consent of the Board and SJRWMD.
- 11.1.5 No wall, fence, paving, planting, or other improvement shall be placed by an Owner within a drainage area, drainage easement, or the Surface Water Management System.
- 11.1.6 In addition to the Association, the SJRWMD and the City shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, and repair of the Surface Water Management System.

11.1.7 Owners may not construct or maintain any building, Residence or structure, or perform any activity in the wetlands and landscape buffer/easement area, if any, and upland conservation areas, if any, described in the approved permit and Plats, unless prior approval is received from SJRWMD, the Board, and the City pursuant to Chapter 40, Florida Administrative Code.

11.1.8 The covenants and restrictions regarding the Surface Water Management System are in no way intended to obligate the Association to perform any repairs, maintenance, corrections or modifications to those areas that the City, SJRWMD, a master association, or taxing district will maintain as part of their governmental obligation, agreement with Declarant, or as provided in any permits or ordinances.

11.1.9 Declarant shall convey title to the Surface Water Management System to the Association. After said conveyance, the Association shall, subject to the terms and provisions of this Declaration, have sole and exclusive jurisdiction over and responsibility for the administration, monitoring, management, regulation, care, maintenance, repairs, restoration, replacement, improvement, preservation and protection of the Surface Water Management System. Accordingly, each Owner, by acceptance of a deed to his Lot, shall be deemed to have agreed that neither Declarant, the City, nor any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the Surface Water Management System and each Owner shall be deemed to have agreed to look solely and exclusively to the Association with respect to any such liability or responsibility.

11.1.10 Copies of the Permit and any future Permit actions of SJRWMD shall be maintained by the officers of the Association for the benefit of the Association. The Permit shall be owned by the Association and the Association has the obligation to assure that all terms and conditions thereof are enforced.

**EACH OWNER IS HEREBY NOTIFIED THAT THEIR LOT(S) MAY CONTAIN OR BE ADJACENT TO WETLAND PRESERVATION OR MITIGATION AREAS AND UPLAND BUFFERS WHICH ARE PROTECTED UNDER CONSERVATION EASEMENTS. THE WETLANDS AND UPLAND BUFFERS MAY NOT BE ALTERED FROM THEIR NATURAL PERMITTED CONDITION WITH THE EXCEPTION OF EXOTIC OR NUISANCE VEGETATION REMOVAL OR RESTORATION IN ACCORDANCE WITH THE RESTORATION PLAN INCLUDED IN THE CONSERVATION EASEMENT. OWNERS ARE RESPONSIBLE FOR THE PERPETUAL MAINTENANCE OF ANY SIGNAGE REQUIRED BY PERMIT.**

**11.2 Water-bodies Level Fluctuations.**

Neither Declarant nor the Association makes any representation concerning the current or future water levels in any of the bodies of water in the Common Area 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 seasonal groundwater and rainfall

fluctuations that are beyond the control of Declarant and the Association. Each Owner, by the acceptance of a deed to his Lot shall be deemed to have agreed that neither Declarant, the Association, the City nor any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the water-bodies level fluctuations.

#### 11.3 Embankment Area Maintenance.

Notwithstanding any other provision in this Declaration, unless otherwise decided by the Association, each Owner of a Waterfront Lot is responsible for maintaining the area between the water's edge and their nearest lot boundary line (the "Embankment Area"). The Owner shall at all times keep and maintain the Embankment Area in a safe, clean, wholesome, and attractive condition and shall not allow the Embankment Area to deteriorate, fall into disrepair or become unsafe or unsightly. In particular, no weeds, underbrush or other unsightly growth and no trash, rubbish, debris, or unsightly objects of any kind shall be permitted or allowed to accumulate in the Embankment Area. All maintenance shall be in compliance with the Permit and all other applicable laws and regulations.

#### 11.4 Lakes, Ponds, Retention, and Other Water Areas.

The Board may establish rules and regulations relevant to access and use of Water Areas which may include, without limitation, regulation or prohibition of sailing, boating or other watercrafts (including jet skis or other vehicles containing gas, diesel, or other form of combustion engines), swimming, fishing, or other water sports or activities. To the extent the rules and regulations of the Board allow access to or use of Water Areas such use shall be at the risk of the Person undertaking such activity, and there shall be no obligation by Declarant or the Association or provide supervisory personnel or lifeguards. Docks and other structures or improvements within Water Areas shall not be permitted.

### ARTICLE XII - ENFORCEMENT OF NON-MONETARY DEFAULTS

#### 12.1 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 restrictions 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 the receipt of a written notice, or if the Member or Owner fails to commence, within said seven (7) day period, and, using his best efforts, diligently proceed to completely cure the violation, the Association may at its option:

12.1.1 Specific Performance. Commence an action to enforce the performance on the part of the Member or Owner, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and /or

12.1.2 Damages. Commence an action to recover damages; and/or

12.1.3 Corrective Action. Take any and all action reasonably necessary to correct such violation, which action may include, but is not limited to, removing any building or improvement for which architectural approval has not been obtained, or

perform 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 restrictions set forth by the Board.

**12.2 Violation of Residential Use Restrictions.**

Notwithstanding the foregoing Section 12.1, if any Owner shall violate any of the provisions herein, and such violation continues after written notice from Declarant or Association to quit such unpermitted use, the violation will result in damages to Declarant or Association in an amount which is impossible to determine or prove with any certainty so that each person violating said restriction agrees by the acceptance of a deed, lease or right of occupancy in the Residence that the Declarant or the Association shall be entitled to recover from any such violator liquidated damages in an amount equal to \$500.00 per day from and after the tenth (10th) day after written notice of such violation and demand to quit is delivered to the violator or posted on the Lot/Residence on which such violation has occurred.

**12.3 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 and costs and reasonable attorneys' fees and disbursements through the appellate levels, shall be a Specific Assessment assessed against the applicable Owner, and shall be due upon written demand by the Association.

**12.4 Late Fees.**

Any amount due to Declarant or the Association which is not paid within fifteen (15) days after the due date shall bear a late fee of Twenty-Five Dollars (\$25) and interest at the rate of ten (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot.

**12.5 No Waiver.**

The failure of the Association to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association to enforce such right, provisions, covenant, or condition in the future.

**12.6 Rights Cumulative.**

All rights, remedies, and privileges granted to the Association pursuant to any terms, provisions, covenants, or 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 remedies, rights or privileges as may be granted or as it might have by law.

**12.7 Enforcement By or Against the Persons.**

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 attorney fees and disbursements through the appellate level.

**12.8 Certificate as to Default.**

Upon request by any Owner or mortgagee holding a mortgage encumbering any Lot, the Association shall execute and deliver a written certificate as to whether such Owner is in default with respect to compliance with the terms and provisions of this Declaration.

**ARTICLE XIII - INSURANCE AND CASUALTY LOSSES**

**13.1 Insurance.**

The Board shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available then at a minimum an insurance policy providing fire 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 or reconstruction in the event of damage or destruction from any insured hazard. In addition to the foregoing, the Association shall be obligated to obtain directors' and officers' liability insurance for the directors and officers of the Association.

Insurance obtained on the Property shall at a minimum comply with the applicable provisions of this Section 13.1, including the provisions of this Article applicable to policy terms, loss adjustment and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association.

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

Premiums for all insurance obtained by the Association shall be Common Expenses of the Association and shall be included in the Annual Assessment. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof 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, as further identified in Subsection (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in Florida which holds a Best's ranking of A and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.
- (b) All policies on the Common Area shall be for the benefit of the Association, its Members, and mortgagees providing construction financing on the Common Area, if any.
- (c) Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Board; provided, 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 Association's Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, 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, at least one of whom must be in the real estate industry and familiar with construction in the vicinity of the Property.
- (f) The Association's Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board, its manager, Declarant, the Owners, and their respective tenants, servants, agents, and guests;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
  - (iii) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;
  - (iv) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of the conduct of any director, officer, or employee of the Association or its 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 manager, any Owner, or Mortgagee;
  - (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

- (vi) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or nonrenewal. In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available, flood insurance, if required, and any and all other insurance required by laws or as determined to be reasonably necessary and/or desirable by the Board. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments on all Residences, plus reserves on hand. Bonds 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.

### 13.2 Damage and Destruction.

- 13.2.1 Immediately after damage or destruction by fire 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 or destroyed Property. Repair or reconstruction, as used in this Section, means repairing or restoring the Property to substantially the same condition which existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.
- 13.2.2 Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least two-third (2/3) of the members of the Board shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed; provided, however this provision shall not apply to construction mortgagees providing construction financing for such damaged property.
- 13.2.3 In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed

and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to its natural state and maintained by the Association in a neat and attractive condition consistent with the standards of the Property.

### 13.3 Disbursement of Proceeds.

If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of the Property and may be enforced by such mortgagee.

### 13.4 Repair and Reconstruction.

If the damage or destruction to the Common Area is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall levy a Special Assessment against the Owners of the Lots/Residences on the same basis as provided for annual assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair reconstruction.

### 13.5 Insurance Covering Residences.

13.5.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance of his or her Residence. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Residence as applicable, remove the debris, and to resod and landscape land comprising the Residence. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Residence which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

13.5.2 Requirement to Reconstruct or Demolish. In the event that any Residence is destroyed by fire or other casualty, the Owner of such Residence shall do one of the following: the Owner shall commence reconstruction and/or repair of the Residence ("Required Repair"), or Owner shall tear the Residence down, remove all the debris, and re-sod and landscape the property comprising the Residence as required by the ACC ("Required Demolition"). If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Residence. If an Owner elects to perform the Required Demolition, the Required Demolition must be



completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Residence within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

13.5.3 **Standard of Work.** The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of the Property.

13.5.4 **Additional Rights of Association.** If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Residence. Association shall have the absolute right to perform the Required Demolition to a Residence pursuant to this Section if any contractor certifies in writing to Association that such Residence cannot be rebuilt or repaired. The Board may levy a Specific Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

13.5.5 **Association Has No Liability.** Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Residence. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

13.6 **Nature of Reconstruction.**

Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

13.7 **Additional Insured.**

Declarant and its respective Institutional Lender(s) shall be named as additional insured on all policies obtained by the Association, as their interests may appear.

**13.8 Cost of Payment of Premiums.**

The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Common Expense.

**13.9 Insurance Mandated by The City of Oviedo.** To the extent not already addressed elsewhere in this instrument, pursuant to the City code, the Association shall carry an insurance policy insuring itself from the liability for damages related to or arising in connection with the streets, sidewalks, drainage systems (including detention/retention areas). The minimum amount of insurance required shall be established by The City of Oviedo Board of City Commissioners.

**ARTICLE XIV. - INFORMATION TO INSTITUTIONAL LENDERS AND OWNERS**

**14.1 Availability.**

There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Institutional Lenders current copies of the Governing Documents.

**14.2 Copying.**

Any Owner and/or Institutional Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

**14.3 Notice.**

Upon written request by an Institutional Lender (identifying the name and address of the Institutional Lender and the name and address of the applicable Owner), the Institutional Lender will be entitled to timely written notice of:

14.3.1 Any condemnation loss or casualty loss which affects a material portion of a Residence to the extent Association is notified of the same;

14.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Residence subject to a first mortgage held by the Institutional Lender, which remains uncured for a period of sixty (60) days;

14.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder;

14.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

**ARTICLE XV. - ADDITIONAL RIGHTS OF DECLARANT**

15.1 Sales Office, Administrative Offices and Construction Office.

For so long as Declarant and its assigns owns any property within the Property, is affected by this Declaration, or maintains a sales office, administrative office or construction office/trailer within the Property, Declarant shall have the right to take such action reasonably necessary to transact any business necessary to consummate the development of the Property and sales and re-sales of Residences and/or other properties owned by Declarant or others outside of the Property. This right shall include, but not be limited to, the right to maintain models, sales offices, construction trailers and parking associated therewith, have signs on any portion of the Property, employees in the models and offices without the payment of rent or any other fee, and maintain offices in models to show Residences. The sales office and signs and all items pertaining to development and sales remain the property of Declarant. Declarant shall have all of the foregoing rights without charge or expense. The rights reserved hereunder shall extend beyond the Community Completion Date.

15.2 Modification.

The development and marketing of the Property will continue as deemed appropriate in Declarant's sole discretion, and nothing in this Declaration or Community Standards or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of the Property to, as an example and not a limitation, amend a Plat and/or the master plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Declarant, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Declarant, execute and deliver any and all documents and instruments which Declarant deems necessary or convenient, in its sole and absolute discretion, to accomplish the same.

15.3 Promotional Events.

Prior to the Community Completion Date, Declarant, and/or its assigns shall have the right, at any time, to hold marketing, special and/or promotional events within the Property, without any charge for use. Declarant, its agents, affiliates, or assignees shall have the right to market the Property and Residences in advertisements and other media by making reference to the Property, including, but not limited to, pictures or drawings of the Property, Lots and Residences constructed in the Property. All logos, trademarks, and designs used in connection with the Property are the property of Declarant, and the Association shall have no right to use the same after the Community Completion Date except with the express written permission of Declarant.

15.4 Use by Prospective Purchasers.

Prior to the Community Completion Date, Declarant shall have the right, without charge, to use the Property for the purpose of entertaining prospective purchasers of Residences, or other properties owned by Declarant outside of the Property.

15.5 Franchises.

Declarant may grant franchises or concessions to commercial concerns on all or part of the Property and shall be entitled to all income derived there from.

#### 15.6 Management.

Declarant may manage the Property by contract with the Association. Declarant may contract with a third party ("Manager") for management of Association.

#### 15.7 Easements.

Until the Community Completion Date, Declarant reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, telecommunications services and other purposes over, under, upon and across the Property so long as any said easements do not materially and adversely interfere with the intended use of Residences previously conveyed to Owners. By way of example, and not of limitation, Declarant may be required to take certain action, or make additions or modifications to the Property in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Declarant, in perpetuity, for such purposes. Without limiting the foregoing, Declarant may relocate any easement affecting a Residence, or grant new easements over a Residence, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Residence as a residence. As an illustration, Declarant may grant an easement for telecommunications systems, irrigation, drainage lines or electrical lines over any portion of a Lot so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such Lot. Declarant shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Declarant: (a) join in the creation of such easements, etc, and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Declarant, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Declarant which may be granted or denied in its sole discretion.

#### 15.8 Right to Enforce.

Declarant has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees at all levels of proceeding, including appeals, collections and bankruptcy. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so.

#### 15.9 Additional Development.

If Declarant withdraws portions of the Property from the operation of this Declaration, Declarant may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Declarant shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Declarant, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the facilities and/or roadways which

remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Declarant.

**15.10 Representations.**

Declarant makes no representations concerning development both within and outside the boundaries of the Property including, but not limited to, the number, design, boundaries, configuration, arrangements or prices of all Lots or Residences and buildings in all other proposed forms of ownership and/or other improvements on the Property, adjacent to or near the Property, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of Residences, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

**15.11 Non-Liability.**

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE GOVERNING DOCUMENTS, NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

15.11.1 IT IS THE EXPRESS INTENT OF THE GOVERNING DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTY AND THE VALUE THEREOF; AND

15.11.2 THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR CITY, OR PREVENTS TORTIOUS ACTIVITIES; AND

15.11.3 THE PROVISIONS OF THE GOVERNING DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A RESIDENCE) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR

MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

**15.12 Resolution of Disputes.**

BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE GOVERNING DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO GOVERNING DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DECLARANT HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A RESIDENCE.

**15.13 Venue.**

EACH OWNER ACKNOWLEDGES THAT REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A RESIDENCE, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN COUNTY. EACH RESIDENCE IS LOCATED IN COUNTY. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DECLARANT AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN COUNTY.

**15.14 Reliance.**

BEFORE ACCEPTING A DEED TO A RESIDENCE, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A RESIDENCE, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DECLARANT IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A RESIDENCE THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DECLARANT.

ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DECLARANT TO SUBJECT THE PROPERTY TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

**15.15 Duration of Rights.**

The rights of Declarant set forth in this Declaration shall, unless specifically provided to the contrary herein, extend for a period of time ending upon the earlier of: (i) the Community Completion Date; or (ii) a relinquishment by Declarant in an amendment to the Declaration placed in the Public Records.

**15.16 Assignment of Powers.**

All or any part of the rights, exemptions and powers and reservations of Declarant herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and, at Declarant's option, recorded in the Public Records.

**ARTICLE XVI. - MONITORING SYSTEM**

**16.1 Right to Install.**

Declarant/Association shall have the right, but not the obligation, to contract for the installation of a Monitoring System for each Residence within the Property. Prior to the Community Completion Date, all contracts for Monitoring Systems shall be subject to the prior written approval of Declarant. Declarant or its nominees, successors, assigns, affiliates, and licensees may install such a Monitoring System. Declarant reserves the right, at any time and in its sole discretion, to discontinue or terminate any Monitoring System prior to the Community Completion Date. In addition, all Owners specifically acknowledge that the Property may have a perimeter access control system, such as fences, walls, hedges, or the like on certain perimeter areas. ASSOCIATION AND DECLARANT SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Without limiting the foregoing, Association/Declarant may enter into a contract for bulk alarm services for Residences.

#### 16.2 Components.

The Monitoring System, if installed, may include one or more manned gatehouses, one or more electronic gates, and roving attendants using vehicles. Association and Declarant do not warrant or guaranty in any manner that the system will include these items, but reserve the right to install or provide the foregoing items, or any other items they deem appropriate in their sole and absolute discretion. After the Community Completion Date, Association may expand the Monitoring System by a vote of the majority of the Board, without the joinder or consent of the Owners or any third parties. Without limiting the foregoing, Declarant and Association reserve the right to, at any time, increase, decrease, eliminate, or add manned or unmanned gate houses, information booths, sensors, gates and other access monitoring measures as they deem appropriate in their sole and absolute discretion; provided, however, that no changes shall be made prior to the Community Completion Date without the prior written consent of Declarant.

#### 16.3 Part of Common Expense.

If furnished and installed within any Residence, the cost of operating and monitoring any Monitoring System may be included in Common Expense of Association and may be payable as a portion of the Assessments against Owners. The purpose of the Monitoring System will be to control access to Lake Charm.

#### 16.4 Owners' Responsibility.

All Owners and occupants of any Residence, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Declarant, their nominees or assigns, or any successor Declarant, and the ACC and its members, do not represent or warrant that (a) any Monitoring System, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Monitoring System will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, and/or (c) the Monitoring System will in all cases provide the detection for which the system is designed or intended. In the event that Declarant elects to provide a Monitoring System, Declarant shall not be liable to the Owners or Association with respect to such Monitoring System, and the Owners and Association shall not make any claim against Declarant for any loss that an Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Monitoring System. Each Owner and Association are responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of a Monitoring System (including any type of gate/gatehouse) shall in no manner constitute a warranty or representation as to the provision of or level of security within the Property or any residential subdivision contained therein. Declarant, Builders, and Association do not guaranty or warrant, expressly or by implication, the merchantability of fitness for use of any Community Monitoring System, or that any such system (or any of its components or related services) will prevent intrusions, fires, or other occurrences, regardless of whether or not the Monitoring Service is designed to monitor the same. Each and every Owner and the occupant of each Residence acknowledges that Declarant, Builders, and Association, their employees, agents, managers, directors, and officers, are not insurers of Owners or Residences, or the personal property located within Residences. Neither Declarant nor the Association shall be responsible or liable for losses, injuries, or deaths resulting from any such events.



## ARTICLE XVII - CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation; provided, however, that any such conveyance in lieu of and under threat of condemnation must be approved by (i) Board acting on the authorization of at least two-thirds (2/3) of the Board and (ii) the Declarant so long as the Declarant owns any property subject to this Declaration or which may become subject to this Declaration) by any authority having the power of condemnation or eminent domain, each Member shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property which may become subject to this Declaration, and at least two-thirds (2/3) of the members of the Board shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article XIII hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

## ARTICLE XVIII - INDEMNIFICATION

### 18.1 Indemnification of Officers, Directors, or Agents.

The Association shall indemnify any Person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated 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. 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, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith. 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, any Bylaw, agreement, vote of 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 member of the Board, officer,

employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a Person. 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.

**18.2 Association's Obligation to Indemnify.**

Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Declarant, its officers, against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Property, or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Common Expense to the extent such matters are not covered by insurance maintained by Association.

**18.3 Owner's Obligation to Indemnify.**

Each Owner agrees to indemnify and hold harmless Declarant, Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Property, including, without limitation, use of the lakes and other water bodies within the Property by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Declarant, Association, or of any of the Indemnified Parties. Should any Owner bring suit against Declarant, Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees at trial and upon appeal.

**ARTICLE XIX. - AMENDMENTS**

**19.1 General Restrictions on Amendments.**

Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which may be withheld for any reason whatsoever. No amendment shall alter the provisions of this Declaration benefiting Institutional Lenders without the prior approval of the

Institutional Lender(s) enjoying the benefit of such provisions. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 11.1, which benefits the SJRWMD. No amendment shall be effective until it is recorded in the Public Records.

**19.2 Amendments Prior to the Turnover Date.**

Prior to the Turnover Date, Declarant shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for utility, drainage, ingress and egress and roof overhangs over any portion of the Property; changes in the Rules and Regulations, and modifications of restrictions on the Residences and maintenance standards for landscaping. Declarant's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Declarant may create easements over Residences or Lots conveyed to Owners provided that such easements do not prohibit the use of such Residences as residential Residences. In the event that Association shall desire to amend this Declaration prior to the Turnover Date, Association must first obtain Declarant's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Declarant may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

**19.3 Amendments From and After the Turnover Date.**

After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of seventy-five percent (75%) of the votes present (in person or by proxy) at a duly called meeting of the Members in which there is a quorum.

**19.4 Amendment to Comply with Governmental Authority.**

Declarant specifically reserves the right to amend this Declaration, without the consent or joinder of any party, in order to comply with the requirements of the Department of Housing and Urban Development, Veteran's Administration, SJRWMD, Federal National Mortgage Association, the City or any other governmental agency.

ANY AMENDMENT TO THIS DECLARATION WHICH ALTERS THE SURFACE WATER MANAGEMENT SYSTEM, BEYOND MAINTAINENCE IN ITS ORIGINAL CONDITION, INCLUDING THE WATER MANAGEMENT PORTIONS OF THE COMMON AREA AND ENVIRONMENTAL CONSERVATION AREAS, MUST HAVE THE PRIOR APPROVAL OF SJRWMD.

**19.5 Amendment to Make Non-Material Changes, Correct Scrivener's Errors and Clarify Ambiguities.**

Declarant specifically reserves the right to amend this Declaration, without the consent or joinder of any party, to correct scrivener's errors, to clarify ambiguities determined to exist herein and to make other non-material amendments which Declarant believes are in the best interest of the

Owners. No amendment shall impair or prejudice rights or priorities of any Institutional Lender without their written consent.

**19.6 Limitation 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 and the covenants, conditions, restrictions, easements and reservations set forth in this Declaration shall at all times be subject to the following limitations and restrictions, to wit:

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

19.6.2 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, the City, SJRWMD or any utility company, respectively, without the prior written approval of Declarant, the Association, the City, SJRWMD or utility company, as the case may be, and any attempt to do so shall be void and of no force and effect.

19.6.3 No amendment to this Declaration shall be approved which conflicts with any land use approval or permits granted by the City, or which conflicts with the Code of Ordinances or Uniform Land Development Regulations of the City.

**ARTICLE XX. - DISSOLUTION**

**20.1 Dissolution Generally.**

In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association in the place and stead of Association, and to make of such provisions as may be necessary for the continued management of the affairs of the dissolved Association.

**20.2 Applicability of Declaration After Dissolution.**

In the event of dissolution of Association, the Property and each Residence therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association for Assessments to the extent that Assessments are required to enable the successors or assigns of the Association to properly operate the Association.

**ARTICLE XXI. - GENERAL PROVISIONS**

**21.1 Assignment of Rights and Duties to the Association.**

Declarant may at any time assign and delegate to the Association all or a portion of Declarant's rights, title, interests, duties or obligations created by this Declaration. It is understood that the Association has been formed as a homeowners' association in order to effectuate the intent of Declarant for the proper development, operation and management of the Property. Wherever herein the Declarant or the Association or both are given the right, duty, or obligation to approve, enforce, waive, collect, sue, demand, give notice, or take any other action or grant any relief or perform any task, such action may be taken by Declarant or the Association until such time as Declarant or any successor declarant is divested of all of its interest in the Property or Declarant has assigned its rights, duties and obligations hereunder to the Association. Thereafter, all rights, duties and obligations of Declarant shall be administered solely by the Association in accordance with the procedures set forth herein and in the Governing Documents.

**21.2 Covenants to Run with the Title to the Land.**

This Declaration, as amended and supplemented from time to time as herein provided, shall be deemed to run with the title to the Property and shall remain in full force and effect until terminated in accordance with provisions set forth herein.

**21.3 Enforcement.**

Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenants or restrictions herein shall in no event be deemed a waiver of the right to do so thereafter.

**21.4 Severability.**

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

**21.5 Duration.**

The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty-five (35) years from the date this Declaration is recorded. Thereafter these covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless termination of the provisions of this Declaration is approved by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3) of the total votes of the Association. Any termination of this Declaration shall be recorded in the Public Records of the City. Unless this Declaration is terminated as provided above, the Association shall re-record this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

**21.6 Communication.**

All communication from Owners to Declarant, its successors or assigns, the Board, or any officer of the Association shall be in writing.

**21.7 Notice.**

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the Person who appears as Member or Owner on the records of the Association at the time of such mailing.

**21.8 Conflict.**

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

**21.9 Usage.**

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

**21.10 Governing Law.**

The construction, validity, and enforcement of this Declaration shall be determined according to the laws of the State of Florida. Any action or suit brought in connection with this Declaration shall be in Seminole County.

**21.11 HUD/VA Approval.**

As long as there is a Class B Membership, and so long as the Department of Housing and Urban Development or the Veteran's Administration is holding, insuring, or guaranteeing any loan secured by Property subject to this Declaration, the following actions will require the approval of the Department of Housing, and Urban Development or the Veterans Administration: annexation of additional properties, dedication of Common Area, and material amendments of this Declaration. Notwithstanding the foregoing, if an amendment is submitted to the Department of Housing and Urban Development ("HUD") for approval and HUD determines review and approval of the amendment is unnecessary, then Declarant and/or the Association shall not be required to obtain HUD approval of such amendment.

**21.12 Construction Activities.**

ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT (1) DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE PROPERTY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) 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 PROPERTY WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii)

DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT THOSE RESULTING DIRECTLY FROM DECLARANT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

**21.13 Security.**

Declarant and the Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make them safer than they otherwise might be. Neither Declarant nor the Association shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of any effectiveness of security measures undertaken.

**21.14 Site Plans and Plats.**

The Property may be subject to one or more plats (each individually, a "Plat"). The Plat may identify some of the facilities within the Property. The notes on a Plat are not a guarantee of what facilities may be constructed within the Property. Site plans used by Declarant in its marketing efforts illustrate the types of facilities which may be constructed within the Property, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Declarant and Owners.

**21.15 Document Recordation by Owners Prohibited.**

No Owner, or group of Owners, may record any documents which, in any way, affect or restrict the rights of Declarant, or conflict with the provisions of this Declaration.

**21.16 Default by Another Owner.**

No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Declarant or Association or a nondefaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

IN WITNESS WHEREOF, the undersigned, being Declarant, has hereunto set its hand and seal the day and year first above written.

Signed Sealed and delivered in our presence:

Shawn Jackson  
Witness

Print Name: Shawn Jackson

Laura Keysor  
Witness

Print Name: Laura Keysor

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 13th day of February 2007, by Steven M. O'Dowd as the President of Engineered Homes of Orlando, Inc., as the Sole Member of ILM Properties, LLC. He is personally known to me and did not take an oath.

Shawn Jackson  
NOTARY PUBLIC - Shawn Jackson  
My Commission Expires: June 07, 2009  
Commission # DD416518



SHAWN JACKSON  
MY COMMISSION # DD 416518  
EXPIRES: June 7, 2009  
Bonded thru Budget Notary Services



**SCHEDULE OF EXHIBITS**

**EXHIBIT "A".....Legal Description of Property**

**EXHIBIT "B".....Articles of Incorporation for The Preserve at Lake Charm Homeowners' Association, Inc.**

**EXHIBIT "C".....Bylaws of The Preserve at Lake Charm Homeowners' Association, Inc.**

**EXHIBIT "D".....St. Johns River Water Management District Permit**

**EXHIBIT "E".....Conservation Easement and Affidavit for Conservation Easement**

Pen. Homes

This Instrument Prepared by:

Gary M. Kaleisa, Esquire  
Lowndes, Drosdick, Doster,  
Kantor & Reed, P.A.  
215 North Eola Drive  
Post Office Box 2809  
Orlando, Florida 32802

MARYANNE MURGE, CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY  
BK 06784 Pgs 0117 - 121 (Sggs)  
CLERK'S # 2007115476  
RECORDED 08/01/2007 03:28:38 PM  
RECORDING FEES 44.00  
RECORDED BY H DeVore

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE PRESERVE AT LAKE CHARM**

THIS AMENDMENT TO DECLARATION (the "Amendment") is entered into as of the 17th day of July, 2007, by ILM PROPERTIES, LLC, a Florida limited liability company (the "Declarant"), whose address is 1155 South Semoran Boulevard, Suite 1145, Winter Park, Florida 32792, joined by THE PRESERVE AT LAKE CHARM HOMEOWNERS' ASSOCIATION, INC., a Florida non-profit corporation (the "Association"), whose address is 1155 South Semoran Boulevard, Suite 1145, Winter Park, Florida 32792;

**WITNESSETH:**

WHEREAS, the Declarant is the developer of a residential community located in Seminole County, Florida, known as "The Preserve at Lake Charm;" and

WHEREAS, the Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions for The Preserve At Lake Charm dated February 13, 2007, and recorded on 08/07, 2007, in Official Records Book 6784, Page 0007, of the Public Records of Seminole County, Florida (the "Declaration"), encumbering The Preserve at Lake Charm (the "Property"); and

WHEREAS, pursuant to Article XIX, Section 19.2 of the Declaration, the Declarant may amend the Declaration as it deems appropriate without the joinder and consent of any person or entity whatsoever prior to Turnover Date (which has not occurred as of the date of this Amendment);

NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

1. Recitals: Defined Terms. The foregoing recitals are true and correct and are hereby incorporated by reference. Capitalized terms not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Declaration.

2. Revision to Article II. Article II, Section 2.14 of the Declaration is hereby deleted and restated in its entirety to read as follows:

"2.14 Landscape, Buffer and Fence Easements. The Declarant and its successors and assigns and the Association shall each have a perpetual, non-exclusive easement over all land

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within the Property to the extent reasonably necessary in order to maintain landscaping and fences. Declarant also reserves unto itself and its successors and assigns, and hereby grants to the Association, a perpetual non-exclusive buffer easement over (i) all of Tract OS-2 (Open Space); (ii) those portions of Lots 1, 39 through 48 and 51 located within thirty (30) feet of Lake Charm Drive; (iii) those portions of Lots 16 through 19 located within fifteen (15) feet of Division Avenue; and (iv) those portions of Lots 30 through 39 located within twenty-five (25) feet of Arista Avenue, for the purpose of maintaining and preserving the existing trees contained within such portions of the Property, all of which maintenance and preservation shall be the obligation of the Association.

3. Revision to Article V. - Article V, Section 5.2 is hereby revised by the addition of the following new subsection:

"5.2.10 The maintenance and preservation of Tract OS-2 and those buffer easements more particularly described in Article II, Section 2.14 hereof, pursuant to the terms and conditions of that certain Development Order No. 5-2000005, recorded September 1, 2005, in Official Records Book 5884, Page 1152, Public Records of Seminole County, Florida."

4. Revision to Article X. - Article X is hereby revised by the addition of the following new Section:

"10.53 Development Order. The Association and the Owners are placed on Notice of that certain Development Order recorded September 1, 2005, in Official Records Book 5884, Page 1152, Public Records of Seminole County, Florida, and agree to comply with the terms and provisions thereof."

5. Joinder of Association. The Association hereby joins in the execution of this Amendment for the purpose of acknowledging the terms and provisions hereof.

6. Amendment Binding. This Amendment shall be binding upon and inure to the benefit of the Declarant, the Association and all owners of land within the Property. Except as hereby changed, amended and modified, the Declaration shall remain in full force and effect.

[SEE FOLLOWING PAGES FOR SIGNATURES]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed in manner and form sufficient to bind them as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

ILM PROPERTIES, LLC., a Florida  
limited liability company

By: **ENGINEERED HOMES OF  
ORLANDO, INC.**, a Florida  
corporation, its sole member

Shawn Jackson  
Name: Shawn Jackson

By: Steven M. O'Dowd  
STEVEN M. O'DOWD, President

Don Scamahie  
Name: Don Scamahie

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of July, 2007, by STEVEN M. O'DOWD, as President of **ENGINEERED HOMES OF ORLANDO, INC.**, a Florida corporation, as sole member of **ILM PROPERTIES, LLC**, a Florida limited liability company, on behalf of the company. He [ ] is personally known to me or [ ] has produced a driver's license as identification.

Shawn Jackson  
Notary Public, State of Florida

Print: Shawn Jackson  
My Commission Expires: 06/07/09

SHAWN JACKSON  
MY COMMISSION # DD 416618  
EXPIRES: June 7, 2009  
Served Three Budget History Services

0909282/129379/10736684

Signed, sealed and delivered  
in the presence of:

THE PRESERVE AT LAKE CHARM  
HOMEOWNERS' ASSOCIATION, INC.,  
a Florida non-profit corporation

Shawn Jackson  
Name: Shawn Jackson  
Shawn Jackson  
Name: Shawn Jackson

By: Shawn M. O'Dowd  
Shawn M. O'Dowd, President  
(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of July, 2007, by Shawn M. O'Dowd, as President of The Preserve at Lake Charm Homeowners' Association, Inc. Florida non-profit corporation. He ☒ is personally known to me or ☐ has produced a driver's DL license as identification.

Shawn Jackson  
Notary Public, State of Florida  
Print: Shawn Jackson  
My Commission Expires: 06/07/09



SHAWN JACKSON  
MY COMMISSION # 00418518  
EXPIRES: June 7, 2009  
Signed True & Right: Notary Services

0909282/129379/1073668/4

**JOINDER OF MORTGAGEE**

The undersigned COLONIAL BANK, N.A., a national banking association, hereby consents to and subordinates to the foregoing Amendment to Declaration of Covenants, Conditions, and Restrictions for The Preserve At Lake Charm (the "Amendment"), and all of its covenants, conditions, easements, restrictions, terms and provisions, the lien of its Mortgage described and restated in that certain Second Modification of Amended and Restated Mortgage, Assignment of Rents and Security Agreement and Fixture Filing and Spreading Agreement executed by FLM PROPERTIES, LLC, in favor of Mortgagee as Collateral Agent, recorded December 27, 2006, in Official Records Book 6531, Page 1167, Public Records of Seminole County, Florida (the "Security Document and Interest"), securing certain obligations under an Agreement and encumbered the real property described in the Declaration of Covenants, Conditions and Restrictions for The Preserve At Lake Charm, recorded in Official Records Book 6784 Page 0009, Public Records of Seminole County, Florida (the "Declaration") hereby consents to the Amendment and subordinates the lien and encumbrance of the Security Document and Interest to the Amendment. Mortgagee hereby agrees that all right, title and interest of Mortgagee and its successors and assigns in and to the real property described in the above-referenced Exhibit "A" shall forever be subject to and subordinate to, and bound by the Amendment.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be executed in manner and form sufficient to bind it as of the date of the Amendment.

Signed, sealed and delivered  
in the presence of two (2) witnesses

COLONIAL BANK, N.A.,  
a national banking association

Name: Paul V. Hunt

By: [Signature]  
Name: F. G. Pullum  
Title: Vice President

Name: Jack R. Hunt

Address: 201 E. PINE ST. STE 100  
ORLANDO, FL 32801

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of July, 2007, by F. G. Pullum as V.P. of COLONIAL BANK, N.A., a national banking association, on behalf of said bank. He/she ☒ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public, State of Florida  
Print: KATHRYN T. DE JOSEPH  
My Commission Expires: 1-30-2010

0909282/129379/1073668/4

PREPARED BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:

R  
Scott A. Cookson, Esq.  
CARLTON FIELDS, P.A.  
450 S. Orange Avenue, Suite 500  
Orlando, FL 32801  
(407) 849-0300

MARYANNE MORSE, CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY  
BK 07328 Pgs 0303 - 308; (6pgs)  
CLERK'S # 2010010878  
RECORDED 02/01/2010 03:05:48 PM  
RECORDING FEES \$2.50  
RECORDED BY T Smith

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY, FLORIDA

FEB 01 2010

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE PRESERVE AT LAKE CHARM**

**THIS SECOND AMENDMENT TO DECLARATION** (this "Second Amendment") is entered into as of the 25<sup>TH</sup> day of January, 2010 by **KC LAKE CHARM LLC**, a Florida limited liability company (the "**KC Lake Charm**") whose address is 1601 Forum Place, Suite 805, West Palm Beach, Florida 33401, joined by **NVR, INC.**, a Virginia corporation (the "**Approved Builder**").

**WITNESSETH:**

**WHEREAS, ILM PROPERTIES, LLC**, a Florida limited liability company ("**ILM**") was the developer of a residential community located in Seminole County, Florida, known as "The Preserve at Lake Charm;" and

**WHEREAS, ILM** executed that certain Declaration of Covenants, Conditions, and Restrictions for The Preserve at Lake Charm dated February 13, 2007 and recorded on August 7, 2007 in Official Records Book 6784, Page 0007 of the Public Records of Seminole County, Florida (the "**Original Declaration**"); and

**WHEREAS, ILM**, joined by The Preserve at Lake Charm Homeowners' Association, Inc., executed that certain Amendment to Declaration of Covenants, Conditions, and Restrictions for The Preserve at Lake Charm dated July 17, 2007 as recorded on August 7, 2007 in Official Records Book 6784, Page 0117 of the Public Records of Seminole County, Florida (the "**First Amendment**") (the Original Declaration together with the First Amendment herein collectively referred to as the "**Declaration**"); and

**WHEREAS, ILM** subsequently assigned its rights and obligations as Declarant under the Declaration to **KC Lake Charm** (**KC Lake Charm** hereinafter referred to as "**Declarant**") by that certain Assignment of Declarant's Rights dated November 6, 2009 and recorded in Official Records Book 7284, Page 1358, Public Records of Seminole County, Florida; and

**WHEREAS, in connection with Declarant's sale of Lots to Approved Builder, Approved Builder** has requested certain amendments to the Declaration; and

**WHEREAS**, pursuant to Article XIX, Section 19.2 of the Declaration, the Declarant may amend the Declaration as it deems appropriate without the joinder and consent of any person or entity whatsoever prior to the Turnover Date (which has not occurred as of the date of this Amendment).

**NOW, THEREFORE**, the Declarant hereby amends the Declaration as follows:

1. **Recitals; Defined Terms.** The foregoing recitals are true and correct and are hereby incorporated by reference. Capitalized terms not otherwise defined in this Second Amendment shall have the meaning ascribed to such terms in the Declaration.

2. **Removal of Commencement Assessments.** Notwithstanding anything to the contrary contained in the Declaration, the Approved Builder shall not be required to pay a Commencement Assessment for any of the Lots purchased from Declarant. Nothing herein shall be construed as exempting a subsequent sale from Approved Builder of a Lot/Residence from the payment of the Commencement Assessment at the time of the sale of such Lot/Residence.

3. **Entry Gates.** Article II, Section 2.6 is amended to add the following to the end thereof:

"During such time as Approved Builder is actively constructing and/or marketing a Residence on any Lot within the Property, the entry gates within any of the Streets shall stay open from 8:00am to 6:00pm daily."

4. **Capital Improvements.** Article VII, Section 7.9 is amended to add the following to the end thereof:

"Notwithstanding the foregoing, Lots owned by Approved Builder shall not be subject to capital improvement assessments during the time such Lots are owned by Approved Builder."

5. **Approved Builder.** Article VIII, Section 8.18 is hereby deleted and restated in its entirety to read as follows:

**8.18 Exemption.**

NVR, Inc. (the "Approved Builder") is an approved builder of Residences on Lots within the Property. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Approved Builder, including without limitation, signage on any Lots owned by Approved Builder and improvements made or to be made to any Residence, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards. However, such improvements shall be subject to the reasonable review and approval of Declarant. In addition, notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Declarant or its nominees, including, without limitation, improvements made or to be made to the Common Areas or any Residence, shall not be subject to the review of the ACC, Association, Approved Builder or the provisions of the Community Standards.



6. **Bundled Services.** Article X, Section 10.6 of the Declaration is hereby amended to add the following to the end thereof:

“Notwithstanding the foregoing, no agreement for Bundled Services is presently in place and no agreement for Bundled Services shall be entered into by Declarant or the Association prior to the Turnover Date without the written approval of the Approved Builder.”

7. **Joinder of Approved Builder.** The Approved Builder hereby joins in the execution of this Second Amendment for the purpose of acknowledging the terms and provisions hereof and to further acknowledge that the execution of this Second Amendment satisfies Declarant's obligations to amend the Declaration as contractually required to do so in connection with the sale of Lots from Declarant to Approved Builder.

8. **Amendment Binding.** This Second Amendment shall be binding upon and inure to the benefit of the Declarant, Approved Builder, the Association and all owners of land within the Property. Except as hereby changed, amended and modified, the Declaration shall remain in full force and effect.

**[SEE FOLLOWING PAGES FOR SIGNATURES]**

IN WITNESS WHEREOF, the undersigned have caused this Second Amendment to be executed in manner and form sufficient to bind them as of the day and year first above written.

Signed, sealed and delivered in the presence of:

KC LAKE CHARM LLC, a Florida limited liability company

Meredith Blanford  
Name: Meredith Blanford

Deborah M. O'Hern  
Name: Deborah M. O'Hern

By: [Signature]  
Name: JAMES P. HARVEY  
Title: VICE PRESIDENT

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 25<sup>TH</sup> day of JAN, 2010 by JAMES P. HARVEY as VICE PRESIDENT, on behalf of the company. He ☒ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

My Commission Expires:

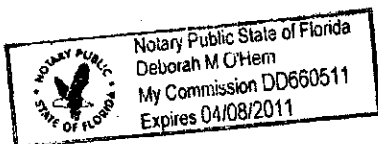
(AFFIX NOTARY SEAL)

[Signature]  
(Signature)

Name: \_\_\_\_\_  
(Legibly Printed)

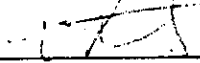
Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
(Commission Number, if any)



Signed, sealed and delivered in the presence of:

  
Name: Steve Rosser

  
Name: Lisa Fox (Widerson)

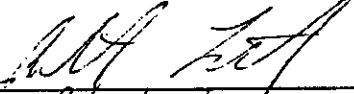
Name: \_\_\_\_\_


Name: \_\_\_\_\_


Name: \_\_\_\_\_

Name: \_\_\_\_\_

NVR, INC., a Virginia corporation

By:   
Name: Robert Lattanz  
Title: Vice President

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF Florida  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of January, 2016,  
by Robert Lattanzi, as Vice President, on behalf of the company. He ☒ is  
personally known to me or ☐ has produced \_\_\_\_\_ as  
identification.

My Commission Expires:

(AFFIX NOTARY SEAL)



Kimberly Kaminer  
(Signature)

Name: Kimberly Kaminer  
(Legibly Printed)

Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
(Commission Number, if any)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_, as \_\_\_\_\_, on behalf of the company. He ☐ is  
personally known to me or ☐ has produced \_\_\_\_\_ as  
identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Legibly Printed)

Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
(Commission Number, if any)

**PREPARED BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:**

Scott A. Cookson, Esq.  
CARLTON FIELDS, P.A.  
450 S. Orange Avenue, Suite 500  
Orlando, FL 32801  
(407) 849-0300

MARYANNE MORSE, CLERK OF CIRCUIT COURT  
SEMINOLE COUNTY  
BK 07604 Pgs 1333 - 1337 (5pgs)  
CLERK'S # 2011077302  
RECORDED 07/21/2011 02:45:11 PM  
RECORDING FEES 44.00  
RECORDED BY T Smith

**THIRD AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE PRESERVE AT LAKE CHARM**

THIS THIRD AMENDMENT TO DECLARATION (this "Third Amendment") is entered into as of the 1<sup>st</sup> day of JULY, 2011 by KC LAKE CHARM LLC, a Florida limited liability company (the "KC Lake Charm") whose address is 1601 Forum Place, Suite 805, West Palm Beach, Florida 33401, joined by NVR, INC., a Virginia corporation (the "Approved Builder").

**WITNESSETH:**

WHEREAS, ILM PROPERTIES, LLC, a Florida limited liability company ("ILM") was the developer of a residential community located in Seminole County, Florida, known as "The Preserve at Lake Charm;" and

WHEREAS, ILM executed that certain Declaration of Covenants, Conditions, and Restrictions for The Preserve at Lake Charm dated February 13, 2007 and recorded on August 7, 2007 in Official Records Book 6784, Page 0007 of the Public Records of Seminole County, Florida (the "Original Declaration"); and

WHEREAS, ILM, joined by The Preserve at Lake Charm Homeowners' Association, Inc., executed that certain Amendment to Declaration of Covenants, Conditions, and Restrictions for The Preserve at Lake Charm dated July 17, 2007 as recorded on August 7, 2007 in Official Records Book 6784, Page 0117 of the Public Records of Seminole County, Florida (the "First Amendment"); and

WHEREAS, ILM subsequently assigned its rights and obligations as Declarant under the Declaration to KC Lake Charm (KC Lake Charm hereinafter referred to as "Declarant") by that certain Assignment of Declarant's Rights dated November 6, 2009 and recorded in Official Records Book 7284, Page 1358, Public Records of Seminole County, Florida; and

WHEREAS, Declarant, joined by Approved Builder, executed that certain Second Amendment to Declaration of Covenants, Conditions, and Restrictions for The Preserve at Lake Charm dated January 25, 2010 as recorded on February 1, 2010 in Official Records Book 07328,

Page 0303 of the Public Records of Seminole County, Florida (the "Second Amendment") (the Original Declaration together with the First Amendment and the Second Amendment herein collectively referred to as the "Declaration"); and

**WHEREAS**, in connection with Declarant's sale of Lots to Approved Builder, Approved Builder has requested certain amendments to the Declaration; and

**WHEREAS**, pursuant to Article XIX, Section 19.2 of the Declaration, the Declarant may amend the Declaration as it deems appropriate without the joinder and consent of any person or entity whatsoever prior to the Turnover Date (which has not occurred as of the date of this Amendment).

**NOW, THEREFORE**, the Declarant hereby amends the Declaration as follows:

1. **Recitals; Defined Terms.** The foregoing recitals are true and correct and are hereby incorporated by reference. Capitalized terms not otherwise defined in this Second Amendment shall have the meaning ascribed to such terms in the Declaration.

2. **Fences and Screens.** Article X, Section 10.16 is hereby deleted and restated in its entirety to read as follows:

**10.16 Fences and Screens.**

10.16.1 No fences shall be erected or installed on any Lot without prior written consent of the ACC. In addition, the Owner of the Lot shall be responsible for obtaining any approval or permits required by any governmental authority for the installation of the fence. All fences must be kept in good condition and repair and clean from dirt, mold and mildew. Maintenance and repair of fencing on any Lot shall be the responsibility of the Owner of the Lot. The finished side of all fencing shall face out from the Lot on which it is constructed. A fence shall be constructed so that it will connect to and with any existing fences on any neighboring Lot(s). Notwithstanding any height limitations herein, in the event a fence abuts a community fence or wall, the height of such fence shall not exceed the community fence or wall. All fences shall be built within the boundary lines of a Lot, and only one fence shall be constructed on the boundary lines of adjoining Lots. Under no circumstance shall any fence encroach onto a neighboring Lot or Association property or tracts nor shall any fence alter or block any drainage patterns on or between any Lots or tracts. In the event an approved fence is placed within a utility or drainage easement and such fence needs to be removed either permanently or temporarily, such removal (and re-installation, if permitted) shall be at the sole cost and expense of the Owner of the Lot.

10.16.2 Approved fences shall be constructed of white PVC and shall be tongue and groove (aka "solid" or "board to board") or vertical shadow box construction without any lattice or picket top accents; in no event shall walls of any material, wooden fencing of any kind, aluminum or wrought iron picket fences or woven-wire (field fence), barbed wire, electrical strands or chain link fencing of any kind

be allowed. No fence under this subsection shall be constructed in excess of six feet (6') above finished grade. Any gates shall be in the same style, materials and color as the fence. Fences under this subsection shall not be located closer to the street than a line parallel to the street and extending from the center of the side of the Residence.

10.16.3 Notwithstanding subsection 10.16.2 above, fences on Lots with view corridors such as ponds and conservation areas shall be constructed of black aluminum or wrought iron along all property lines adjacent to the pond or conservation area and along the other property lines for the last twenty (20) feet from all property lines adjacent to the pond or conservation area. Such fences shall be picket fence construction; in no event shall walls of any material, wooden fencing of any kind, PVC fencing of any kind (other than outside of twenty (20) feet from all property lines adjacent to a pond or conservation area), woven-wire (field fence), barbed wire, electrical strands or chain link fencing of any kind be allowed. No aluminum or wrought iron fence under this subsection shall be constructed in excess of four feet (4') above finished grade. Any gates shall be in the same style, materials and color as the fence. Fences under this subsection shall not be located closer to the street than a line parallel to the street and extending from the center of the side of the home.

10.16.4 This Section 10.16 shall not apply to walls or fences governed by Article VI hereof.

10.16.5 All screening and screened enclosures shall have the prior written approval of the ACC. Screening shall be charcoal in color. All enclosures of balconies or patios, including addition of vinyl windows, shall be approved by the ACC and all decks shall have the prior written approval of the ACC.

3. **Joinder of Approved Builder.** The Approved Builder hereby joins in the execution of this Third Amendment for the purpose of acknowledging the terms and provisions hereof.

4. **Amendment Binding.** This Third Amendment shall be binding upon and inure to the benefit of the Declarant, Approved Builder, the Association and all owners of land within the Property. Except as hereby changed, amended and modified, the Declaration shall remain in full force and effect.

**[SEE FOLLOWING PAGES FOR SIGNATURES]**

IN WITNESS WHEREOF, the undersigned have caused this Third Amendment to be executed in manner and form sufficient to bind them as of the day and year first above written.

Signed, sealed and delivered in the presence of:

KC LAKE CHARM LLC, a Florida limited liability company

Troy Simpson  
Name: TROY SIMPSON

Bryon T. Lopreste  
Name: BRYON T. LOPRESTE

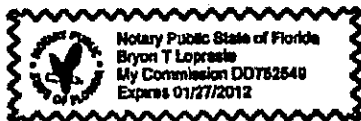
By: James P. Harvey  
Name: JAMES P. HARVEY  
Title: VICE-PRESIDENT

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of JULY, 2011, by JAMES P. HARVEY, as VICE PRESIDENT, on behalf of the company. He ☒ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)



Bryon T. Lopreste  
(Signature)  
Name: BRYON T. LOPRESTE  
(Legibly Printed)  
Notary Public, State of FLORIDA  
DD 752549  
(Commission Number, if any)



Signed, sealed and delivered in the presence of:

NVR, INC., a Virginia corporation

SK  
Name: Steve Parker  
ST  
Name: Sam

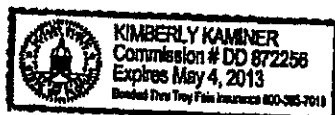
By: [Signature]  
Name: Robert Lattanz  
Title: Vice President

STATE OF Florida  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of July, 2011  
by Robert Lattanz Vice President, on behalf of the company. He ☒ is  
personally known to me or ☐ has produced \_\_\_\_\_ as  
identification.

My Commission Expires:

(AFFIX NOTARY SEAL)



[Signature]  
(Signature)

Name: \_\_\_\_\_

(Legibly Printed)

Notary Public, State of \_\_\_\_\_

\_\_\_\_\_  
(Commission Number, if any)