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**DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR THE LAKES OF WINDERMERE**

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**DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS  
FOR THE LAKES OF WINDERMERE**

**THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR THE LAKES OF WINDERMERE** is made as of this 15 day of ~~DECEMBER~~, 2001, by Ashton Woods Orlando Limited Partnership, a Florida limited partnership, whose address is c/o Great Gulf Group of Companies, 250 Lesmill Road, Don Mills, Ontario, Canada M3B 2T5, hereinafter referred to as "Declarant." For convenience, this instrument is hereinafter referred to as the "Declaration."

**RECITALS:**

A. Declarant is the owner of certain real property located in Orange County, Florida and more particularly described on Exhibit "A" attached hereto and hereby incorporated herein ("Property").

B. The Property is located within the area known generally as the Lake Sawyer Neighborhood, PD (for purposes of this Declaration, the area included within the Lake Sawyer Neighborhood PD shall herein be referred to as the "Lake Sawyer Neighborhood").

C. The Lake Sawyer Neighborhood is located within Lakeside Village, a Village established pursuant to the Comprehensive Policy Plan for Orange County, Florida for the area generally surrounding the intersection of Reams Road and Winter Garden-Vineland Road (County Road 535) in Orange County, Florida, as more particularly described in the "Lakeside Village Specific Area Plan," as may be amended from time to time, as designated and adopted pursuant to the Comprehensive Plan.

D. Declarant desires to ensure that properties within the Lake Sawyer Neighborhood are subdivided, developed, improved, occupied, used and enjoyed pursuant to a uniform plan of development, and in this regard, Declarant desires to impose this Declaration upon the Property and also upon certain other properties within the Lake Sawyer Neighborhood, as more particularly described in this Declaration, that are now or hereinafter owned by Declarant, at such time and pursuant to such processes as are more particularly described in this Declaration, to the effect that such properties shall be subject to the covenants, conditions, easements and restrictions more particularly set forth herein.

E. Declarant intends that this Declaration shall be applicable to only those lands within Lake Sawyer Neighborhood that are developed as single-family residential (including, but not limited to, town homes), and that such lands shall be subjected to this Declaration only at such time, and in such manner, as more particularly set forth in this Declaration.

F. Declarant further intends that the properties subjected to this Declaration will be developed with various common properties and facilities benefitting all owners of such property, all as more particularly set forth in this Declaration.

**NOW, THEREFORE,** Declarant, as the owner of fee simple title to the Property, hereby declares that all of the Property is and shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with, subject to the easements, covenants, conditions, restrictions, reservations, liens and charges contained within this Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and shall run with title to the Property, shall be binding upon all parties having and/or acquiring any right, title or interest in the Property, or in any part thereof, and shall inure to the benefit of each and every person or entity, from time to time, owning or holding an interest in said Property.

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

The following words and terms when used in this Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

A. "Architectural Guidelines" shall mean and refer to any criteria or guidelines adopted by the ARB, from time to time, including any amendments thereto, pertaining to the architectural guidelines and criteria applicable to development within the Property, all pursuant to Article IX of this Declaration.

B. "Architectural Review Board" or ARB shall refer to any body/board established pursuant to the provisions of, and for the purposes set forth in, Article IX of this Declaration.

C. "Articles of Incorporation" and "Bylaws" shall mean the Articles of Incorporation and the Bylaws of the Association as they may exist from time to time pursuant to, and in compliance with, the provisions of this Declaration, a true and correct copy of which, as same exist as of the date of recording of this Declaration, are attached hereto as Exhibits "B" and "C", respectively.

D. "Assessments" shall mean and refer to any assessments of an Owner by the Association for Common Expenses and other items pursuant to, and in accordance with, and for the purposes specified in, Article VIII of this Declaration.

E. "Association" shall mean The Lakes of Windermere Community Association, Inc., a Florida not for profit corporation, its successors and assigns.

F. "Association Act" shall mean and refer to the laws of the State of Florida applicable to the operations of the Association, from time to time, including, but not necessarily



limited to, those laws set forth in Chapter 720, Sections 720.301 through 720.312, Florida Statutes, 2000, as same may be amended from time to time.

G. "Block" shall mean any group of adjacent Lots constituting a block as depicted on any plat of the Property, including any improvements from time to time constructed, erected, placed, installed or located thereon.

H. "Board" shall mean the Board of Directors of the Association.

I. "Common Expenses" shall mean the actual and estimated expenditures, including reasonable reserves, for maintenance, operation and other services required or authorized to be performed by the Association, and for any other purpose or function of the Association, pursuant to this Declaration, including, but not limited to, expenditures incurred with respect to Common Property, all as may be found to be reasonably necessary by the Board pursuant to this Declaration, or the Bylaws or the Articles of Incorporation of the Association.

J. "Common Property" shall mean and refer to all real and personal property from time to time owned or held by the Association, or any rights or interests of the Association in any real or personal property, including, but not limited to, the Surface Water Management System and any Conservation Areas and further including the benefit of all easements, rights and other interests established in favor of the Association by this Declaration or any plat of the Property or any portion thereof.

K. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board and/or the ARB.

L. "Conservation Areas" shall mean and refer to any areas or portions of the Property from time to time included within, or subjected to, a conservation easement pursuant to the provisions of Article VII, Section 13.

M. "County" shall mean and be defined as Orange County, Florida, a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.

N. "Declarant" shall mean and refer to Ashton Woods Orlando Limited Partnership, a Florida limited partnership, and any successor or assign designated as the Declarant pursuant to the provisions of Article XVII, Section 5 of this Declaration.

O. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions for The Lakes of Windermere, as same may from time to time be amended.

P. "Institutional Lender" shall mean and refer to a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, private or public pension fund, Veteran's Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a credit union, real estate or mortgage investment trust or any other lender generally recognized in Orange County as an institutional lender that owns or holds, insures or guarantees, a Mortgage encumbering a Lot.

Q. "Lake Sawyer Neighborhood" shall mean and refer to the real property included within the Lake Sawyer Neighborhood PD, as same may be amended from time to time.

R. "Lake Sawyer Neighborhood PD" shall mean and refer to the Planned Development Land Plan approved by Orange County, Florida for the Lake Sawyer Neighborhood, as same may be amended from time to time.

S. "Limited Common Property" shall mean and refer to any portion of the Common Property designated as Limited Common Property by Declarant from time to time pursuant to the provisions of Article IV, Section 10 of this Declaration.

T. "Lot" shall mean any numbered lot shown upon any recorded subdivision map or plat of all or any portion of the Property. "Lot" shall include any improvements from time to time constructed, erected, placed, installed or located thereon.

U. "Land Use Plan" shall mean and refer to the land use plan portion of the Lake Sawyer Neighborhood PD as approved by Orange County, Florida, as same may be amended from time to time.

V. "Neighborhood" shall mean and refer to a group of Lots and/or Units designated by Declarant as a separate Neighborhood for purposes of member voting and electing Neighborhood Representatives pursuant to the provisions of Article V, Section 5 of this Declaration.

W. "Neighborhood Representative." The representative selected by the Members within each Neighborhood pursuant to Article V, Section 5 of this Declaration as the representative entitled to cast the votes attributable to the Lots and/or Units within such Neighborhood on all matters requiring a vote of the Members of the Association.

X. "Member" shall mean and refer to each member of the Association as provided in Article V of this Declaration and shall include all Owners.

Y. "Mortgage" shall mean a permanent or construction mortgage, deed of trust, deed to secure debt, or any other form of instrument used to create a security interest in real property, including any collateral security documents executed in connection therewith.

Z. "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

AA. "Owner" shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities), of fee simple title to any Residential Property. Owner shall not mean or refer to the holder of a Mortgage or security deed unless and until such holder has acquired title pursuant to foreclosure proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

BB. "Property" shall initially mean and include the real property described in Exhibit "A" attached hereto and, when added in accordance with the terms and conditions hereof, shall also include real property which is in the future subjected to this Declaration under the provisions of Article II hereof.

CC. "Residential Property" shall mean (i) any Lot and (ii) any portion of the Property with a land use designation as shown on the Land Use Plan that allows for single family residential development, but which has not been subdivided or platted into Lots, including any improvements constructed thereon.

DD. "SFWMD" shall mean and refer to the South Florida Water Management District or any successor governmental agency.

EE. "Supplement" shall mean any supplement, amendment or modification of this Declaration made consistent with, and pursuant to the provisions of, this Declaration.

FF. "Surface Water Management System" shall mean the system including, but not limited to, roadway and rear-yard under-drains, and stormwater drains, detention and retention facilities, designed and constructed or implemented to control discharges which are necessitated by rainfall events, and incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise control the quantity and quality of discharges from the Property.

GG. "Turnover" shall mean the transfer of operation of the Association by the Declarant as described in Article XI of this Declaration.

HH. "Unit(s)" shall mean residential dwelling unit(s) allocated to any unplatted portion of the Residential Property. In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units equal to the residential dwelling units designated for such parcel on the Land Use Plan or on any site plan or preliminary plat or subdivision plan approved by Declarant, whichever is more recent. Upon the recording of a plat or subdivision map of such parcel in the Public Records of the County, the Lots designated on the plat or subdivision map shall constitute and replace the Units otherwise allocated to such platted parcel.



II. "Voting Member" shall mean the Declarant as to votes allocated to the Class C Member, and the Neighborhood Representatives as to the votes allocated to Class A Members or Class B Members.

**ARTICLE II**  
**PROPERTY SUBJECT TO DECLARATION**

Section 1.     Property. The Property is hereby made subject to, and encumbered, governed, benefitted and burdened by, this Declaration.

Section 2.     Annexation and Withdrawal.

A.     Declarant hereby reserves to itself, and shall hereinafter have, the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner: (i) to impose this Declaration upon any real property located within the Lake Sawyer Neighborhood and (ii) to withdraw from the provisions of this Declaration any of the Property, which continues to be owned by the Declarant and which has not been designated or dedicated as Common Property. Annexations or withdrawals under this Sub-section 2.A. shall be accomplished by execution by Declarant of a Supplement describing the real property to be annexed or withdrawn, as the case may be, and shall become effective when such Supplement is recorded among the Public Records of the County, unless otherwise provided therein.

B.     Subject to the consent of the owner thereof, and, while the Declarant owns any portion of the lands located within the Lake Sawyer Neighborhood, with consent of the Declarant, which consent may be granted or withheld in the sole and absolute discretion of Declarant, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation by the Association shall require the affirmative vote of a majority of the voting interests of the Members present at a meeting duly called for the purpose of considering and voting upon such annexation. The annexation of land under this Sub-section 2.B., shall be accompanied by the recordation in the Public Records of Orange County, Florida of a Supplement describing the property being annexed, signed by the President and Secretary of the Association, the Declarant and by the owner of the property being annexed. Any such annexation shall be effective upon recording unless otherwise provided therein.

C.     No provision of this Declaration shall be construed to require Declarant or any other person or entity to annex or withdraw any real property to or from the scheme of this Declaration.

D.     The Declarant hereby reserves the right to seek and obtain governmental approval to modify the Lake Sawyer Neighborhood PD from time to time. The Declarant shall not be required to follow any predetermined order of improvement or development of the Lake Sawyer Neighborhood or the Property; and it may annex additional lands and develop them before completing the development of the Property. The Declarant shall have the full power to add to,

subtract from or make changes in the lands included within the Property or in the Lake Sawyer Neighborhood PD regardless of the fact that such actions may alter the relative voting strength of the Members of the Association.

E. Covenants and restrictions applicable to annexations to the Property shall be compatible with, but need not be identical to, the covenants and restrictions set forth in this Declaration. Such a condition is retained by Declarant in recognition that within the property included within the Lake Sawyer Neighborhood there will be a variety of housing types and development parameters, conditions and restrictions, thereby necessitating differing restrictive covenants.

### **ARTICLE III** **PERMITTED USES**

Section 1. Residential Property. Except as hereinafter provided in Article VII, Section 10 of this Declaration, Residential Property shall be improved as and used, occupied and enjoyed solely and exclusively for single family residential (attached or detached) dwelling purposes (including, but not limited to, town homes) and no other uses or purposes whatsoever.

Section 2. Common Property. Common Property shall be improved, maintained, used, and enjoyed for the common recreation, health, safety, welfare, benefit and convenience of all Owners and their guests and invitees, except that any Limited Common Property may be improved, maintained, used and enjoyed for the common recreation, health, safety, welfare, benefit and convenience of only certain Owners, and their guests and invitees, designated by Declarant.

### **ARTICLE IV** **COMMON PROPERTY**

Section 1. Additional Common Property. In addition to the property included within the term "Common Property" as defined in Article I of this Declaration, Declarant, in its sole and absolute discretion, shall have the right to convey to the Association, and the Association shall be obligated upon Declarant's discretion to accept, any other property, real or personal, so long as such property is, in the sole discretion of Declarant, useful for the common recreation, health, safety, welfare, benefit or convenience of the Owners. Any such additional property conveyed to the Association shall become and thereafter continue to be Common Property which shall be subject to all covenants, conditions, restrictions, easements and reservations set forth in this Declaration with respect to all other Common Property.

Section 2. Restriction on Use of Common Property. The Common Property shall, subject only to the easements specified in Article VII of this Declaration, be developed, improved, maintained, used and enjoyed solely for the purposes specified in this Declaration and in the instrument of conveyance conveying such Common Property to the Association, and for the common health, safety, welfare and passive recreation of the residents of and visitors to the Property and for no other purpose or purposes whatsoever. Notwithstanding anything in the foregoing to the contrary,

Limited Common Property may be used for active recreation of those Owners of Lots within the Property designated by Declarant. No other use shall be made of the Common Property without the prior written consent of Declarant.

Section 3. Encumbrance as Security. The Association shall have the right in accordance with this Declaration and the Articles of Incorporation and Bylaws to (i) borrow money for the purpose of improving, replacing, restoring or expanding the Common Property and to mortgage or otherwise encumber the Common Property solely as security for any such loan or loans and (ii) engage in purchase money financing with respect to personal property and equipment purchased by the Association in connection with the performance of its duties and obligations pursuant to this Declaration and to secure the payment of the purchase price therefor by the encumbrance of the personal property and equipment so purchased; it being expressly provided, however, that any such mortgage or other encumbrance shall (i) be subject in all respects to the terms and provisions of this Declaration and any amendments hereto, and (ii) be made subordinate to the rights of the County or any other governmental agency in and to the Common Property, including but not limited to the Surface Water Management System. In no event shall the Association be entitled or empowered to mortgage or otherwise encumber any easements granted to it.

Section 4. Use by Owners. Subject to any reasonable rules and regulations adopted and promulgated pursuant to this Declaration, and subject always to any and all easements granted or reserved in this Declaration, each and every Owner shall have the non-exclusive right, privilege and easement to use and enjoy the Common Property for the purpose or purposes for which the same is conveyed, designated and intended by Declarant and maintained by the Association, and such nonexclusive right, privilege and easement shall be an appurtenance to and shall pass with the title to each and every Lot within the Property; subject, however, at all times to the terms, provisions, covenants, conditions, restrictions, easements and reservations set forth in this Declaration including, without limitation, the following:

A. The right of the Association to suspend the right, privilege and easement of any Owner and such Owner's family, tenants, guests or other invitees to use the Common Property or any portion thereof designated by the Association (i) during any time in which any Assessment levied by the Association against such Owner remains unpaid and delinquent for a period of thirty (30) days or more or (ii) for any single infraction of the rules and regulations of the Association with respect to the use of the Common Property; provided, however, that except for a suspension of such right, privilege and easement occasioned by the failure of an Owner to pay any Assessment within thirty (30) days from the date that the same is levied by the Association, any suspension of the right, privilege and easement to use and enjoy the Common Property shall be made by the Association, or a committee duly appointed by the Association for that purpose, only after appropriate notice and hearing given and held in accordance with the Association Act. Notwithstanding anything herein set forth to the contrary, however, the Association shall have no right, power or authority hereunder, except upon a foreclosure as provided for herein, to suspend or otherwise unreasonably interfere with any Owner's right, privilege and easement to ingress and egress to and from such Owner's Residential Property; it being expressly provided, however, that temporary interference for purposes

of appropriate identification at and clearance through access gates shall not be deemed to be an unreasonable interference with such right, privilege and easement of and for ingress and egress.

B. The right of the Association to limit the number of guests of Owners who may use the Common Property from time to time and to limit the use of the Common Property by persons not in possession of a Lot at a particular time but owning a sufficient interest therein for classification as an Owner and Member of the Association.

C. The right of the Association to establish, promulgate and enforce reasonable rules and regulations pertaining and with respect to the use of the Common Property pursuant to Section 8 of this Article IV.

D. The right of the Association to charge reasonable admission and other fees to or for the use of the Common Property, other than for the use of easements established created or declared pursuant to this Declaration or any plat of the Property.

E. The right of the Association to take such steps as are reasonably necessary to maintain, preserve and protect the Common Property.

F. The right of the Declarant to designate Common Property as Limited Common Property and to designate which of the Owners has the right to enter upon and use the Limited Common Property.

Section 5. Delegation of Use. Any Owner shall be entitled to and may delegate the right, privilege and easement to use and enjoy the Common Property to the members of such Owner's family, tenants, guests or other invitees; subject, at all times, however, to such reasonable rules and regulations governing such delegation as may be established, promulgated and enforced by the Association pursuant to Section 8 of this Article IV. In the event and for so long as an Owner shall delegate such right, privilege and easement for use and enjoyment to tenants who reside on such Owner's Lot, the Association shall be entitled, after the adoption and promulgation of appropriate rules and regulations with respect thereto, to limit or restrict the right of the Owner making such delegation to a tenant in the simultaneous exercise of such right, privilege and easement of and for the use and enjoyment of the Common Property.

Section 6. Waiver of Use. No Owner may exempt itself from personal liability for, or exempt such Owner's Residential Property from, any Assessments duly levied by the Association, or release the Residential Property owned by such Owner from the liens, charges, encumbrances and other provisions of this Declaration, or the rules and regulations of the Association, by (i) the voluntary waiver of the right, privilege and easement for the use and enjoyment of the Common Property, (ii) the abandonment of such Owner's Lot or (iii) by conduct which results in the Association's suspension of such right, privilege and easement as provided in Section 4 of this Article IV.

Section 7. Administration and Care. The administration, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property shall be the responsibility of the Association as more particularly provided in Article VI of this Declaration and in the Articles of Incorporation.

Section 8. Rules and Regulations. In addition to the foregoing restrictions on the use of Common Property, the Association shall have the right, power and authority, subject to the prior written consent and approval of Declarant until Turnover, to promulgate and impose reasonable rules and regulations governing and/or restricting the use of Common Property and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no rules or regulations so promulgated shall be in conflict with the provisions of this Declaration. The rules and regulations promulgated by the Association shall be applicable to and binding upon all Common Property and all Owners and their successors and assigns, as well as upon all members of their families, their tenants, guests, and other invitees and upon all other parties claiming by, through or under such Owners.

Section 9. Payment of Assessments Not Substitute for Taxes. The payment of Assessments from time to time established, made, levied, imposed and collected by the Association pursuant to this Declaration, including, without limitation, those for the maintenance of the Common Property, shall not be deemed to be a substitute for or otherwise relieve any Owner from paying any other taxes, fees, charges or assessments imposed by the County, or any other governmental authority.

Section 10. Limited Common Property. In connection with its development of the Property, Declarant may convey or cause to be conveyed real or personal property to the Association and designate that the benefits of such property be reserved for the utilization and realization of only certain Owners; which conveyance and designation may be made by Declarant, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner. Any such property so conveyed and designated by the Declarant shall be considered "Limited Common Property" for all purposes of this Declaration. The designation of property as Limited Common Property may be made pursuant to a Supplement or in the deed of conveyance, or upon the plat, pursuant to which such property is conveyed to the Association. Upon such conveyance, dedication and reservation of the Limited Common Property, the Owners identified by Declarant as being authorized and entitled to utilize and realize the benefits of such Limited Common Property (and all rights and interests pertaining thereto) shall have the rights to do so as are provided in this Declaration with respect to Common Property. Declarant hereby reserves to itself the right, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner, to designate or identify, from time to time, additional Owners as being authorized and entitled to utilize and realize the benefits of any Limited Common Property designated pursuant to this Section 10. The Association shall have responsibility for the management and control of Limited Common Property pursuant to, and consistent with, its powers and duties established in Article VI of this Declaration. All costs of the Association with respect to the Limited Common Property shall be assessed only



against the Owners identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Property.

## ARTICLE V ASSOCIATION

Section 1. Membership. The Declarant and every Owner shall be Members of the Association. By acceptance of a deed or other instrument evidencing its ownership interest in the Residential Property, each Owner accepts membership in the Association, acknowledges the authority of the Association herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and other rules and regulations of the Association adopted pursuant to the provisions of this Declaration. In addition to the foregoing, each Owner shall cause its family members, tenants, guests and other invitees to abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the Bylaws and other rules and regulations of the Association adopted pursuant to the provisions of this Declaration.

Section 2. Voting Rights. The voting rights of the Members of the Association shall be allocated and exercised as set forth in the following provisions of this Section 2 or in the Articles of Incorporation or Bylaws, or as otherwise required by the Association Act.

A. Membership in the Association shall be divided into Class A, Class B and Class C Members and the membership in each such class, and the voting rights applicable thereto, shall be allocated as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant (prior to Turnover). Class A Members shall be allocated one vote for each Lot in which they hold the interest required for membership in the Association pursuant to Section 1 above.

Class B. Class B Members shall be Owners of Residential Property, other than the Declarant (prior to Turnover), that has not been subdivided or platted into Lots. It is contemplated, but not required, that Class B Members shall be builders or developers who purchase an unsubdivided pod or parcel of land from Declarant with the intention of platting the pod or parcel into Lots. Class B Members shall be allocated one vote for each Unit planned for, or allocated to, such Residential Property pursuant to the Land Use Plan or any site plan or preliminary plat or subdivision plan approved by Declarant, whichever is more recent. Class B Members shall automatically become Class A Members as to the Lots created upon subdivision or platting. In the event that an Owner of an unsubdivided pod or parcel of land conveys a portion of such pod or parcel to a third party, then the conveying Owner and the third party shall both be Owners with respect to the land which each of them owns and the number of Units, and the corresponding number of votes allocated to each such Unit, shall be as determined between such conveying Owner and the third party purchaser.

Class C. The Class C Member shall be the Declarant, or its specifically designated (in writing) successor. The Class C Member shall be allocated a number of votes equal

to three times the total number of Class A and Class B votes at any given time; provided, however, that Class C membership shall cease and become converted to Class A or B membership, as appropriate, upon Turnover of the Association as set forth in Article XI of this Declaration.

B. When any Residential Property entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership, or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the secretary of the Association, such Owner shall select one official representative to represent such Residential Property and exercise all rights of membership in the Association with respect thereto, including, but not limited to, voting (one (1) vote per Unit or, upon platting, per Lot) with respect to such Residential Property and shall notify in writing the Secretary of the Association of the name of such individual. The vote of each official representative shall be considered to represent the will of all the Owners of that Residential Property. In the circumstance of such common ownership, if the Owners fail to designate their official representative, then the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Owner(s). Upon such notification the Owner may not vote until the Owner(s) appoint their official representative pursuant to this paragraph.

C. The voting rights of any Owner may be assigned (for the duration of the lease only) by an Owner to its tenant, if the tenant has entered into a lease with a term of two (2) years or more; provided, however, that the Owner may not assign to such tenant any vote or votes not attributable to the property actually leased by such tenant. No such assignment shall be effective until written notice thereof has been received by the Association.

D. The voting rights of any Owner may be suspended for failure to pay Assessments as specifically provided in Article VIII, Section 9 of this Declaration.

### Section 3. Change of Membership.

A. Change of membership in the Association shall be established by recording in the Public Records of Orange County, Florida of a deed or other instrument conveying record fee title to any Residential Property, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner with respect to such conveyed land shall be terminated. In the event that a copy of said instrument is not delivered to the Association, said Owner shall become a Member, but shall not be entitled to voting privileges enjoyed by its predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Residential Property acquired.



B. An Owner's membership interest in the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's Residential Property. Membership in the Association by all Owners shall be compulsory and shall continue as to each Owner until such time as such Owner of record transfers or conveys all of its interest in the Residential Property upon which its membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which such membership is based.

Section 4. Declarant Rights to Appoint Directors. Directors shall be elected to the Board by a vote of the Members. Notwithstanding anything in the foregoing to the contrary, the Declarant shall, without regard to the number of votes allocated to Declarant, be entitled to appoint one (1) member of the Board for as long as the Declarant is the Owner of at least five percent (5%) of the total number of the combined Lots and Units within the Residential Property (in other words, 5% of the total number of votes in the Association). Nothing contained in the foregoing, however, is intended, nor shall be deemed, to create any obligation upon the Declarant to exercise such right to elect such one (1) director.

Section 5. Neighborhoods and Neighborhood Representatives. Notwithstanding anything to the contrary in the foregoing provisions of this Article V, voting of Members, other than the Declarant prior to Turnover, on all Association matters shall be conducted by and through Neighborhood Representatives and the Neighborhood Representative process established in this Section 5 of this Article V.

A. Declarant shall designate in writing the identification of the various Neighborhoods within the Property and the specific identification of the Lots and Units designated as being included within such Neighborhoods. Each Lot and Unit within the Property shall be included within a Neighborhood. Until such time as Declarant has divested itself of title to all of the property located within the area included within the Lake Sawyer Neighborhood, Declarant shall have the unilateral right, without the necessity of obtaining the approval of any party, including any Owner, to redesignate the composition of the Neighborhoods established pursuant to this Section 5, including increasing or decreasing the number of such Neighborhoods. It shall not be necessary that the Lots or Units designated to a particular Neighborhood be contiguous, or that each Neighborhood have included within it the exact same number of Lots and/or Units, but Declarant shall, to the extent reasonably practicable, use its best efforts to allocate such numbers of Lots and/or Units to each Neighborhood as to most fairly allocate between the Neighborhoods the voting interests of all Members of the Association. The written designations by Declarant of the Neighborhoods, as described above, as well as the identification of the Neighborhood Representative for each Neighborhood, as described below, shall be maintained by the Association along with the other records of the Members of the Association, which records shall be open for inspection and copying by the Members of the Association pursuant to the applicable provisions of the Bylaws of the Association.

B. The Members, other than the Declarant prior to Turnover, owning Lots and/or Units within any designated Neighborhood shall elect a Neighborhood Representative. Once elected by Members with respect to a Neighborhood, a Neighborhood Representative shall be entitled, and shall have the exclusive authority, to represent the Members that own Lots and/or Units within such Neighborhood as to all matters that may be brought before the Membership of the Association pursuant to this Declaration, the Articles of Incorporation and Bylaws, including, but not limited to, the casting of all votes attributable to the Members owning the Lots and/or Units within such Neighborhood. Each Neighborhood Representative shall have one vote for each Lot and Unit included within the Neighborhood represented by such Neighborhood Representative. The Neighborhood Representative shall have absolute discretion as to the exercise of the membership rights and votes attributable to the Members owning Lots and/or Units within such Neighborhood.

C. Neighborhood Representatives shall be elected by the Members owning Lots and/or Units within a Neighborhood by a plurality of the votes of such Members under a straight voting method. Voting for a Neighborhood Representative shall occur at an annual meeting of the Members within such Neighborhood, which meeting shall be held prior to the annual meeting of Members of the Association. The conduct of any meeting of Members of a Neighborhood shall be consistent with and governed by the terms and provisions of meetings of the Members of the Association as established in the Bylaws. Neighborhood Representatives shall serve a term of one (1) year and until their successors shall have been elected and qualified or until their earlier resignation, removal from office or death. Neighborhood Representatives may be removed from office, with or without cause, upon the vote of a majority of the Members owning Lots and/or Units within the Neighborhood for which such Neighborhood Representative was appointed, which vote shall occur at a Special Meeting of such Members held for the purpose of removing such Neighborhood Representative.

## **ARTICLE VI**

### **FUNCTIONS OF ASSOCIATION**

**Section 1. Objectives, Purposes and Function.** The Association has been created and established in order to advance the objects and purposes of this Declaration. The Association shall have exclusive jurisdiction over, and the sole responsibility for, (i) the administration and enforcement of this Declaration, (ii) the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in this Declaration, (iii) the administration, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property, (iv) the payment of all Common Expenses, and (v) the promotion and advancement of the health, safety and general welfare of the Members of the Association; all as more particularly provided in this Declaration and in the Articles of Incorporation, Bylaws and rules and regulations of the Association.

**Section 2. Duties and Powers, Generally.** In addition to those duties and powers conferred by law and those specified and enumerated in its Articles of Incorporation and Bylaws, the Association shall also have such duties and powers as are, respectively, imposed and conferred upon it pursuant to this Declaration, including, without limitation, such duties and powers as may



be reasonably necessary for, and incidental to, the accomplishment of the objects and purposes for which the Association has been created and established.

Section 3. Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, as well as the maintenance obligations of the owners set forth in Article X, Section 15, shall be exclusively responsible for the management, operation and control of the Common Property and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas) and shall keep the Common Property in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 4. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant.

Section 5. Duties of the Association. The Association, acting by and through its Board, shall, in addition to those general and specific duties, responsibilities, obligations and powers elsewhere referenced in this Declaration or imposed upon it by law or specified in its Articles of Incorporation and Bylaws, have the following specific duties, responsibilities and obligations:

A. To pay all Common Expenses and any other expenses associated with the management and administration of the business and affairs of the Association.

B. To establish, make, levy, impose, enforce and collect all Assessments for which provision is made in this Declaration or which shall otherwise be necessary to provide and assure the availability of such funds as may be reasonably necessary to pay all Common Expenses or otherwise conduct the business and affairs of the Association.

C. To maintain and operate all Common Property, and all public rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Property, the deterioration of which would adversely affect the appearance or the operation of the Common Property. The Association shall adopt standards of maintenance and operation required by this and other Sub-sections within this Section 5 which are consistent with the Community-Wide Standard. In all events, however, the Common Property shall be maintained and operated in compliance with any and all governmental permits, rules, regulations or requirements.

D. To maintain any of the Property upon which the Association has accepted an easement for said maintenance.

E. To take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in this Declaration or in the Articles of Incorporation or Bylaws.



F. To conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings, and other important events. The Association shall have the right to enter into management agreements, including with companies affiliated with Declarant, in order to provide its services, and perform its functions.

G. To establish and operate the ARB at such time that the Association is delegated such purpose and authority by the Declarant.

H. To adopt, publish and enforce such rules and regulations as the Board deems necessary in connection with the fulfillment of the duties and powers of the Association arising pursuant to this Declaration, the Articles of Incorporation, the Bylaws or by any other applicable laws.

I. At the sole option and discretion of the Board, to conduct recreation, sport, craft, and cultural programs of interest to Members, their families, tenants and guests and charging admission fees for the operation thereof.

J. To construct improvements on Common Property as may be required to provide the services as authorized in this Article VI.

K. The Association may also provide exterior maintenance upon any Residential Property which, in the opinion of the Board, requires such maintenance because said Residential Property is being maintained in a manner inconsistent with the Community-Wide Standard of the Property. The Association shall notify the Owner of said Residential Property in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected the condition within fifteen (15) days after date of said notice, the Association may correct such condition. Said maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, and other landscape items, walks and other exterior improvements. For the purpose of performing the exterior maintenance authorized by this Sub-section 5.K., the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Residential Property or structures or improvements located therein at reasonable hours on any day except Saturday and Sunday; provided, however, the Association shall have the right of entry without notice, at any time and on any day, if necessary to correct an emergency situation. The cost of such maintenance shall be assessed against the Residential Property upon which such maintenance is performed as a Special Assessment as provided in Article VIII, Section 5.

L. To establish any use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

M. To engage in any activities reasonably necessary to remove from the Common Property any pollutants, hazardous waste or toxic materials, and by Special Assessment, recover

costs incurred from the Owner(s) causing or upon whose property such materials were located or generated.

N. Subject to the Board's sole discretion in determining the types of insurance coverages to purchase, and the amounts thereof, to provide adequate insurance protection on and for the Common Property and, consistent with their respective duties, responsibilities and liabilities, provide adequate insurance protection on and for the Association itself and its officers and directors, as well as for the members of the ARB established pursuant to this Declaration.

Section 6. Powers of Association. The Association, acting by and through its Board, shall, in addition to those general and specific powers referred to herein or conferred upon it by law, and those powers specified in its Articles of Incorporation and Bylaws, have the following specific powers:

A. Except as may be limited by the terms of this Declaration and the Articles of Incorporation and Bylaws, to acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, insure, buy, sell, lease, transfer, convey, encumber or otherwise deal in or with real or personal property, (or any interest therein, including easements) which is, or upon its acquisition by the Association shall thereupon become, Common Property as defined in this Declaration, including the power to enter into any leases or other arrangements with appropriate governmental agencies necessary for the use of sovereignty lands associated with any of the Common Property.

B. To establish, make, levy, impose, enforce and collect all Assessments and impose, foreclose and otherwise enforce all liens for Assessments for which provision is made in this Declaration in accordance with the terms and provisions of this Declaration and the Articles of Incorporation and Bylaws.

C. To establish, make, levy, impose, enforce and collect fines against any Owner for any violation of the covenants, conditions and restrictions set forth in this Declaration, or of the rules and regulations of the Association; provided, however, that except for a failure of an Owner to pay any Assessment when due and with respect to the rights of the Association in connection therewith, any fines imposed pursuant to this Declaration shall be made by the Association, or a committee duly appointed by the Association for that purpose, only after appropriate notice and hearing given and held in accordance with the Association Act.

D. To create, establish, maintain, and administer such capital expenditure reserves and other reserve funds or accounts as shall, in the discretion of the Board, be reasonably necessary to provide and assure the availability of funds necessary for the care, maintenance, repair, replacement, restoration, preservation, and protection of all Common Property, including all easements and facilities, and for such other purposes as the Board, in its reasonable discretion, shall deem necessary or appropriate.

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



F. Subject to the limitations specified in Section 7 of this Article VI, to borrow such money as may reasonably be required to discharge and perform the duties, responsibilities and obligations imposed upon the Association pursuant to this Declaration.

G. To employ such persons or to contract with such independent contractors or managing agents as shall be reasonably required in order for the Association to carry out, perform and discharge all or any part of its duties, obligations and responsibilities pursuant to this Declaration and the Articles of Incorporation; provided, however, that any such employment contract or contract with any independent contractor or managing agent for a term of more than one (1) year shall, by its express terms, be terminable (i) for cause at any time upon not more than thirty (30) days written notice by the Association and (ii) without cause at any time after one (1) year upon not more than sixty (60) days written notice by either party; and, provided further, that any such contract shall otherwise be subject to the provisions of Section 7 of this Article VI.

H. Subject to the rights of the County under applicable franchise agreement, to itself provide equipment, facilities and personnel or to contract with an independent contractor or independent contractors, for such public or quasi public services as may be deemed by the Association to be reasonably necessary or desirable for the common health, safety and general welfare of the residents, including, without limitation, internal security and protection services, garbage and trash pickup and disposal services, cable television services and street lighting services.

I. To take such steps as may be necessary to enforce the provisions of this Declaration, including, without limitation the employment of counsel and the institution and prosecution of litigation to enforce the provisions of this Declaration including, without limitation, such litigation as may be necessary to collect Assessments and foreclose liens for which provisions are made in this Declaration.

J. To encourage, cause, facilitate, assist and cooperate in the formation, establishment and operation of a Community Development District and/or Municipal Services Taxing Unit ("MSTUs")/Benefit Unit ("MSBUs").

Section 7. Limitations and Restrictions on Power of Association. In addition to such other restrictions or limitations on the powers of the Association as may be imposed by law, elsewhere in this Declaration or in the Articles of Incorporation or Bylaws, and without limiting the generality of any thereof, the Association shall be prohibited from taking any of the following actions without the prior approval of a majority of the Members of the Association present, in person or by proxy, at a special meeting of the Members of the Association held for the specific purpose of obtaining member approval of the following actions:

A. The entry into employment contracts or other contracts for the delivery of services or materials to the Association having a term in excess of one (1) year, except in the case of prepaid insurance, casualty or liability contracts or policies for not more than three (3) years



duration; provided that the applicable contract or policy provides for and permits early cancellation by the insured.

B. The borrowing of any funds secured by a pledge, assignment or encumbrance of the right and duty of the Association to exercise its power to establish, make levy, impose, enforce and collect any Assessments for which provision is made in this Declaration whereby as a result of such pledge, assignment or encumbrance such right and power of assessment may be exercised by a party other than the Association or whereby the Association shall become obligated to establish, levy, enforce and collect any Assessment or Assessments in a particular amount or within a particular time so as to effectively divert from the Association and its Board the right, duty and discretion to establish, make, levy, impose, enforce and collect Assessments in such amounts and within such time periods as the Board, in its discretion, shall deem to be necessary and reasonable. It is expressly provided, however, that the foregoing limitation and restriction upon the pledge, assignment or encumbrance of the assessment rights herein contained shall not preclude the Association from pledging or making an assignment of or otherwise encumbering any Assessment which is then payable to or which will thereafter, in the ordinary course of the Association's business, become payable to the Association provided that any such assignment, pledge or encumbrance, though then presently effective, shall allow and permit any such Assessments to continue to be paid to and used by the Association as set forth in this Declaration unless and until the Association shall default on the repayment of the debt which is secured by such pledge, assignment or encumbrance.

C. The sale, transfer or other disposition, whether or not for consideration, of any real property owned by the Association as Common Property; provided, however, in no event shall the Association be entitled or empowered to sell, convey or transfer any real property constituting Common Property transferred and conveyed by Declarant to the Association without first receiving the prior written consent of Declarant. Further, upon the request of Declarant, the Association shall re-convey to Declarant, or convey directly to a Community Development District or MSTUs/MSBUs, any Common Property previously conveyed by Declarant to the Association, in the event such original conveyance was made in error or in the event Declarant seeks to cause or assist in the establishment, creation or operation of Community Development District or MSTUs/MSBUs, or in the event Declarant modifies the Land Use Plan in such manner as to require the incorporation of the affected Common Property into Residential Property use. Any such reconveyance shall automatically cause all of the easements created under Article VII or any plat of the Property to be automatically void, released and vacated without the requirement of any written release from any easement holder. Notwithstanding anything to the contrary contained in the foregoing, the Association shall not be permitted to sell, transfer or otherwise dispose of any lands upon which is contained any part of the Surface Water Management System, or any facilities associated with the operation of such system, without the prior written consent of the SFWMD and the County.

Section 8. No Compensation to Directors or Officers. The payment of compensation to the elected directors or to the officers of the Association for services performed in the conduct of their duties is prohibited; provided, however, that nothing herein contained shall preclude the



Association from reimbursing any such elected director or officer for reasonable expenses actually incurred and paid by any such elected director or officer in the conduct of the business and affairs of the Association; and provided, further, that nothing herein contained shall preclude the employment by the Association and payment of compensation to a manager or executive director of the Association who shall not be an elected director or officer of the Association.

## **ARTICLE VII** **EASEMENTS**

**Section 1.**     **Access and Use Easements.** Declarant grants to all Owners (and their guests, lessees, and invitees) as an appurtenance to the ownership of Residential Property held by such Owner, but subject to this Declaration, the Articles of Incorporation and Bylaws and the rules and regulations promulgated by the Association pursuant to this Declaration, a perpetual non-exclusive easement for ingress and egress over, across and through, and for use and enjoyment of, all Common Property; such use and enjoyment to be shared in common with the other Owners, their guests, invitees as well as the guests, lessees and invitees of the Declarant. Notwithstanding anything in the foregoing to the contrary, the above referenced easement, as same relates to any Limited Common Property, shall be deemed granted to only those Owners to whom the use and enjoyment of such Limited Common Property has been dedicated and reserved by Declarant. Provided, further, with respect to all Common Property, the Declarant reserves the right, but not the obligation, to maintain and use all rights of way associated therewith, and to maintain and place Declarant's signs thereon.

**Section 2.**     **Utility Easements.** The Declarant reserves to itself (and its successors or assigns) for so long as the Declarant owns any of the Property, and the Association thereafter, the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the Property and the Common Property upon, over, under and across the Property. Said easements shall only be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal lines and systems, pipes, wires, fiber optics lines, power lines, telephone service, gas lines, syphons, valves, gates, pipelines, cable television service, alarm systems and all machinery and apparatus appurtenant thereto, to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Property and Common Property, all pursuant to and in compliance with, all applicable permits, rules and regulations of any applicable governmental authorities. All such easements to be of a size, width and location as Declarant (or the Association, if after Turnover), in its discretion, deems best but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Property.

**Section 3.**     **Declarant Easements.** The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees. Declarant reserves the right to impose further restrictions and

to grant or delegate additional easements and rights-of-way on any of the Property owned by Declarant. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Property. Declarant reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of security and television cables and wire within the rights-of-way, Common Property, and easement areas referred to hereinabove.

Section 4. Service Easements. Declarant hereby reserves to itself (and its successors or assigns) for so long as the Declarant owns any of the Property, and the Association thereafter, the right to grant to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carrier, representatives of electrical, telephone, cable television and other utilities authorized by the Declarant, its successors or assigns to service the Property, and to such other persons as the Declarant from time to time may designate, nonexclusive, perpetual easement rights over and across the Common Property for the purpose of performing their authorized services and investigations.

Section 5. Right of Entry. The Association shall have the right, but not the obligation, to enter onto any Residential Property for emergency, security, and safety, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter onto any Residential Property to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 6. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between all Residential Property and such portion or portions of the Common Property adjacent thereto due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner or the Association.

Section 7. Drainage Easements. There is hereby created, declared and reserved for the benefit of Declarant, the County, the Association and all Owners a non-exclusive easement for stormwater management, collection, retention, detention and drainage under, over, upon and within all portions of the Property included within the Surface Water Management System, including, but not limited to, all drainage easements, ponds and tracts shown on any plat of the Property, together with an easement and license in favor of the Declarant, the County, the SFWMD and the Association only to enter upon such areas, and as necessary other portions of the Property adjacent thereto, for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing any and all stormwater drainage systems, improvements and facilities including, but not necessarily limited to, berms, swales and retaining walls, from time to time located therein or thereon consistent with the



plans for the Surface Water Management System. Additionally, Declarant, for the benefit of itself, the County, the SFWMD, the Association and all Owners, hereby reserves easements over any and all other portions of the Property as may be reasonably required from time to time in order to provide stormwater 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 Residential Property. The foregoing easements are sometimes hereinafter referred to as the "Stormwater Easements."

The Declarant intends to construct berms and drainage swales within portions of the Stormwater Easements for the purpose of managing and containing the flow of surface water, if any. Each Owner, including builders, shall be responsible for the maintenance, operation and repair of the berms and drainage swales on their respective Residential Property. Likewise, the Association shall be responsible for the maintenance, operation and repair of the berms and drainage swales that are not located on Residential Property (e.g. within the Common Property). Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the berms and drainage swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SFWMD. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the berms and drainage swales is prohibited. No alteration of the berms and drainage swales shall be authorized and any damage to any berms and drainage swales, whether caused by natural or human-induced phenomena, shall be repaired and the berms and drainage swales returned to their former condition as soon as possible by the party (i.e. Owner or the Association) having responsibility for the maintenance of the damaged berms and drainage swales.

Section 8. Wall, Entrance Feature and Landscape Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant and the Association an easement over and upon all wall, entrance feature and landscape easement areas shown on any plat of the Property ("Wall and Landscape Easements") together with an easement and license to enter upon such Wall and Landscape Easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing any and all entrance features, screening walls or fences, and the installation and irrigation of any landscaping therein, which may be required by the County and/or deemed to be necessary or desirable by Declarant or the Association.

Section 9. Planting and Screening Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant and the Association an easement for planting and screening purposes ("Planting and Screening Easements") over and upon all planting and screening easement areas, entry ways, medians and landscape buffers shown on any plat of the Property, if any, or hereafter declared by Declarant, together with an easement and license to enter upon such areas for the purposes of installing, maintaining, inspecting, repairing and replacing any and all landscaping, including trees, grasses, shrubs, bushes, ground covers and other plant materials and irrigation systems of any kind, whether the same shall be required by the County and/or deemed necessary or desirable by Declarant or the Association.



Section 10. Construction and Marketing Easements. There is hereby created, declared, granted and reserved for the benefit of Declarant together with the right to grant, assign and transfer the same to Declarant's sales agents and 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 Residential Property and an easement for marketing activities and signs on Residential Property and for the maintenance on Residential Property from time to time of model centers in which and from which Declarant and its authorized sales agents and sales representatives and approved builders and building contractors may engage in marketing and information activities on a temporary basis during the period of the development of and construction within the Property ("Construction and Marketing Easements"), provided, however, that such marketing activity shall be conducted from and within buildings constructed as single family residential dwellings which are temporarily used for such activities and which are thereafter to be sold, used and occupied as single family residential dwellings. The location of such model centers may be changed from time to time by Declarant, in its sole and absolute discretion.

Section 11. Association Easements. There is hereby created, declared and granted to the Association, such easements over and upon all or any portion of the Property, as may be reasonably necessary to permit the Association to carry out and discharge its duties, obligations and responsibilities under and pursuant to this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association ("Association Easements"). Such Association Easements shall be in addition to the Stormwater Easements hereinabove granted to the Association pursuant to Section 7 of this Article VII.

Section 12. Sidewalk/Bike Path Easements. There is hereby created, declared and reserved for the benefit of the Declarant, the Association and all Owners an easement for sidewalk/bike path purposes over, within and upon all sidewalk and/or bike path easement areas as shown on any plat of the Property, or as depicted on the Land Use Plan as areas upon which sidewalks/bike paths will be constructed ("Sidewalk/Bike Path Easements"), for the purposes of constructing, installing, maintaining, repairing and replacing from time to time the sidewalk/bike path system for the Property. All such benefitted parties shall have a non-exclusive easement for pedestrian ingress, egress and passage over and upon any sidewalks from time to time located, constructed, installed and maintained within said Sidewalk/Bike Path Easement areas.

Section 13. Conservation Easements. Declarant reserves the right to grant Conservation Easements to qualified grantees over and across Common Property, lakes, open space, areas dedicated to the use of the general public, or all or any portion of the Surface Water Management System or any other portion of the Property as required by the SFWMD in connection with any permits or other approvals associated with the Surface Water Management System. Upon establishment of any such Conservation Easements, the related Conservation Areas subjected to such easements shall be subject to the restrictions set forth in this Article VII, Section 13. The Conservation Areas, or the Association's interest therein, shall be Common Property and the Conservation Areas shall be the perpetual responsibility of the Association and may in no way be altered from their natural state, except as specifically provided in the Conservation Easements.

Section 14. Future Easements. There is hereby reserved to Declarant and its successors and assigns, together with the right to grant and transfer the same, the right, power and privilege to, at any time hereafter, grant to itself, the Association, the County 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 discretion of Declarant, subject to the reasonable approval of the County, for the future orderly development of the Property in accordance with the objects and purposes set forth in this Declaration. Any such easement(s) shall be recorded in the Public Records of the County. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon Residential Property if any such easement shall unreasonably interfere with an Owner's plans to use or develop a particular Lot as a single family residential home site. The easements contemplated by this Section 14 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 any other persons including, but not necessarily limited to, the Owner of, or the person holding the mortgage on, the particular portion of the Property over which any such further or additional easement is granted or required.

Section 15. Extent of Easements. The rights and easements of enjoyment created in this Article VII shall be subject to the following:

A. The right of the Declarant or the Association, in accordance with the Articles of Incorporation and Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Property and providing services authorized herein and, in aid thereof, to mortgage said Property.

B. The right of the Association to suspend the rights and easements of enjoyment of any Member for any period during which any Assessment remains unpaid, and for any period, not to exceed sixty (60) days, for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the Assessment.

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Common Property.

D. The Board shall have the power to place (and remove after notice) any reasonable restrictions upon any roadways owned by the Association including, but not limited to, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of such roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

E. The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Property (including leasehold interest therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association provided that no such gift or sale or determination for such purposes or conditions shall be effective unless the same shall be authorized by two-thirds (2/3) of the votes of Members of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent at least thirty (30) days prior to such meeting to every Voting Member. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

## **ARTICLE VIII** **ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Residential Property shall, by acceptance of a deed therefor or other form of conveyance thereof, regardless of whether it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay the Association: (1) Annual Assessments and (2) Special Assessments, all fixed, established and collected from time to time as hereinafter provided. The Assessments together with such interest thereon and costs of collection provided herein shall be a charge and continuing lien as provided herein on the real property and improvements of the Owner against whom each such Assessment is made. Assessments, together with such interest thereon and cost of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the Assessment first became due and payable. In the case of co-ownership of Residential Property, all of such co-owners shall be jointly and severally liable for the entire amount of the Assessment.

The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Property or by the abandonment of the property against which the Assessment was made. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for the inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association may be used for the acquisition, improvement, maintenance, enhancement and operation of the Common Property and to provide services and perform functions which the Association is authorized or required to perform pursuant to this Declaration, including, but not limited to, the payment of taxes and insurance, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out

its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions.

Section 3. Capital Budget and Reserve Fund Contribution. The Board shall annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost to be incurred by the Association, and shall establish a reserve fund for such anticipated expenditures. The Board shall set the required reserve fund, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing of Annual Assessments over the period of the budget. The reserve fund required, if any, shall be fixed by the Board and included within and distributed with the budget and Annual Assessment. Any reserve fund established by the Board shall be held in an interest-bearing account or investments.

Section 4. Timing of and Budgeting for Annual Assessments. It shall be the duty of the Board, at least once each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared in accordance with Section 3 hereof.

The Annual Assessments to be levied for the coming year against each Residential Property subject to Assessment, shall be computed by dividing the budgeted Common Expenses by the sum of all Lots and Units, as the case may be. The resulting figure shall be the "Assessment per Lot/Unit." Except as set forth in Section 6 below with respect to Declarant, Class A Members, Class B Members and Class C Members shall pay the Assessment per Lot/Unit for each Lot/Unit owned by such Member.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Annual Assessment to be levied against each parcel of Residential Property for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Voting Members (and/or their representatives) by the vote of Voting Members representing at least a majority of each class of Members entitled to vote. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in the Bylaws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

At the discretion of the Board, the Annual Assessments for any year may be paid by Owners in quarterly installments due and payable by the first (1st) day of January, April, July and October





of each year. Absent any such determination by the Board permitting payment in quarterly installments, the Annual Assessment for any year shall be due and payable by January 1 of such year. Any Annual Assessment not paid by January 15, if payable in one lump sum, or the fifteenth (15th) day of January, April, July or October if paid quarterly, shall be considered delinquent.

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

Section 5. Special Assessments. The Association may levy, from time to time, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, or the unexpected repair or replacement of any capital improvement to or upon the Common Property or the cost of the initial purchase or any subsequent unexpected repair or replacement of any equipment or personal property purchased, repaired or replaced by the Association in furtherance of the discharge of its duties and obligations pursuant to this Declaration. The obligation to pay Special Assessments shall be computed on the same basis as for Annual Assessments; provided, however, that if the Special Assessment is made with respect to Limited Common Property, then the Owners designated by Declarant to utilize and realize the benefits of the Limited Common Property shall be responsible for, and shall be assessed, the Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Owner to reimburse the Association for costs incurred pursuant to Article VI, Section 5 in bringing an Owner or its Residential Property into compliance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, or the Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Owner and an opportunity for a hearing.

Section 6. Assessment of Declarant. Notwithstanding any provision of this Declaration, the Articles of Incorporation or Bylaws to the contrary, Declarant may, at its sole option, for as long as there is Class C membership in the Association, in lieu of paying any Assessment imposed on any Residential Property owned by the Declarant, pay only the deficit, if any, between the total amount of the Assessments and the actual costs incurred by the Association to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses. Notwithstanding anything in the foregoing to the contrary, Declarant shall have no responsibility for operating deficits of the Association except to



the extent that Declarant elects to pay such deficits in lieu of any Assessment as described above. Upon termination of the Class C membership in the Association, as hereinabove provided, the Assessments against any Residential Property owned by Declarant shall be assessed against Declarant as a Class A Member or Class B Member, as appropriate, consistent with Declarant's ownership of such Residential Property. After the Class C membership has been terminated, Declarant shall have no responsibility for operating deficits of the Association.

Section 7. Duties of the Board. The Board shall prepare a roster of Owners and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Section 8. Working Capital. For Lots sold after the date this Declaration is recorded in the Public Records of Orange County, Florida, upon acquisition of record title to a Lot by the first purchaser thereof other than (i) the Declarant and (ii) an Owner who purchases solely for the purpose of constructing a dwelling thereon for resale, and in addition to any Assessment that may be due with respect to such Lots for such year, a contribution shall be made by or on behalf of such first purchaser to the working capital of the Association in an amount equal to the greater of: (i) One Hundred and No/100 Dollars (\$100.00), or (ii) two-twelfths (2/12) of the amount of the Annual Assessment per Lot for the calendar year in which such acquisition occurs, which contribution is not refundable, shall be in addition to, and not in lieu of, the Annual Assessment levied on the Lot and shall not be considered an advance payment of any portion of the Annual Assessment. This amount shall be paid to the Association and shall be used for operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 9. Effect of Non-Payment of Assessment; Personal Obligation of the Owner; Lien; Remedies of Association. If any Assessment is not paid on the date due, then such Assessment shall become delinquent and the entire Assessment, including future annual installments of such Assessment, shall, together with interest thereon and cost of collection thereof as hereinafter provided, become due and payable and be a continuing lien on the Residential Property that is the subject of such Assessment which shall bind such property in the hands of the then Owner, the Owner's heirs, devisees, personal representatives, successors and assigns. The obligation of the Owner to pay such Assessment, however, shall remain a personal obligation, notwithstanding any disposition by such Owner of the Residential Property that is the subject of such Assessment. The Association may record a notice of lien for delinquent Assessments in the Public Records and foreclose the lien in the same manner as a mortgage. Upon recording, the lien shall secure not only the amount of delinquency stated therein, but also all unpaid Assessments thereafter until satisfied of record.

If the Assessment is not paid when due, the Assessment shall bear interest from the date of delinquency at the highest rate allowed by Florida law, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Residential Property, and there shall be added to the amount of such Assessment the costs incurred by the Association in connection with such action, and in the event a judgment is obtained, such

judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

The Association, acting on behalf of the Owners, shall have the power to bid for the Residential Property at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which Residential Property is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Residential Property shall be charged, in addition to its equal assessment, its pro rata share of the Assessment that would have been charged such Residential Property had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment against an Owner for unpaid Common Expenses and attorney's fees and costs shall be maintainable without foreclosing or waiving the lien securing the same.

In the event that any delinquent Assessment is not paid within ninety (90) days after the delinquency date, the Owner's right to vote in Association matters shall be suspended, to be reinstated only upon payment in full of such delinquent Assessment.

Section 10. Subordination of the Lien to the Mortgages; Mortgagees' Rights. The lien of the Assessments provided for herein is subordinate to the lien of any first Mortgage given to an Institutional Lender now or hereafter placed upon Residential Property; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment. Upon such sale or transfer, voting rights with respect to such Residential Property, that may have been suspended due to the failure of payment of any Assessments that were due and payable prior to such sale or transfer, shall be reinstated.

An Institutional Lender, upon request, shall be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured. The Association may provide such notice without receiving a request from the Institutional Lender.

Section 11. Certificates of Status. The Association shall, upon demand at any time, furnish to or on behalf of any Owner a certificate in writing signed by an officer or management agent of the Association setting forth whether all Assessments levied hereunder have been paid as to any particular Residential Property, whether, to the best knowledge of such officer or agent, any Residential Property or Owner thereof is in compliance with the terms and provisions of this Declaration, including, but not limited to, compliance with architectural guidelines and restrictive covenants set forth in Articles IX and X, and as to any other matters pertaining to any Residential Property, any Owner or Member as may reasonably be requested. Such certificate shall be conclusive evidence of payment to the Association of any Assessment therein stated to have been paid. The Association may require the advance payment of a processing fee, not to exceed Fifty and No/100 Dollars (\$50.00), for the issuance of such certificate.

Section 12. Exempt Property. All Common Property, and any portions of the Property fee simple title to which is dedicated to and accepted by any governmental authority, shall be excepted and exempt from the Assessments, charges and liens created in this Article VIII.

## ARTICLE IX ARCHITECTURAL CONTROL

Section 1. Reservation of Architectural and Landscape Control. In order to ensure that the development of the Property will proceed pursuant to a uniform plan of development and construction and in accordance with consistent architectural, ecological, environmental and aesthetic standards, including any architectural or design guidelines or standards contained in any governmental permit, approval, ordinance, rule or regulation, or the like, applicable to the Property, Declarant shall have and hereby reserves exclusively unto itself for the duration hereinafter specified, the right, privilege, and authority to review, approve and control the design, placement, construction, erection and installation of any and all buildings, structures and other improvements of any kind, nature or description, including landscaping, upon all Lots, Blocks and Common Property, including further, without limitation, approval of the identity of any and all persons or entities performing construction, reconstruction or repair work to such buildings, structures and other improvements. Declarant's approval of any of the foregoing items may be granted or withheld in the sole discretion of Declarant or its designee. In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in the interest of the Declarant and shall owe no duty to any other person, including any Member or Owner. Such right and control of Declarant shall be exercised in the manner and pursuant to the same procedures as is hereinafter provided in this Article IX for the ARB. Declarant may elect to delegate the aforesaid right, privilege and authority to the Association, acting through the ARB. Declarant may rescind or revoke the delegation of this right, privilege and authority at any time, and for any reason, whereupon Declarant shall once again have the exclusive possession of such rights, power, duties and authority. The aforesaid right, privilege and authority shall remain with Declarant until such time as the Declarant has divested itself of title to all of the property located within the area included in the Lake Sawyer Neighborhood. There shall be no prior surrender of the aforesaid right, privilege and authority except as provided in this Section 1.

Section 2. Architectural Review Board. The Association shall at all times maintain an ARB, as a standing committee consisting of at least three (3) persons, to perform the ARB functions described in this Declaration for the Property. Until such time as the Declarant has divested itself of title to all of the property located within the area included in the Lake Sawyer Neighborhood, it shall have the right to designate all three (3) members of the ARB. Upon expiration of the foregoing described right of the Declarant, the ARB members shall be appointed by, and serve at the pleasure of, the Board.

The purpose of the ARB shall be to exercise the right, privilege and authority to review, approve and control the design, placement, construction, erection and installation of buildings, structures and other improvements upon the Lots, Blocks and Common Property on behalf of, or as delegated to the Association and ARB by, Declarant as described in Section 1 above including, but not limited to, review and approval of plot plans and construction plans and specifications for all



Blocks and Lots within the Property in order to ensure that the Property is developed consistent with the terms and provisions of this Declaration and any Architectural Guidelines promulgated by the Declarant or the ARB. Subject to the Declarant's, or Board's if delegated to the Association, discretionary review and approval of same, the ARB shall have the authority to promulgate procedures, rules and regulations (including, but not limited to, the Architectural Guidelines) with respect to any aspect of the actions contemplated in this Declaration to be taken by the ARB. The ARB also has the right to elect, in its reasonable discretion, to waive, vary or modify standards or procedures (whether such standards and procedures are set forth in this Declaration, the Architectural Guidelines or in the rules and regulations adopted by the ARB pursuant to this Declaration) for the review and approval of plot plans or construction plans and specifications, such waiver or modification to be in writing and signed by a majority of the members of the ARB. Refusal to approve plans, specifications and plot plans, or any of them, may be based on any ground, including purely on aesthetic grounds, which in the sole and absolute discretion of the ARB are deemed sufficient. Any change in the exterior appearance of any building, wall, fencing or other structure or improvements, and any substantial change in the appearance of the landscaping, shall be deemed an alteration requiring approval.

If and to the extent required by the laws of the State of Florida, the Bylaws governing meetings of the Board shall likewise apply to meetings of the ARB, otherwise no particular formality is required for any of the ARB's proceedings, including any hearing, nor is any record required. A majority of the ARB may take any action the ARB is empowered to take, may designate a representative to act for the ARB and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARB, a successor shall be appointed.

The ARB shall act on submissions to it within thirty (30) days after receipt of the same (and all further documentation required), but its failure to do so shall not result in, or be deemed to mean, that the ARB has approved of the item submitted.

Section 3.     Lots. No building, wall, fence, or other structure or improvement of any nature (including, but not limited to, landscaping, exterior materials, paint or finish, hurricane protection, basketball hoops, children's play structures, birdhouses, other pet houses, swales, asphaltting or other improvements or changes of any kind) shall be commenced, erected, placed, repaired, modified or altered on any Lot without approval of the ARB. In order to obtain ARB approval, the person intending to make the improvements must submit to the ARB (i) a plot plan for the Lot showing the location on the Lot of all improvements, existing or proposed, and (ii) the construction plans and specifications showing such things as building elevations (for all exterior walls), materials (including size and quantity information) and colors. The ARB shall have no obligation to approve the plot plan or construction plans and specifications with respect to any Lot until the "Block Plan" (described in Section 4 below) for the Block within which the Lot is located has been received and approved by the ARB. In this regard, no plot plan or construction plans and specifications for a Lot shall be inconsistent with such approved Block Plan.

Section 4.     Blocks. No building, wall, fence or other structure or improvement of any nature (including, but not limited to, landscaping, exterior materials, paint or finish, hurricane



protection, basketball hoops, children's play structures, bird houses, other pet houses, swales, asphaltting or other improvements or changes of any kind) shall be commenced, erected, placed, repaired, modified or altered on any Block until plans and specifications depicting such matters as building elevations, landscaping, building materials and colors ("Block Plan") have been approved in writing by the ARB.

Section 5. ARB Fees; Assistance. The ARB shall be entitled to charge a review and processing fee for each submittal received by it, whether same is received with respect to an individual Lot or with respect to a Block Plan. The ARB may employ architects, engineers or other professionals, as deemed necessary, to perform the reviews contemplated in this Article IX and shall be entitled to include in its fees the reasonable costs incurred to retain such architects, engineers or other professionals.

Section 6. Architectural Guidelines. The ARB shall have the authority to, from time to time, adopt and amend architectural guidelines which contain general and specific criteria, guidelines, and other provisions applicable to, and which must be satisfied in connection with, development of the Property and the ARB's approval thereof, including, but not limited to, any Lots and Blocks ("Architectural Guidelines"); which Architectural Guidelines may not conflict with any provisions of this Declaration. The ARB shall make the Architectural Guidelines available to Owners who seek to engage in development or construction within the Property. The ARB shall have the sole and absolute authority to amend the Architectural Guidelines, which amendments shall be prospective only and shall not apply to, require modifications to or removal of, structures previously approved by the ARB, provided that construction or modification of such structure has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the ARB in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for decisions of the ARB and compliance with the Architectural Guidelines does not guarantee approval of any application. In addition to the Architectural Guidelines, any improvements constructed upon the Property, including, but not limited to, any Lot or Block, must comply with all of the covenants and restrictions contained in this Declaration (however, such compliance does not automatically entitle an applicant to ARB approval of its planned improvement).

Section 7. Inspection and Noncompliance. The ARB shall have the right to enter upon and inspect any Lot at any time prior to, during or after the construction or alteration of improvements on such portion to ensure compliance with its approvals and requirements. If, during the inspection, the ARB finds that the work was not performed, or the improvements were not constructed, in substantial compliance with plans approved by the ARB; or if during subsequent inspection the ARB notes that previously inspected improvements are not being maintained in compliance with the ARB's approvals and requirements or with the aesthetic standards or other standards imposed by the ARB, then the ARB shall notify the Owner in writing of such noncompliance. Such written notice shall specify the particular areas of noncompliance and shall demand that the Owner immediately bring such improvements into compliance.

Section 8. Enforcement. If an Owner shall have failed to remedy a noncompliance within thirty (30) days from the date of the notice described in the previous section, the ARB shall notify the Board in writing of such failure. The Board shall demand that the Owner remedy or remove the noncomplying improvements within a period of not more than fifteen (15) days from the date of such demand. If the Owner does not comply within that period, the Board, in its sole discretion, may either remove the noncomplying improvement or remedy the noncomplying improvement, and the Owner shall reimburse the Association for all expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees and other costs of litigation connected therewith, which fees and costs shall include those caused by reason of any appellate proceeding, re-hearing, appeal or otherwise. If such expenses are not promptly reimbursed, the Board shall levy a special assessment against the Lot upon which the noncomplying improvement is located. In addition to the above, the Association may exercise any other remedy available to it under this Declaration.

Section 9. No Liability for Actions. Neither the ARB, the Declarant, the Association, the Board, nor any of their members, officers, directors or duly authorized representatives, shall be liable to any person or entity for any loss, damage, injury or inconvenience arising out of or in any way connected with the performance or nonperformance of the ARB's duties under this Declaration.

Section 10. No Waiver. If, for any reason, the ARB fails to notify an Owner of any noncompliance, such failure shall not relieve the Owner from the requirements to comply with all provisions of this Declaration.

Section 11. Exemption of Declarant. Declarant shall be exempt from the provisions of this Article IX and shall not be obligated to obtain ARB approval for any construction or change in construction or alterations to improvements which Declarant may elect to make at any time.

## ARTICLE X RESTRICTIVE COVENANTS

Section 1. Applicability. This Article X contains restrictive covenants applicable to the use of all or certain portions of the Property, as more particularly set forth herein ("Use Restrictions"). All Owners are hereby given notice that use of the Residential Property and the Common Property is bound, restricted and limited by the Use Restrictions, as they may be amended, expanded and otherwise modified consistent with the provisions of this Article X. Each Owner, by acceptance of a deed for any portion of the Property, hereby acknowledges and agrees that the use and enjoyment and marketability of the Residential Property can be affected by the Use Restrictions and that the Use Restrictions may change from time to time, and all purchasers of any portion of the Property are hereby placed on notice that the Use Restrictions as initially set forth in this Article X may have been amended, expanded or otherwise modified. Copies of the current Use Restrictions may be obtained from the Association. The Use Restrictions shall not be applicable to those portions of the Property owned by Declarant, but shall be applicable to such portions of the Property immediately upon conveyance thereof by Declarant. The Use Restrictions do not, however,

constitute all restrictions, restraints, criteria, conditions or constraints associated with development of the Property and the Property is also subject to all restrictions, restraints, criteria, conditions and constraints as are set forth in any and all permits or approvals applicable to development of the Property, including, but not limited to, all such restrictions, restraints, criteria, conditions and constraints set forth in the Lake Sawyer Neighborhood PD.

Section 2. Land Use and Building Type. No Lot, nor building on a Lot, shall be used for any purpose other than residential purposes and no Lot shall have more than one (1) residential structure. Temporary uses by Declarant and its affiliates or assigns for model homes, sales displays, parking lots, sales offices, and other offices, or any one or combination of such uses, shall be permitted until permanent cessation of such uses takes place. No changes may be made in buildings erected by Declarant or its affiliates (except if such changes are made by Declarant) without the consent of the ARB as provided herein.

Section 3. Mining or Drilling. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise undertaken within any portion of the Property. Excepted from the foregoing shall be activities of Declarant, or any assignee of Declarant, in dredging water areas, creating land areas from water areas or creating, excavating or maintaining drainage or other facilities or easements, and the activities of Declarant or any Owner in connection with the installation of wells, pumps or sprinkler systems, as approved by the Association, shall be in compliance with applicable governmental requirements.

Section 4. Subdivision or Partition. No portion of the Property shall be subdivided except with the prior written consent of Declarant.

Section 5. Use of Easement Areas. Utilities easements are reserved as shown on the recorded plats covering the Property and as provided in this Declaration. No structure, planting or other material may be placed or permitted in these easements that will interfere with or prevent the maintenance of utilities. The area of each Lot included within these easement areas shall be maintained continuously by the Owner of the Lot, except as may be provided herein to the contrary and except for installations for which a public authority, agency or utility company is responsible. All utilities and lines within the subdivision, whether in street rights-of-way or in utility easements, shall be installed and maintained underground.

Section 6. Restriction Against Short Term Rentals. There shall be no "short term" rentals of any dwellings, or portions thereof, on any Lot. For purposes of this Declaration, a "short term" rental shall be defined as any rental for a period of less than six (6) full calendar months.

Section 7. Minimum Square Footage. No building shall be erected, altered, placed, or permitted to remain on any Lot other than (i) one (1) detached, single-family residence with air conditioned living area of not less than: 1,700 square feet for 50 foot or smaller Lots, 2,000 square feet for 60 foot Lots, 2,400 square feet for 70 foot, 80 foot and 90 foot Lots, and 2,500 square feet for 100 foot or larger Lots or (ii) one (1) attached single-family residence with air conditioned living area of not less than 1,000 square feet; and in each case a private enclosed garage for not less than



two (2) nor more than three (3) cars; provided, however, that the ARB shall have the authority to approve variances or modifications to the aforescribed air conditioned living area requirements when circumstances such as irregular lot shape or topography or natural obstructions prevent construction upon a Lot of a single-family residence in compliance with such air conditioned living area requirements. For purposes of this Declaration, the size of a Lot shall be measured based on the width of the Lot at its front yard building setback line. Unless approved by the ARB as to use, location and architectural design, no garage, tool or storage room or other auxiliary structures may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior in time to the construction of the main residence. No guest house is to be constructed on any Lot unless the location, use and architectural design is approved by the ARB.

Section 8.      Roofs. Roofs shall have a pitch of at least 4/12 unless otherwise approved by the ARB. Flat roofs shall not be permitted unless approved by the ARB. Such areas where flat roofs may be permitted are Florida rooms, porches, and patios. There shall be no flat roofs on the entire main body of an improvement. The ARB shall have discretion to approve flat roofs on part of the main body of an improvement, particularly if modern or contemporary in design. No built-up roofs shall be permitted, except on approved flat surfaces.

Section 9.      Garages. Each Lot shall be developed to include at least a two (2) car garage. All garages must have a minimum width of twenty feet (20') for a two (2) car garage, or thirty (30) feet for a three (3) car garage; measured from the exterior walls of the garage. All garages must have a minimum depth of twenty (20) feet on two (2) stalls of the garage, measured from the inside walls of the garage. Side-entry garage entrances and rear-yard garage entrances are encouraged where feasible. The ARB shall have the authority to approve all garages. All garages must have: (i) for a two car garage, a single overhead door with a minimum door width of sixteen (16) feet or two (2) overhead doors with a minimum width of seven (7) feet each; or (ii) for a three car garage, an overhead door with a minimum door width of eight (8) feet and an overhead door with a minimum door width of sixteen (16) feet, or three (3) overhead doors, each with a minimum door width of eight (8) feet.

Section 10.     Driveways. Paved driveways extending to a public right-of-way and at least ten (10) feet in width shall be constructed at the entrance to the garage. All driveways must be constructed, at a minimum, of concrete. The concrete shall be scored to provide for expansion. Alternate patterns, materials or banding combined with the concrete to provide scale and visual interest is encouraged, subject to ARB approval. When curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be acceptable to the ARB. A five (5) foot concrete sidewalk is required on each Lot and shall connect with the sidewalk on adjacent Property, corner Lot, front and side. No driveway shall be any closer than two (2) feet from the side yard property line.

Section 11.     Concrete Block. Concrete block shall not be permitted on the exterior of any house or detached structure, unless finished with stucco. The ARB shall discourage the use of imitation brick and encourage the use of materials such as brick, stone, wood and stucco, or a combination of the foregoing.

Section 12. Walls, Fences, Hedges and Hurricane Panels. No wall or fence shall be constructed on any Lot until its height, location, design, type, color, composition and material, including posts and post caps shall have first been approved in writing by the ARB. Wood and Chain link fences are prohibited. All fences shall be constructed of white PVC material of a style from time to time approved by the ARB.

No wall or fence shall be constructed with a height of more than six (6) feet above ground level of an adjoining Lot, and no hedge or shrubbery abutting the Lot boundary line shall be permitted with a height of more than six (6) feet without the prior written approval of the ARB. Each wall or fence, or portion thereof, constructed forward of the rear building face (excluding detached garages), or the building setback line on corner facing homes (collectively, "Front Yards"), shall be no more or less than four (4) feet in height. The height of any wall or fence shall be measured from the existing property elevations. Front Yard fence panels may not exceed six (6) feet in length and rear yard fence panels may not exceed eight (8) feet in length. Any dispute as to height, length, type, design, composition or material shall be resolved by the ARB, whose decision shall be final. Hurricane or storm shutters may be used on a temporary basis, but shall not be stored on the exterior of any improvement unless approved by the ARB.

Section 13. Landscaping. A landscaping plan for each Lot must be submitted to and approved by the ARB. Unless the ARB finds that extenuating circumstances exist, the ARB will not approve any landscaping plan that does not show a minimum expenditure of at least One Thousand Five Hundred and No/100 Dollars (\$1,500.00) per Lot, exclusive of costs for irrigation systems, sod and trees planted between any sidewalk and any right-of-way adjacent to such Lot, and subject to adjustment, to account for inflation and increases in the costs of labor and materials, pursuant to the rules and regulations of the ARB. Sod must be Floratam St. Augustine grass or its equivalent, and will be required on all yards. Each Lot must have shrubs on front and side yards. Landscaping shall be provided along the side property line on the garage facing side of the lot as a buffer to the neighbor. Side yard buffer plants shall not extend any closer than ten (10) feet to the right of way line. Each Lot shall be required to have the front, rear and side yards irrigated by an automatic sprinkler system providing full coverage, as approved by the ARB. Each Lot shall be required to have at least one (1) tree planted between the sidewalk and right-of-way adjacent to such Lot; provided, however, that for corner Lots the street tree requirement shall be three (3) trees, one (1) tree in the area adjacent to the front yard and two (2) trees in the area adjacent to the side yard.

A Xeriscape or Florida Friendly Landscape landscaping plan for a Lot will be permitted as and to the extent required by applicable Florida law, including, but not necessarily limited to, Florida Statutes Section 720.3075(4), as same may be amended from time to time. For purposes of this Declaration, "Xeriscape" or "Florida Friendly Landscape" means quality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought-tolerant, and the principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance. The foregoing definition may be modified by the ARB from time to time consistent with applicable Florida law. Any Xeriscape or Florida

Friendly Landscape landscaping plan will be subject to review and approval by the ARB, consistent with the terms of this Declaration and the rules and regulations of the ARB, including, but not necessarily limited to, any rules or regulations of the ARB or Use Restrictions enacted by the Association governing the implementation of Xeriscape or Florida Friendly Landscape landscaping plans within the Property.

Section 14. Maintenance. Each Owner shall maintain its Residential Property, including all landscaping and improvements, in a manner consistent with this Declaration, the rules and regulations of the Association and the Community-Wide-Standard. Unless and until maintenance of such areas is assumed by the Association, each Owner shall also be responsible for maintaining and irrigating landscaping lying between the boundary of such Owner's Residential Property and any public right-of-way or any wall or fence; provided, however, that no Owner shall remove any trees, shrubs or other vegetation from these areas without the prior written approval of the Association.

Section 15. Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected on any Lot unless and until the size, location, design, color and type of material for said boxes or receptacles shall have been approved by the ARB. If and when the United States mail service or the newspaper or newspapers involved shall indicate a willingness to make delivery to the individual dwellings, the type and placement of such receptacles shall be determined by the ARB.

Section 16. Utility Connections. All connections for utilities including, but not limited to, water, sewerage, electricity, gas, telephone and television shall be run underground from the proper connecting points to the improvement in such a manner to be acceptable to the governing utility authority.

Section 17. Approved Builders. All construction, reconstruction and repair work shall be performed by a licensed residential building contractor approved by the Declarant or the ARB. If a Lot has been sold to an approved contractor, any subsequent purchaser shall be required to comply with this paragraph.

Section 18. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, household, domesticated pets as allowed by Orange County Code may be kept on each Lot so long as they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance. The keeping of pets shall be governed by rules and regulations of the ARB. Dog houses/fenced runs shall be submitted for approval to the ARB.

Section 19. Commercial Trucks, Trailers, Campers and Boats. No commercial vehicle, recreational vehicle (including, but not limited to, personal water craft, all terrain vehicles, two-wheeled dirt bike motorcycles and boats), camper, mobile home, motor home, boat, house trailer, boat trailer or trailer of any other description, shall be permitted to be parked or to be stored at any place on the Property, unless Declarant designates specifically certain spaces for some or all of the above. Provision for temporary visitation may be established by the ARB. This prohibition of

parking shall not apply to temporary parking of commercial vehicles, such as for pick-up and delivery and other commercial services, nor to vehicles for personal use (including personal water craft, recreational vehicles, boats and boat trailers) which are stored within enclosed garages and are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time), nor to any vehicles of Declarant or its affiliates or any building contractor designated by Declarant in writing.

Any vehicle parked in violation of these or other restrictions contained herein, or in the ARB's rules and regulations, may be towed by the Association at the sole expense of the owner of such vehicle, if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reasons, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes, personal water craft, all terrain vehicles, boats and trailers; and an affidavit of the person posting such notice stating that it was properly posted shall be conclusive evidence of proper posting.

No vehicles commonly known as "three-wheelers", "two-wheel dirt bikes", "all-terrain vehicles", or "go carts" or any other form of similar motorized transportation shall be operated on the Property.

Section 20. No Outdoor Drying. No clothing, laundry or wash shall be aired or dried outside of any building structure on any Lot and no outdoor drying apparatus shall be placed on any Lot, unless such clothing, laundry, wash and drying apparatus are fully screened from view from adjacent property and streets by fencing or landscaping.

Section 21. Unit Air Conditioners, Screening of Equipment and Reflective Materials. No air conditioning units may be mounted through windows or walls unless approved by the ARB. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the ARB for energy conservation purposes. All air conditioning units, l.p. tanks, and pool pumps and other equipment must be screened from view from the adjacent street by a brick, stone, masonry wall (stuccoed) or wood fence or if the rear yard of the Lot abuts a water retention area or pond, then screened from view from the water retention area or pond by appropriate landscaping. All masonry walls and wood fences erected for such purposes must be painted. All such fences and walls shall be properly maintained by Owner.

Section 22. Exterior Antennas. No exterior antennas and no citizen band or short wave antennas or satellite dishes in excess of eighteen inches (18") in diameter shall be permitted on any Lot or improvement thereon, except that Declarant and its affiliates shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines. The location of any approved satellite dish must be approved by the ARB, which may



require appropriate screening; provided, however, that the satellite dish shall be allowed in the least obtrusive location where the satellite signal may be received.

Section 23. Chain Link Fences. No chain link fences shall be permitted on any Lot or portion thereof, unless installed by Declarant or its affiliates during construction periods.

Section 24. Skateboard Ramps. No ramps or other structures for skateboards, roller blades, scooters or similar equipment shall be permitted on any Lot or on the Property at any time.

Section 25. Solar Heating Panels. For aesthetic purposes, the location, type and design of solar heating panels must be approved by the ARB prior to installation, which may require landscape screening, and shall be installed so as not to face any street.

Section 26. Basketball Goals and Equipment. The location of all basketball goals, backboards, poles and other equipment, whether temporary or permanent, must be approved by the ARB. All backboards must be set behind the front building face and no closer than ten (10) feet from the side property line and must be made of clear Plexiglas or other clear (see through) material approved by the ARB. All basketball poles and other structural apparatus must be painted black. All Owners shall maintain their basketball equipment in good condition. No basketball goals or other basketball equipment shall be permitted on the street-side yard of corner Lots. All basketball goals and other basketball equipment must be located away from streets in the rear yard if the Owner's garage is located by the street-side yard. If the Owner's garage is not located by the street-side yard, normal basketball equipment rules as contained herein shall apply. Time of play of basketball on Lots shall be limited by the ARB.

Section 27. Children's Play Structures. Prior to placement on any Lot, the location of any children's play structure, whether temporary or permanent, shall be approved by the ARB in its sole discretion. Children's play structures shall not have any material coverings or canopies except those approved by the ARB, which may require a specific type, design, material and color. The ARB, in its sole discretion, may require children's play structures to be partially screened by landscaping, trees, fences or walls. Playground structures must be positioned behind the front face of the house and no closer than ten (10) feet from the side property line.

Section 28. Outside Storage and Storage Sheds. No stripped, unsightly, offensive, wrecked, junked or dismantled vehicles, or portions thereof, no furniture or appliances designed for normal use or operation within (as distinguished from outside) a building structure, or any other debris or unsightly material, shall be parked, permitted, stored or located upon any Lot. No open outside storage on any Lot is permitted. No lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot, except for purposes of construction on such Lot, and they shall not be stored for longer than that length of time reasonably necessary for the construction in which same is to be used.

Storage sheds or similar structures are not permitted on any Residential Property; provided, however, that storage rooms attached to the residential structure on Residential Property may be permitted by the ARB as a home addition.

Section 29. Owner's Obligation to Rebuild. If all or any portion of a structure on any Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair, or reconstruct such structure in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, unless prevented by governmental authority, in which case within the time allowed by the governmental authority.

Section 30. Soliciting. No soliciting shall be allowed at any time within the Property.

Section 31. Drainage. All stormwater from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, or retention areas, all in accordance with the applicable governmental approvals. Stormwater from any Lot shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across or under any contiguous or adjacent Lot unless a drainage easement shall exist for same and same is done in accordance with any and all applicable governmental permits and approvals. All work done on any Lot affecting or pertaining to the Lot grade, original drainage plan, the flow of surface water, stormwater drainage, the alteration or removal of any drainage or environmental berm or swale or any storm berm or swale, must be in accordance with the site grading and drainage plans for the Lot as approved by Orange County.

Section 32. Flags. A maximum of one (1) United States flag may be displayed on any Lot or any other unplatted portion of the Residential Property; provided, however, that the flag must be displayed in a respectful way and shall be subject to reasonable standards for size, placement and safety adopted by the Association consistent with Title 36, United States Code, Chapter 10 and any local ordinances.

Section 33. Solar Equipment. No solar heating equipment or devices are permitted outside of any enclosed structure on any Lot, except such devices whose installation and use is protected by federal or Florida law. Notwithstanding such protection, an application for such equipment or device must be submitted for approval to the ARB prior to installation and approval and will be granted only if: (i) such equipment or device is designed for minimal visual intrusion when installed (i.e., is located in a manner which minimizes visibility from the street or any adjacent Lot and is consistent with the Community-Wide Standard); and (ii) the equipment or device complies to the maximum extent feasible with the Architectural Guidelines.

Section 34. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are pre-approved by the ARB or specifically permitted under the Architectural Guidelines. Such containers shall be screened from view from outside of the Lot except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. Rubbish, trash and garbage must be removed from the Lots and may not be permitted to accumulate on any Lot. Outdoor incinerators may not be kept or maintained on any Lot.

Section 35. Pool Equipment. All pool equipment stored on any Lot shall be screened from view from outside the Lot.

Section 36. Specific Restrictions Regarding Florida Power Corporation Easements and Lots 83, 100, 184, 254 and 255. The Property is subject to that certain Easement in favor of Florida Power Corporation set forth in Final Judgment recorded in Circuit Court Minute Book 65, Page 265, and Order of Taking recorded August 12, 1966 in Circuit Court Minute Book 69, Page 302, and that certain Easement recorded June 22, 1966 in Official Records Book 1553, Page 9, all of the Public Records of Orange County, Florida (collectively, "FPC Easements"). The FPC Easements have been modified as specifically set forth in that certain Asset Utilization Agreement issued July 16, 2001, by and between Florida Power Corporation and Declarant ("Utilization Agreement"). Declarant hereby declares and acknowledges on behalf of the Association that any interest acquired by the Association in any Common Property that is encumbered by the FPC Easements, shall be subject to the terms, provisions, encumbrances and restrictions set forth in the FPC Easements and the Utilization Agreement.

Similarly, Declarant hereby acknowledges and declares with respect to Lots 83, 100, 184, 254 and 255, as depicted in the Plat ("FPC Easement Restricted Lots"), that no building, structures or obstacles, including swimming pools, may be constructed upon any portion of the FPC Easement Restricted Lots that lie within the area of the FPC Easements that are in contradiction of the restrictions imposed by the FPC Easements and Utilization Agreement.

Section 37. Use of Name "Lakes of Windermere". No Owner shall use the name "Lakes of Windermere", any logo associated with such name and used by Declarant in connection with the Property, or any derivative of such name or logo in any printed or promotional material or in any activity, without the Declarant's prior written consent. Declarant may, however, use such names and logos with respect to any property or other development activities of Declarant, without the consent of any party, including any Owner.

Section 38. Amendment to Use Restrictions. In furtherance of the purposes of this Declaration, Declarant acknowledges the need for an ability to respond to unforeseen problems, changes in circumstances, conditions, needs, desires, trends and technology which affect the Property and Owners, and in furtherance thereof Declarant hereby establishes that the Association shall have the ability to enact, modify, expand, create exceptions to, limit, cancel and/or otherwise amend the Use Restrictions (for purposes of this Article X, hereinafter an "Amendment"), all upon the terms and conditions as set forth in this Article X. Notwithstanding anything in the foregoing to the contrary, no Amendment of the Use Restrictions shall be permitted without the express written consent of the Declarant for so long as the Declarant shall own at least five percent (5%) of the total number of Lots and Units within the Residential Property. Additionally, no Amendment of the Use Restrictions may be made in violation of the following provisions, except as may be specifically provided in this Declaration:

A. Similarly situated Owners shall, to the extent reasonably practicable, be treated similarly.

B. No Amendment of the Use Restrictions may abridge the rights of Owners to display religious and holiday signs, symbols and decorations inside dwellings on their Lots, except that the Board may adopt time, place and manner restrictions with respect to displays visible from outside the dwelling.

C. No Amendment of the Use Restrictions may interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to limit the total number of occupants permitted in each dwelling within rental property on the basis of the size and facilities of the dwelling constructed on the Lot and such Lot's occupants' fair use of the Common Property.

D. No Amendment of the Use Restrictions may interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with property restricted to residential use, and any activities that create monetary costs for the Association or other Owners, that create a danger to health or safety of other Owners or their family, tenants, guests or other invitees, that cause offensive odors, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance to other Owners, their family, tenants, guests or invitees.

E. No Amendment of the Use Restrictions may prohibit the leasing or transfer of any Residential Property, or require the consent of the Association therefor, pursuant to and consistent with the terms and provisions of this Declaration; provided, however, that the Association may enforce the minimum lease term restrictions as otherwise set forth in this Declaration.

F. No Amendment of the Use Restriction may require an Owner to dispose of personal property which it maintained in or on its Residential Property prior to the effective date of such Use Restriction, or to vacate a dwelling in which it resided prior to the effective date of such Amendment of the Use Restriction, provided that such personal property was maintained, or such occupancy was, in compliance with this Declaration and all Use Restrictions previously in force.

## **ARTICLE XI** **TURNOVER**

Section 1. Time of Turnover. The Turnover of the Association by the Declarant shall occur at the Turnover meeting described in Section 2 below, which meeting shall take place within three (3) months of the occurrence of the following events, whichever occurs earliest:

A. Voluntary conversion by the Declarant to Class A or Class B membership, as appropriate.



B. When 90% of the maximum number of Lots and Units allowed for the Property under the Land Use Plan have been conveyed to Owners.

C. Declarant makes the election, in its sole and absolute discretion, to give written notice to the Association of its decision to cause the Turnover to occur.

Section 2. Procedure of Calling Turnover Meeting. The purpose of the Turnover meeting shall be to elect directors to the Association. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Class A and Class B Members of the date, location, and purpose of the Turnover meeting.

Section 3. Procedure for Meeting. The Turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order.

Section 4. Declarant's Rights. For as long as the Declarant shall own at least five percent (5%) of the total number of Lots and Units within the Residential Property, it shall have the right to appoint one (1) member of the Board and for so long as Declarant shall own or have contracted to purchase any of the lands located within the Lake Sawyer Neighborhood, the limitations described by Article XII shall remain applicable.

## **ARTICLE XII** **DECLARANT'S RIGHTS**

Notwithstanding any provisions contained in this Declaration to the contrary, at any time that Declarant owns or has contracted to purchase any of the lands located within the Lake Sawyer Neighborhood, Declarant shall have the following rights described in this Article XII, and the following restrictions described in this Article XII shall remain in effect:

A. Declarant may maintain and carry on upon portions of the Common Property such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of any of the lands within the Lake Sawyer Neighborhood including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Residential Property owned by the Declarant as models, sales offices, and for lodging and entertainment, respectively, of sales prospects and other business invitees.

B. No person or entity shall record any declaration of covenants, conditions and restrictions affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration or similar instrument being void and of no force and effect unless subsequently approved by recorded consent and signed by the Declarant.



C. Declarant shall have the right, in its discretion, to receive and approve all sales, promotional, and advertising materials for the subdivision and sale of lands in the Property by any Owner, which approval shall not be unreasonably withheld. Declarant shall deliver notice to any such Owner of Declarant's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents, and, if disapproved, set forth the specific changes requested. If Declarant fails to do so within such thirty (30) day period, Declarant shall have deemed to have waived any objections to such materials, forms and documents and to have approved the foregoing. Upon disapproval, the foregoing procedure shall be repeated until approval is obtained or decreed to be obtained. It is hereby established that if Declarant elects to exercise the rights set forth above to review and approve all sales, promotional and advertising materials of any Owner, it shall not by doing so incur or create in favor of any third party any liability, obligation or responsibility to ensure that any such materials comply with any and all applicable laws, rules and regulations nor to determine or correct any false or misleading claims or statements contained in such materials. Further in this regard, Declarant's exercise of such rights shall not be deemed to create a partnership, joint venture or principal/agent relationship with such Owner.

D. The Board or the Association shall have no authority to, and shall not, undertake any action which shall:

(1) decrease the level of maintenance services of the Association performed by the initial Board as specified in the Articles of Incorporation;

(2) make any Special Assessment against or upon the Declarant's property or upon the Declarant;

(3) modify, amend or alter the Land Use Plan;

(4) terminate or cancel any contracts of the Association entered into while the Declarant controlled the Association, except that the Association may terminate any contract or lease, including any contract providing for the services of Declarant, entered into by the Association while Declarant controlled the Association without cause or without penalty or the payment of a termination fee at any time after Turnover of the Association from Declarant upon not more than ninety (90) days notice to the other party, and provided further, any agreement for professional management of the Association or any agreement providing for services of the Declarant shall be for a term not to exceed one (1) year without the consent of fifty-one percent (51%) of the Voting Members; provided, however, that in no event shall such an agreement exceed a term of three (3) years. Any such agreement shall provide that the agreement may be terminated by either party without cause or without payment of a termination fee upon not more than ninety (90) days written notice;

(5) terminate or waive any rights of the Association under this Declaration;

(6) convey, lease, mortgage, alienate or pledge any easements or Common Property of the Association;

(7) accept the conveyance, lease, mortgage, alienation or pledge of any real or personal property to the Association;

(8) terminate or cancel any easements granted hereunder;

(9) terminate or impair in any fashion any easements, powers or rights of the Declarant hereunder;

(10) restrict the Declarant's right of use, access and enjoyment of any of the Property; or

(11) cause the Association to default on any obligation of it under any contract or this Declaration, unless the Declarant consents in writing to the prohibited action. The Declarant's consent shall be exercised by its appointee on the Board or other person designated to so act by the Declarant.

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right of the Declarant beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records of Orange County, Florida.

This Article XII may not be amended without the express written consent of the Declarant.

### **ARTICLE XIII** **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of the "Eligible Holders" (defined later in this Article XIII) only and may not be enforced or relied upon by anyone else.

**Section 1. Notices of Action.** An Institutional Lender that provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and to identify with particularity the Lot, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

A. any delinquency in the payment of Assessments or charges owed by an Owner of the Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any Eligible Holder, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under this Declaration or Bylaws which is not cured within sixty (60) days;

B. any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

C. any proposed action which would require the consent of a specified percentage of Eligible Holders.

Section 2. Voting Rights of Mortgagee. For purposes of this Article XIII, Section 2 only, an Eligible Holder shall be entitled to one (1) vote for each first Mortgage owned.

A. Unless (i) at least two-thirds (2/3) of the Eligible Holders, or (ii) Voting Members representing at least two-thirds (2/3) of the total Association Members consent, the Association shall not:

(1) by act or omission abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property, and as otherwise allowed in accordance with this Declaration, shall not be deemed a transfer within the meaning of this subsection.);

(2) change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Property regarding assessments shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

(3) by act or omission change, waive or abandon any scheme or regulation or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residential Property and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment, within the meaning of this provision.);

(4) fail to maintain insurance as required by this Declaration; or

(5) use hazard insurance proceeds for any Common Property losses for other than the repair, where reasonably practicable, of such Common Property.

B. In the event a portion of the Common Property is either condemned or destroyed or damaged by a hazard that is insured against, restoration or repair shall be performed substantially in accordance with the provisions of the Declaration and the original plans and specifications for the project unless fifty-one percent (51%) of the Eligible Holders approve the taking of other action by the Maser Association.

C. The vote or written consent of sixty-seven percent (67%) of the total Voting Members of the Association and fifty-one percent (51%) of the Eligible Holders shall be required to assume self-management of the Association if professional management of the Association has been required by an Eligible Holder at any time.

Section 3. Voluntary Payments by Mortgagees. Eligible Holders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a Association policy, and Eligible Holders making such payments shall be entitled to immediate reimbursement from the Association.

Section 4. No Priority. No provision of this Declaration or the Articles of Incorporation or Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 5. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Residential Property.

Section 6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article XIII or make any such requirements less stringent, the Declarant or the Board, without approval of the Owners, may cause an amendment to this Article XIII to be recorded to reflect such changes.

Section 7. Applicability of this Article. Nothing contained in this Article XIII shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Articles of Incorporation, the Bylaws, or Florida corporate law for any of the acts set out in this Article XIII.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

#### **ARTICLE XIV**

#### **INSURANCE AND CASUALTY LOSSES**

Section 1. Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all improvements on the Common Property. 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.

To the extent available on commercially reasonable terms and conditions, the Board may also obtain a public liability policy covering the Common Property, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability shall have at least 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 (\$5,000,000.00) umbrella liability policy.

Premiums for all insurance on the Common Property shall be Common Expenses of the Association and shall be included in the Annual Assessment, as described in Article VIII. 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 benefitted parties, as further identified in Sub-section 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 and which holds a Best's rating of A or better, if reasonably available, or, if not available, the most nearly equivalent rating.

B. All policies on the Common Property shall be for the benefit of the Association, the Declarant and the Members.

C. Exclusive authority to adjust losses under policies obtained by the Association 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 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 Orlando, Florida, metropolitan area.

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



- (1) a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners, and their respective tenants, servants, agents and guests;
- (2) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
- (3) a statement that no policy may be cancelled, invalidated, suspended or subject to non-renewal on account of any one or more individual Owners;
- (4) 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 representative without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time period within which the defect may be cured by the Association, any Member, any Owner or Mortgagee;
- (5) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (6) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section 1 of this Article XIV, 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, and flood insurance if required. The amount of fidelity coverage shall be determined in the Board's best business judgment but, if reasonably available, may not be less than three (3) months' assessment on all Residential Property, 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.

**Section 2. Individual Insurance.** By virtue of taking title to a Residential Property, each Owner covenants and agrees with all other Owners, and with the Association, that each Owner shall carry blanket all-risk casualty insurance on the Residential Property(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article XIV for insurance on the Common Property. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising its Residential Property, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any costs of repair or reconstruction which is not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Residential

Property of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Residential Property in a neat and attractive condition consistent with the Community-Wide Standard.

Section 3. Damage and Destruction.

A. 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 paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

B. Any damage or destruction to the Common Property shall be repaired or reconstructed unless the Voting Members representing at least seventy-five percent (75%) of the total vote of the Association, or the Owners representing at least seventy-five percent (75%) of the total vote of the Owners whose Limited Common Property is damaged, 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 Property shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

C. In the event that it should be determined in the manner described above that the damage or destruction to the Common Property or to the Limited Common Property 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 their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. 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 Property 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 Eligible Holder and may be enforced by same.



Section 5. Repair and Reconstruction. If the damage or destruction to the Common Property for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Voting Members, levy a Special Assessment against all Owners on the same basis as provided for Annual Assessments; provided, if the damage or destruction involves Limited Common Property, only the Owners entitled to the use of the Limited Common Property shall be subject to Assessment therefor. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

#### **ARTICLE XV** **NO PARTITION**

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

#### **ARTICLE XVI** **CONDEMNATION**

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of the Voting Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any Property which may become subject to this Declaration) by any authority having the power of condemnation or eminent domain, each Owner 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 Property on which improvements have been constructed, then unless within sixty (60) days after such taking, the Declarant, so long as the Declarant owns or has under contract to purchase lands within the Lake Sawyer Neighborhood, and Voting Members representing at least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article XIV 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 Property, 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 XVII**  
**GENERAL PROVISIONS**

**Section 1. Duration.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, the Declarant, and any Owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period, or during the last year of any subsequent ten (10) year renewal period, Voting Members representing three-fourths (3/4) of the votes of the Association vote in favor of terminating this Declaration at the end of its then current term.

Written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute an affidavit which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution.

Said certificate shall be recorded in the Public Records of Orange County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. Termination of this Declaration shall not have the effect of terminating easements herein provided or granted prior to such termination, or terminating contractual rights created prior to termination which from the context of the contract were meant to survive termination.

**Section 2. Amendments by Members.** This Declaration, and the Articles of Incorporation and Bylaws, may be amended at any time by the affirmative vote or written consent, or any combination thereof, of Voting Members representing sixty-six and two-thirds percent (66 2/3%) of the total votes of the Association; provided, however, that if the affirmative vote required for approval of action under the specific provision to be amended is a higher or lower percentage, then such higher or lower percentage shall be required to approve amendment of that provision. Notice shall be given at least sixty (60) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration, the Articles of Incorporation or Bylaws, is approved by the Members as set forth above, the President and Secretary of the Association shall execute an appropriate amendment which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such

amendment was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the number of votes necessary to adopt the amendment, the total number of votes cast for the amendment, and the total number of votes cast against the amendment. If such amendment relates to this Declaration it shall be recorded in the Public Records of Orange County, Florida.

Section 3. Amendments by Declarant. Until such time as the Turnover meeting described in Article XI occurs, the Declarant specifically reserves for itself, its successors and assigns, the absolute and unconditional right to alter, modify, change, revoke, rescind, or cancel any or all of this Declaration or the restrictive covenants contained in this Declaration. After the Turnover, the Declarant shall continue to have the absolute and unconditional right to alter, modify, change, revoke, rescind or cancel any or all of this Declaration as necessary to comply with any obligations or requirements imposed upon Declarant, or otherwise in connection with the development of the Property, by any applicable governmental authority. Otherwise, following Turnover, this Declaration may only be amended pursuant to the provisions of Section 2 of this Article XVII.

Section 4. Restrictions on Amendments. Notwithstanding anything to the contrary contained in Sections 2 or 3 or this Article XVII above, no amendment to this Declaration, the Articles of Incorporation or Bylaws may (i) remove, revoke, or modify any right or privilege of the Declarant without the written consent of Declarant or the assignee of any such right of privilege, (ii) impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees, (iii) to the extent that any provision of the Declaration, Articles of Incorporation or Bylaws is included in satisfaction of any condition of approval of the Land Use Plan, such provision shall not be changed, amended, modified or otherwise deleted or eliminated without the prior written consent of the County, (iv) result in or facilitate a termination of the Association's obligation to maintain the Common Property, or (v) change, amend, modify, eliminate or delete the restrictions contained in this Section 4 of this Article XVII. In addition to the foregoing, any amendment to this Declaration that would affect the Surface Water Management System (including any Conservation Areas) may be made only with the prior approval of the SFWMD.

Section 5. Assignment of Rights and Duties. Any and all of the rights, powers and reservations of the Declarant may be assigned to any person, corporation or association which will assume the duties of the Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing the consent in writing to accept such assignment and assume such duties, the assignee shall to the extent of such assignment have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Declarant, as the case may be. Further, the Declarant may from time to time delegate any and all of its rights, powers, discretion and duties hereunder to such agent or agents as it may nominate.

Section 6. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land or improvements within the Property.

Section 7. MSTUs/MSBUs. In order to perform the services contemplated by this Declaration, the Association or Declarant, in conjunction with Orange County, Florida, may seek the formation of MSTUs and/or MSBUs. The MSTUs/MSBUs will have responsibilities established in their enabling resolutions which may include, but are not limited to, construction and maintenance of roadway information signs, traffic control signs, benches, trash receptacles and other street furniture, keeping all public roadways and roadside pedestrian easements clean of windblown trash and debris, mowing, payment of electrical charges, maintenance of drainage canals, ponds and structures, maintenance of designated landscape areas and parks, payment of energy charges for street and pedestrian lighting, and other services benefitting the Property. In the event such MSTUs/MSBUs are formed, the Property will be subject to assessment for the cost of services performed within the MSTUs/MSBUs. Personnel working for or under contract with Orange County shall have the right to enter upon lands within the Property to affect the services to affect the services contemplated. Each Owner, by acquiring lands within the Property, agrees to pay each and every MSTUs/MSBUs assessment imposed upon the Owner's land in a timely manner, failing which such assessments and special charges shall be a lien upon those lands. The Association retains the right to contract with Orange County to provide the services funded by the MSTUs/MSBUs.

Section 8. Surface Water Management System. The Declarant has caused or will cause to be constructed a Surface Water Management System for the Property, including, but not limited to, drainage canals, lakes and drainage retention/detention ponds within the geographic area shown by the Land Use Plan. At Declarant's option, all permits or other approvals associated with the Surface Water Management System may be transferred or assigned to the Association, and the Association shall be obligated to accept such transfer or assignment, as the operating entity with respect to such permits or approvals, and the entity ultimately responsible for all aspects of compliance therewith, including, without limitation, responsibility to complete any and all required wetlands mitigation, and all required maintenance and monitoring thereof, as may be required by any such permits or approvals. The Association shall have unobstructed ingress to and egress from all components of the Surface Water Management System at all reasonable times to maintain said ponds and lakes in a manner consistent with its responsibilities as provided in Article VI and any rules and regulations promulgated by the Association under authority thereof. No person whatsoever, including any Owner, shall cause or permit any interference with such access and maintenance. Should any Owner fail to sufficiently maintain any portion of the Surface Water Management System within its boundaries (or any portion of a surface water management system which connects with the Surface Water Management System), the Association shall have the authority to maintain such portion and the cost of such maintenance shall be assessed against and become a debt of the Owner and shall become immediately due and payable as provided for other Assessments of the Association. Consequently, no Owner shall utilize, in any way, any of the Property drainage facilities or incorporate such facilities in the Owner's development plans, without the express prior written consent of the Declarant and the Association. Further, where an Owner is contiguous to any of the drainage facilities of the Property, the Owner shall prepare its site plan so that the utilization of its property will not adversely affect the drainage facilities and structures and so as to be aesthetically compatible with such drainage facilities and structures.

Section 9. Reclaimed Water. If an irrigation system capable of using reclaimed water for irrigation purposes is installed adjacent to a Lot, and reclaimed water shall become available, then in such events, the Association shall: (i) require the Owner of each such Lot to use the reclaimed water for irrigation purposes and (ii) charge a uniformly applied fee for the use of such reclaimed water.

Section 10. Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by or pursuant to these covenants. Failure of the Association or any Owner or the Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association and Declarant shall have the right of self help to cure any violations that remain uncured after any required notice is given.

Section 11. Severability. Should any covenant, condition or restriction contained in, or any Article, Section, Sub-section, sentence, clause, phrase or term of, this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 12. Interpretation. The Board shall have the right, except as limited by any other provision of this Declaration or the Bylaws, to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith, determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best lend toward the consummation of the general plan of improvements.

Section 13. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the manner provided for in the Bylaws, unless the terms of this instrument provide otherwise.

Section 14. Termination. Should the Members of the Association vote not to renew and extend this Declaration as provided herein, or at any time that the Association is dissolved, the Association shall transfer to another not-for-profit homeowners association or appropriate public agency having similar purposes, all ownership, rights and other interests held at such time by the Association in the Common Property, including, but not limited to, the Surface Water Management System and the Conservation Areas. Any association to which that portion of the Common Property consisting of the Surface Water Management System or Conservation Areas is conveyed must meet the requirements of a "responsible entity" as required in Section 40E-4.361(3), Florida Administrative Code, and Section 9.0 of the Basis of Review for Environmental Resource Permit



Applications within South Florida Water Management District-November 1996, and such entity must be approved in writing by the SFWMD prior to such conveyance. If no other association or agency will accept such property then it will be conveyed to a trustee appointed by the Circuit Court of Orange County, Florida, which trustee shall sell the Common Property free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Orange County, Florida. That portion of the Common Property consisting of the Surface Water Management System and Conservation Areas cannot be altered, changed or sold separate from the lands associated therewith. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate share of such Owner in Common Expenses.

Section 15. Execution of Documents. The Land Use Plan for the development of the Property may require from time to time the execution of certain documents required by governmental authorities. To the extent that said documents require the joinder of Owners, the Declarant may, through its duly authorized officers, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents. The Owners, by virtue of their acceptance of deeds or other conveyance instruments conveying title to any portion of the Property, irrevocably nominate, constitute and appoint the Declarant, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section 15 of this Article XVII shall recite that it is made pursuant to this Section 15 of this Article XVII.

Section 16. Indemnification. To the full extent as permitted by applicable law, the Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee member shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. Upon approval of the Board, the Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.



Section 17. Prohibited Actions. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its not for profit status under applicable state or federal law.

Section 18. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 19. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Property.

Section 20. Notice. Any notices required to be given hereunder shall be given by either (i) personal delivery, (ii) certified mail, postage pre-paid, return receipt requested, or (iii) overnight courier service that provides a receipt evidencing delivery of packages, such as Federal Express. The notices to be delivered to the Owners shall be sent to the addresses appearing in their respective recorded deeds, or at such other address as such Owner has provided to the Association. Notices to the Declarant shall be sent to the Declarant's address set forth in the initial paragraph of this Declaration, or, if applicable, to the address of any assignee of the Declarant's interest hereunder as set forth in any instrument recorded in the Public Records of Orange County, Florida. Notices to the Association shall be sent to the principal address of the Association as established in the records of the Secretary of State, State of Florida. Notices shall not be deemed to have been delivered to the intended addressee until same or actually delivered to the appropriate address as set forth above. Notwithstanding anything in the foregoing to the contrary, any notice required to be given hereunder to any Member may be given to such Member pursuant to any means authorized by the Association Act or the Bylaws. Notice to any one or more of any co-owners of Residential Property shall constitute notice to all Owners.

Section 21. Covenants Run With the Land. Each covenant, condition, restriction, easement and other provision contained herein shall be appurtenant to and for the benefit of the Property and shall be a burden thereon for the benefit of all the Property and shall run with the land. This Declaration and the covenants, conditions, restrictions and easements created hereby shall inure to the benefit of and be binding upon Declarant and its successors in title to any of the Property; provided, however, that if any Owner conveys fee simple title to the portion of the Property owned by such Owner, such Owner shall thereupon be released and discharged from any and all obligations as Owner in connection with such portion of the Property arising under this Declaration, the Articles of Incorporation and/or the Bylaws to be performed or arising after the conveyance of said fee simple title, but shall remain liable for all obligations arising prior to the conveyance of such title.

Section 22. Not a Public Dedication. Except as specifically stated in this Declaration, nothing herein shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purposes whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.



Section 23. Breach Shall Not Permit Termination. No breach of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration. Any breach of any of said covenants or restrictions, however, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but such covenants or restrictions shall be binding upon and effective against such Owner of any of said Property or any portion thereof whose title thereto is acquired by foreclosure, trustee sale or otherwise.

Section 24. Attorneys' Fees. In the event of the institution of any legal proceedings for any violation or threatened violation of any of the terms, covenants, restrictions and conditions contained herein, or for the collection of any sums due and payable hereunder, or for the foreclosures of any liens provided for herein, the prevailing party shall be entitled to recover all reasonable costs and expenses incurred in connection with such litigation, specifically including, but not limited to reasonable attorneys' fees, which costs and fees shall also include those caused by reason of any appellate proceeding, re-hearing or otherwise, from the non-prevailing party.

Section 25. Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among the Owners, Members, Association or Declarant, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each such entity shall be considered a separate entity and no such entity shall have the right to act as an agent for another unless expressly authorized to do so herein or by separate instrument signed by the parties to be charged.

Section 26. Non-Merger. Notwithstanding any applicable law or legal concept or theory, no interest, right, benefit, obligation, term, provision or covenant contained herein or established hereby shall be deemed to merge with any other interest, right, benefit, obligation, term, provision or covenant contained herein or established hereby. Notwithstanding any applicable legal principle or theory including, but not limited to, the principle generally known as "merger," the ownership of the entirety of the lands defined as the "Property" by the same party at the same time shall not result in or cause the termination of this Declaration and, likewise, ownership by the same party at the same time of both the benefitted and burdened lands associated with any of the easements created herein shall not result in or cause the termination of any of such easements.

**[INTENTIONALLY BLANK - SIGNATURE PAGES BEGIN ON PAGE 59]**



IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

WITNESSES:

"DECLARANT"

Heather Ferreira  
Print Name: Heather Ferreira

Jacqueline Forrest  
Print Name: Jacqueline Forrest

ASHTON WOODS ORLANDO LIMITED PARTNERSHIP, a Florida limited partnership

By: ASHTON WOODS LAKESIDE L.L.C., a Nevada limited liability company, general partner

By: [Signature]  
Name: Harry Rosenbaum  
Title: Manager

PROVINCE OF ONTARIO

COUNTRY OF CANADA

I HEREBY CERTIFY that on this day personally appeared before me, Nancy Rosenbaum, the Manager of Ashton Woods Lakeside L.L.C., a Nevada limited liability company, the general partner of Ashton Woods Orlando Limited Partnership, a Florida limited partnership, to me well known to be the person described in and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same on behalf of the company as General Partner of Ashton Woods Orlando Limited Partnership.

WITNESS my hand and official seal this 18<sup>th</sup> day of December, 2001.

(NOTARIAL SEAL)

[Signature]  
Notary Public, Province of Ontario

My commission expires: August 8, 2004

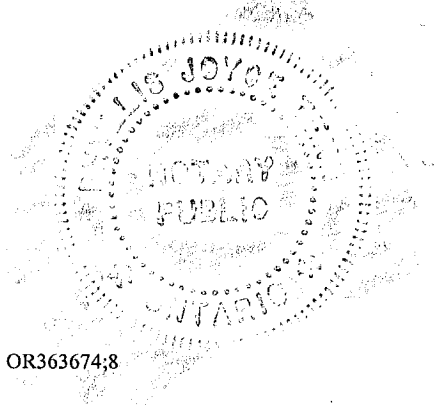




EXHIBIT "A"

LEGAL DESCRIPTION ( Phase 1 Plat ):

A portion of land lying in Sections 24 and 25, Township 23 South, Range 27 East, Orange County, Florida.

Being more particularly described as follows:

Commence at the Northwest corner of said Section 25, also being the Southwest corner of said Section 24; thence run North 89°45'16" East along the North line of the Northwest 1/4 of said Section 25, also being the South line of the Southwest 1/4 of said Section 24 for a distance of 613.99 feet to the POINT OF BEGINNING; thence departing said North line and said South line run North 00°00'00" East for a distance of 82.20 feet; thence run South 90°00'00" East for a distance of 525.85 feet; thence run North 40°49'35" East for a distance of 72.51 feet; thence run North 45°03'33" West for a distance of 64.00 feet to a point on a non tangent curve concave Westerly and having a radius of 148.73 feet; thence from a tangent bearing of North 04°35'30" West run Westerly along said curve through a central angle of 34°00'26" for an arc distance of 88.28 feet to a point; thence run North 23°26'54" East for a distance of 79.17 feet; thence run North 00°12'07" West for a distance of 119.57 feet to a point on a non tangent curve concave Southwesterly and having a radius of 275.00 feet; thence from a tangent bearing of South 87°00'43" East run Easterly along said curve through a central angle of 37°54'08" for an arc distance of 181.92 feet to a point of tangency; thence run South 49°06'36" East for a distance of 126.04 feet; thence run North 40°53'24" East for a distance of 485.80 feet; thence run North 57°04'34" West for a distance of 48.46 feet; thence run North 36°54'57" East for a distance of 149.65 feet to a point on a non tangent curve concave Northerly and having a radius of 650.00 feet; thence from a tangent bearing of North 52°04'50" West run Northwesterly along said curve through a central angle of 02°36'16" for an arc distance of 29.55 feet to a point; thence run North 40°32'59" East for a distance of 639.92 feet; thence run North 89°04'40" East for a distance of 1395.12 feet; thence run South 10°38'38" East for a distance of 198.15 feet; thence run North 88°09'21" East for a distance of 540.84 feet to a point on the Westerly right-of-way of Winter Garden-Vineland Road; thence run South 03°31'29" West along said Westerly right-of-way line for a distance of 1199.08 feet; thence departing said Westerly right-of-way line run South 88°22'47" West for a distance of 980.65 feet; thence run South 00°12'12" East for a distance of 692.68 feet; thence run South 89°47'48" West for a distance of 135.00 feet; thence run South 00°12'12" East for a distance of 28.59 feet; thence run South 89°47'48" West for a distance of 50.00 feet to a point on a non tangent curve concave Southwesterly and having a radius of 25.00 feet; thence from a tangent bearing of North 00°12'12" West run Northerly along said curve through a central angle of 90°00'00" for an arc distance of 39.27 feet; thence run South 89°47'48" West for a distance of 116.59 feet to a point of curvature of a

curve concave Northerly and having a radius of 350.00 feet; thence run Westerly along said curve through a central angle of 37°33'00" for an arc distance of 229.38 feet to a point of reverse curvature of a curve concave Southerly and having a radius of 25.00 feet; thence run Westerly along said curve through a central angle of 86°27'24" for an arc distance of 37.72 feet to a point of tangency; thence run South 40°53'24" West for a distance of 95.72 feet; thence run North 49°06'36" West for a distance of 390.00 feet; thence run South 40°53'24" West for a distance of 13.13 feet; thence run North 49°15'54" West for a distance of 50.00 feet; thence run North 49°06'36" West for a distance of 120.00 feet; thence run South 40°53'24" West for a distance of 460.99 feet; thence run North 49°06'36" West for a distance of 19.02 feet; thence run South 40°53'24" West for a distance of 127.06 feet; thence run North 49°06'36" West for a distance of 110.04 feet; thence run South 40°53'24" West for a distance of 176.81 feet; thence run North 49°06'36" West for a distance of 35.94 feet; thence run South 40°53'24" West for a distance of 532.81 feet to a point on a non tangent curve concave Northeasterly and having a radius of 25.00 feet; thence from a tangent bearing of South 33°29'35" East run Easterly along said curve through a central angle of 57°10'56" for an arc distance of 24.95 feet to a point on the Northerly right-of-way line of Overstreet Road; thence run South 89°19'29" West along said Northerly right-of-way line for a distance of 903.84 feet; thence departing said Northerly right-of-way line run North 00°12'07" West for a distance of 118.41 feet; thence run South 89°53'54" West for a distance of 150.00 feet; thence run North 00°12'07" West for a distance of 170.00 feet; thence run North 89°53'54" East for a distance of 10.00 feet; thence run North 00°12'07" West for a distance of 240.00 feet; thence run South 89°53'54" West for a distance of 14.03 feet to a point on the West line of the Northwest 1/4 of aforesaid Section 25; thence run North 00°05'44" West along said West line for a distance of 160.00 feet; thence departing said West line run North 89°53'54" East for a distance of 133.73 feet; thence run North 00°12'07" West for a distance of 10.00 feet; thence run North 89°53'54" East for a distance of 453.53 feet; thence run North 63°18'37" East for a distance of 64.91 feet; thence run North 40°53'24" East for a distance of 410.00 feet; thence run North 49°06'36" West for a distance of 201.80 feet to a point of curvature of a curve concave Southerly and having a radius of 445.00 feet; thence run Westerly along said curve through a central angle of 22°06'56" for an arc distance of 171.77 feet to a point; thence run North 00°00'00" East for a distance of 39.68 feet to aforesaid POINT OF BEGINNING.

Contains 130.819 total acres, more or less



**EXHIBIT "B"**

**ARTICLES OF INCORPORATION  
OF  
THE LAKES OF WINDERMERE  
COMMUNITY ASSOCIATION, INC.**

**ARTICLE I  
NAME**

The name of this corporation shall be THE LAKES OF WINDERMERE COMMUNITY ASSOCIATION, INC. For convenience, the corporation shall be referred to in these Articles of Incorporation as the "Association."

**ARTICLE II  
DURATION**

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, State of Florida. The Association shall have perpetual existence.

**ARTICLE III  
PURPOSE AND POWERS OF THE ASSOCIATION**

The Association is organized for the purpose of enforcing, and fulfilling the objectives and purposes stated in, the Declaration of Covenants, Conditions, Easements and Restrictions For The Lakes of Windermere ("Declaration") recorded in the Public Records of Orange County, Florida. Capitalized terms used herein without definition shall have the same meanings given to such terms in the Declaration. The Association shall have all the powers of a not for profit corporation organized under Chapter 617 of the laws of the State of Florida, subject, however, only to such limitations upon the exercise of such powers as are expressly set forth in these Articles of Incorporation, the Bylaws of the Association, the Declaration or the Association Act. The Association shall have the power and obligation to do any and all lawful things which may be authorized, assigned, required or permitted to be done by the Declaration, these Articles of Incorporation and the Bylaws of the Association, including, but not limited to, (i) the ownership and maintenance of all Common Property, including the Surface Water Management System and Conservation Areas, (ii) the levy and collection of Assessments against Members of the Association, and (iii) to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association as specified in the Declaration. Unless otherwise specifically prohibited, any and all functions, duties and powers of the Association shall be fully transferable in whole or in part. Any instrument affecting such a transfer shall specify the duration thereof and the means of revocation. The Association is not formed for pecuniary profit

and the Association shall not pay dividends, and no part of any income or assets of the Association shall be distributed to its Members, directors or officers.

#### **ARTICLE IV** **PRINCIPAL OFFICE**

The initial principal office and mailing address of the Association is located at c/o Black Amber Florida, Inc., 108 S. Court Avenue, Suite 300, Orlando, Florida 32801.

#### **ARTICLE V** **REGISTERED OFFICE AND AGENT**

Black Amber Florida, Inc., a Florida corporation, whose address is 108 S. Court Avenue, Suite 300, Orlando, Florida 32801, is hereby appointed the initial registered agent of the Association and the registered office shall be at said address.

#### **ARTICLE VI** **DISSOLUTION OF THE ASSOCIATION**

Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

6.1 Real property contributed to the Association without the receipt of other than nominal consideration by the Class C Member (or its predecessor in interest) shall be returned to the Class C Member (whether or not a Class C Member at the time of such dissolution), unless it refuses to accept the conveyance (in whole or in part).

6.2 Conveyance to a not for profit corporation homeowners' association similar to the Association or dedication to any applicable municipal or other governmental authority determined by the Board of Directors of the Association to be appropriate for such dedication, which authority is willing to accept such dedication, of any property and responsibilities of the Association, which association or governmental authority shall then be responsible for the operation and maintenance thereof. With respect to the Association's responsibility for the operation and maintenance of the Surface Water Management System and Conservation Areas, such obligation must be transferred to and accepted by an entity which satisfies the requirements of Section 40E-4.361(3), Florida Administrative Code, and be approved by the SFWMD prior to dissolution. If no other association or governmental authority will accept such property and responsibilities then it will be conveyed to a trustee appointed by the Circuit Court of Orange County, Florida, which trustee shall sell such property free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Orange County, Florida. That portion of the property consisting of the Surface Water Management System and Conservation Areas cannot be altered, changed or sold separate from the lands associated therewith. The proceeds of such a sale shall first be used for the payment of any

debts or obligations constituting a lien on such property, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of such property. The excess proceeds, if any, from the property shall be distributed among Members in a proportion that is equal to the proportionate share of such Members in the Common Expenses of the Association.

## **ARTICLE VII** **MEMBERSHIP**

Every person or entity which qualifies as a Member of the Association in accordance with the Declaration shall be a Member of the Association, and such membership shall carry all rights, restrictions, benefits, interests and limitations granted pursuant to the Declaration, these Articles of Incorporation, the Bylaws of the Association, any rules and regulations promulgated by the Association, the Florida Not For Profit Corporation Act and the provisions of the Association Act.

## **ARTICLE VIII** **VOTING RIGHTS**

A Member's right to vote shall vest immediately upon such Member's qualification for membership as provided in the Declaration and these Articles of Incorporation. All voting rights of a Member shall be exercised in accordance with and subject to the restrictions and limitations provided in the Declaration, these Articles of Incorporation, and the By-Laws of the Association, including, but not limited to, the following:

8.1 The Association shall have three (3) classes of voting membership as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant (prior to Turnover). Class A Members shall be allocated one vote for each Lot in which they hold the interest required for membership in the Association pursuant to Article VII, above.

Class B. Class B Members shall be Owners of Residential Property, other than the Declarant (prior to Turnover), that has not been subdivided or platted into Lots. It is contemplated, but not required, that Class B Members shall be builders or developers who purchase an unsubdivided pod or parcel of land from Declarant with the intention of platting the pod or parcel into Lots. Class B Members shall be allocated one vote for each Unit planned for, or allocated to, such Residential Property pursuant to the Land Use Plan or any site plan or preliminary plat or subdivision plan approved by Declarant, whichever is more recent. Class B Members shall automatically become Class A Members as to any Lots created upon subdivision or platting of the pods or parcels upon which their Class B Membership is based.



Class C. The Class C Member shall be the Declarant, or its specifically designated (in writing) successor. The Class C Member shall be allocated a number of votes equal to three times the total number of Class A and Class B votes at any given time; provided, however, that Class C membership shall cease and become converted to Class A or B membership, as appropriate, upon Turnover of the Association as set forth in Article XI of the Declaration.

8.2 Notwithstanding anything in the foregoing provisions of this Article VIII or the Bylaws of the Association to the contrary, and without regard to the number of votes allocated to the Declarant, the Declarant shall have the power at all times while the Declarant holds fee simple title to at least five percent (5%) of the total number of the combined Lots and Units within the Residential Property (in other words, 5% of the total number of votes in the Association), exercisable in Declarant's sole discretion, to elect at least one (1) director to the Board of Directors of the Association. Nothing contained in the foregoing, however, is intended, nor shall be deemed, to create any obligation upon the Declarant to exercise such right to elect such one (1) director.

8.3 Notwithstanding anything to the contrary in the foregoing provisions of this Article VIII, voting of Members, other than the Declarant prior to Turnover, on all Association matters shall be conducted by and through Neighborhood Representatives and the Neighborhood Representative process established in this Section 8.3 of this Article VIII.

A. Declarant shall designate in writing the identification of the various Neighborhoods within the Property and the specific identification of the Lots and Units designated as being included within such Neighborhoods. Each Lot and Unit within the Property shall be included within a Neighborhood. Until such time as Declarant has divested itself of title to all of the property located within the area included within the Lake Sawyer Neighborhood, Declarant shall have the unilateral right, without the necessity of obtaining the approval of any party, including any Owner, to redesignate the composition of the Neighborhoods established pursuant to this Section 8.3, including increasing or decreasing the number of such Neighborhoods. It shall not be necessary that the Lots or Units designated to a particular Neighborhood be contiguous, or that each Neighborhood have included within it the exact same number of Lots and/or Units, but Declarant shall, to the extent reasonably practicable, use its best efforts to allocate such numbers of Lots and/or Units to each Neighborhood as to most fairly allocate between the Neighborhoods the voting interests of all Members of the Association. The written designations by Declarant of the Neighborhoods, as described above, as well as the identification of the Neighborhood Representative for each Neighborhood, as described below, shall be maintained by the Association along with the other records of the Members of the Association, which records shall be open for inspection and copying by the Members of the Association pursuant to the applicable provisions of the Bylaws of the Association.

B. The Members, other than the Declarant prior to Turnover, owning Lots and/or Units within any designated Neighborhood shall elect a Neighborhood Representative. Once elected by Members with respect to a Neighborhood, a Neighborhood Representative shall be entitled, and



shall have the exclusive authority, to represent the Members that own Lots and/or Units within such Neighborhood as to all matters that may be brought before the Membership of the Association pursuant to this Declaration, the Articles of Incorporation and Bylaws, including, but not limited to, the casting of all votes attributable to the Members owning the Lots and/or Units within such Neighborhood. Each Neighborhood Representative shall have one vote for each Lot and Unit included within the Neighborhood represented by such Neighborhood Representative. The Neighborhood Representative shall have absolute discretion as to the exercise of the membership rights and votes attributable to the Members owning Lots and/or Units within such Neighborhood.

C. Neighborhood Representatives shall be elected by the Members owning Lots and/or Units within a Neighborhood by a plurality of the votes of such Members under a straight voting method. Voting for a Neighborhood Representative shall occur at an annual meeting of the Members within such Neighborhood, which meeting shall be held prior to the annual meeting of Members of the Association. The conduct of any meeting of Members of a Neighborhood shall be consistent with and governed by the terms and provisions of meetings of the Members of the Association as established in the Bylaws. Neighborhood Representatives shall serve a term of one (1) year and until their successors shall have been elected and qualified or until their earlier resignation, removal from office or death. Neighborhood Representatives may be removed from office, with or without cause, upon the vote of a majority of the Members owning Lots and/or Units within the Neighborhood for which such Neighborhood Representative was appointed, which vote shall occur at a Special Meeting of such Members held for the purpose of removing such Neighborhood Representative.

8.4 Unless elsewhere specifically provided to the contrary in the Declaration or these Articles of Incorporation, any provision of these Articles of Incorporation which requires the vote or approval of a majority or other specified fraction or percentage of the total voting power of the Association, shall be deemed satisfied by either of the following:

A. The vote in person or by proxy of the majority or other specified fraction or percentage of the total voting power of the Association at a meeting duly called and noticed pursuant to the provisions of the Bylaws of the Association dealing with annual or special meetings of the Members of the Association; provided, however, that a Neighborhood Representative may not vote by proxy.

B. Written consents signed by the majority or other specified fraction or percentage of the total voting power of the Association.

#### **ARTICLE IX** **BOARD OF DIRECTORS**

The affairs of the Association shall be managed by a Board of Directors who shall be elected by the Members pursuant to the provisions of the Declaration and these Articles of Incorporation and following the procedures set forth in the Bylaws of the Association. The number of directors



constituting the initial Board of Directors shall be three (3). The number of directors may be increased or decreased from time to time in accordance with the Bylaws, but shall never be less than three (3) nor more than seven (7), and shall always be an odd number (i.e., 3, 5, 7). Any increase or decrease in the number of directors shall require the affirmative vote of a majority of the voting interests of the Members at any Special Meeting of the Members called for the purpose of changing the number of directors of the Association. So long as there shall be a Class C Member, directors need not be Members of the Association and need not be residents of the State of Florida; thereafter, all directors, other than any director elected by the Declarant pursuant to Section 8.2 of these Articles of Incorporation, shall be Class A Members of the Association or designated representatives of Class B Members of the Association, and residents of the State of Florida. The term of office of the initial directors of the Association shall expire at the first meeting of Members at which directors are elected. The terms of office of all other directors will expire at the next annual meeting of Members following the election of such directors. Despite the expiration of a director's term, the director will continue to serve until a successor is elected and qualifies or until there is a decrease in the number of directors. Any director may be removed from office at any time, with or without cause, by the affirmative vote of a majority of the Members. The names and addresses of the persons who are to act in the capacity of initial directors until the election and qualification of their successors are:

<u>Name</u>	<u>Address</u>
Russell Allan	Allan Realty International 6 Rachael Street Toronto, Ontario, Canada M4W1M5
Charles Cavaretta	Black Amber Florida, Inc. 108 S. Court Avenue, 3rd Floor Orlando, Florida 32801
Kevin Clark	Ashton Woods Homes 125 S. Swoope Avenue, Suite 210 Maitland, Florida 32751

**ARTICLE X**  
**OFFICERS**

The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting, and they shall serve at the pleasure of the Board of Directors.

**ARTICLE XI**  
**AMENDMENT**

These Articles of Incorporation may be changed, amended or modified, at any time and from time to time, by the Members, as and to the extent provided in, and pursuant to the procedures set forth in, the Declaration.

**ARTICLE XII**  
**INDEMNIFICATION**

12.1 Every director and every officer and every Neighborhood Representative of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' and other professionals' fees, reasonably incurred by or imposed upon him in connection with any proceeding whether civil, criminal, administrative or investigative, or any settlement of any proceeding, or any appeal from such proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer or Neighborhood Representative of the Association, or having served at the Association's request as a director or officer of any other corporation, whether or not he so serves the Association at the time such expenses are incurred, regardless of by whom the proceeding is brought, except in relation to matters as to which any such director or officer or Neighborhood Representative shall be adjudged liable for gross negligence or willful misconduct, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors of the Association approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

12.2 Expenses incurred in defending a suit or proceeding whether civil, criminal, administrative or investigative may be paid by the Association in advance of the final disposition of such action, suit or proceeding if authorized by a majority of the directors upon receipt of an undertaking by or on behalf of the director or officer to repay such amount if it shall ultimately be determined that he is not to be indemnified by the Association as authorized by these Articles of Incorporation.

12.3 The Association shall have the power to purchase at its expense and maintain insurance on behalf of any person who is or was a director or officer or Neighborhood Representative of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, 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 these Articles.

**ARTICLE XIII**  
**BYLAWS**

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the Bylaws.

**ARTICLE XIV**  
**INCORPORATOR**

The name and address of the Incorporator of this corporation is as follows:

<u>Name</u>	<u>Address</u>
Robert M. Poppell	255 South Orange Avenue 17th Floor Orlando, Florida 32801

**ARTICLE XV**  
**NON-STOCK CORPORATION**

The Association is organized on a non-stock basis and shall not issue shares of stock evidencing membership in the Association; provided, however, that membership in the Association may be evidenced by a certificate of membership which shall contain a statement that the Association is a corporation not for profit.

**IN WITNESS WHEREOF**, the undersigned has signed this Articles of Incorporation this \_\_\_\_ day of \_\_\_\_\_, 2001.

**"INCORPORATOR"**

\_\_\_\_\_  
Robert M. Poppell

**CERTIFICATE DESIGNATING REGISTERED AGENT  
FOR SERVICE OF PROCESS**

Pursuant to the provisions of Chapters 48 and 617, Florida Statutes, the corporation identified below hereby submits the following statement in designation of the Registered Office and Registered Agent in the State of Florida.

THE LAKES OF WINDERMERE COMMUNITY ASSOCIATION, INC., desiring to organize as a corporation under the laws of the State of Florida, with its registered office at 108 S. Court Avenue, Suite 300, Orlando, Florida 32801, has named Black Amber Florida, Inc., located at the above-registered office, as its Registered Agent to accept service of process within this State.

**ACKNOWLEDGMENT:**

Having been named as Registered Agent for the above-stated corporation at the place designated in this Certificate, I hereby acknowledge that I am familiar with the obligations of a registered agent under the laws of the State of Florida and accept to act as Registered Agent for the above-stated corporation and agree to comply with the provisions of all laws applicable to the performance of such office.

BLACK AMBER FLORIDA, INC.,  
a Florida corporation

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

Dated: \_\_\_\_\_, 2001

**EXHIBIT "C"**

**BYLAWS  
OF  
THE LAKES OF WINDERMERE  
COMMUNITY ASSOCIATION, INC.  
A NOT FOR PROFIT CORPORATION**

1. Definitions. Unless otherwise indicated to the contrary, all capitalized terms used herein without definition shall have the meaning given such term in the Declaration of Covenants, Conditions, Easements and Restrictions For The Lakes of Windermere ("Declaration") or the Articles of Incorporation of The Lakes of Windermere Community Association, Inc. ("Articles of Incorporation"). For ease of reference, The Lakes of Windermere Community Association, Inc. shall hereinafter be referred to as the "Association".

2. Fiscal Year. The fiscal year of the Association shall be the calendar year.

3. Seal. The seal of the Association shall bear the name of the Association, the word, "Florida", the words, "Not For Profit Corporation", and the year of incorporation.

4. Members.

4.1. Membership and Voting Rights. Entitlement to membership in, and the voting rights of each Member of, the Association shall be as set forth in the Declaration and the Articles of Incorporation, and the manner of exercising such voting rights shall be as set forth therein and in these Bylaws.

4.2. Designation of Voting Authorization. If a Member is constituted to be more than one person or entity, any vote by said Member, or the identity of the person or entity authorized to cast such vote along with the extent of such person's or entity's authority, shall be designated by a certificate (a "Certificate of Authority") signed by all persons constituting the Member and filed with the Secretary of the Association. If a Member is a general or limited partnership, a Certificate of Authority must be signed by one of the general partners and filed with the Secretary of the Association. If a Member is a Association, a Certificate of Authority must be signed by the president or vice president of the Association and filed with the Secretary of the Association. If the land of the Member is owned in trust, a Certificate of Authority must be signed by the trustee of record for the trust and filed with the Secretary of the Association. A Certificate of Authority shall be valid until revoked or until superseded by a subsequently filed Certificate of Authority. A Certificate of Authority may be revoked in writing by the Member who submitted the certificate.

4.3. Transfer of Membership. The rights of each Member shall be appurtenant to his or her ownership of Residential Property, as specified in the Declaration, may not be separated from such ownership, and shall automatically pass to the successors and assigns (including

mortgagees) of a Member upon the recordation of the change in ownership of the Residential Property in the Public Records of Orange County, Florida and in the records of the Association.

5. Members Meetings.

5.1. Annual Members Meetings. The annual meeting of the Members of this Association shall be held at such place, at such time and on such date each year as is from time to time designated by the Board of Directors, for the purpose of electing directors and transacting any business authorized to be transacted by the Members. Failure to hold an annual meeting timely shall in no way affect the terms of officers or directors of the Association or the validity of actions of the Association.

5.2. Special Members' Meetings. Special meetings of the Members may be called by any one of the following persons or groups:

- (a) The President,
- (b) A Majority of The Board of Directors, or
- (c) The Neighborhood Representatives representing not less than ten percent (10%) of total voting power of the Association.

5.3. Neighborhood Representatives. Notwithstanding anything to the contrary in the foregoing provisions of this Section 5, or elsewhere in these Bylaws, voting at any meeting of the Members of this Association shall be by the Neighborhood Representatives, pursuant to the Neighborhood Representative process established in the Declaration. Annual and special meetings of Members that are owners of Lots and/or Units designated to a Neighborhood shall be held at such time as is required in the Declaration, and at such other times and upon such conditions as special meetings of the Members may be called pursuant to Section 5.2 above except that in lieu of Sub-Section 5.2.(c), special meetings of the Members of a Neighborhood may be called by Members representing not less than ten percent (10%) of the total voting power of Members of such Neighborhood. Matters pertaining to such Neighborhood meetings, including, but not limited to, the calling, notice and conduct of such meetings, shall be as set forth in the remaining Sub-Sections of this Section 5.

5.4. Notice of Meetings. Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered to each Member or Neighborhood Representative entitled to vote at such meeting not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by first-class mail, by or at the direction of the President, the Secretary, or the officer or persons calling the meeting. If the notice is mailed at least twenty (20) days before the date of the meeting, it may be done by a class of United States mail other than first class. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member or Neighborhood Representative at its address as it appears on the books of the Association,



with proper postage thereon prepaid. It shall not be necessary to provide notice to Members of meetings at which only Neighborhood Representatives shall be entitled to cast votes.

5.5. Defects in Notice, Etc. Waived by Attendance. A Member or Neighborhood Representative may waive any notice required by these Bylaws before or after the date and time stated in the notice. The waiver must be in writing, signed by the Member or Neighborhood Representative entitled to the notice, and be delivered to the Association for the inclusion in the minutes or filing with the Association records. A Member's or Neighborhood Representative's attendance at the meeting waives objection to lack of notice or defect of notice of the meeting, unless the Member or Neighborhood Representative at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. A Member's or Neighborhood Representative's attendance at a meeting also serves to waive objection to the consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member or Neighborhood Representative objects to the consideration of the matter when it is presented.

5.6. Quorum. Except as provided otherwise in the Articles of Incorporation or the Declaration, a quorum at meetings shall consist of thirty percent (30%) of the total voting power in the Association, whether represented in person or by proxy. Subject to any contrary provision or requirement contained in the Declaration, if a quorum is present, the affirmative vote of a majority of votes represented at a meeting and entitled to vote on the subject matter shall constitute the acts of the Members, except when approval by a greater vote is required by the Declaration, the Articles of Incorporation, these Bylaws, or by law. When a specified item of business is required to be voted upon by a particular class of Members, a majority of the votes of such class of Members shall constitute a quorum for the transaction of such item of business by that class, unless provided to the contrary in the Articles of Incorporation or the Declaration. After a quorum has been established at a meeting, the subsequent withdrawal of a Member or Neighborhood Representative so as to reduce the number of votes at the meeting below the number required for a quorum shall not affect the validity of any action taken at the meeting or any adjournment thereof.

5.7. Proxies. Neighborhood Representatives may not vote by proxy but only in person or through their designated alternates. Every Member entitled to vote at a meeting of Members, or his duly authorized attorney-in-fact, may authorize another person or persons to act for him by proxy with respect to specified matters of business. Members may not grant general proxies to vote their membership interests but general proxies may be used to establish a quorum. Every proxy must be signed by the Member or his attorney-in-fact. A proxy shall be effective only for the specific meeting for which originally given and any and all lawfully adjourned meetings thereof. No proxy shall be valid after the expiration of ninety (90) days from the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the Member executing it and shall expire upon the transfer of title to the Residential Property giving rise to the voting rights to which the proxy pertains. The authority of the holder of a proxy to act shall not be revoked by the incompetence or death of the Member who executed the proxy unless, before the authority is exercised, written notice of an adjudication of such incompetence or of such death is received by the Secretary of the Association of such other officer responsible for maintaining the list of Members.



5.8. Adjourned Meetings. When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and any business may be transacted at the adjourned meeting that might have been transacted on the original date of the meeting. If, however, after the adjournment the Board fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given in compliance with these Bylaws to each Member or Neighborhood Representative entitled to vote at such meeting as of the new record date.

5.9. Order of Business. The order of business at annual meetings, and as far as practicable at all other meetings, shall be:

- (a) Calling of the roll and certifying of proxies.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Appointment of directors.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

6. Board of Directors.

6.1. Number, Election and Term. The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) directors. The initial Board shall be comprised of three (3) directors and shall include those persons named in the Articles of Incorporation. The number of directors may be increased or decreased from time to time as stated in the Articles of Incorporation, but shall never be less than three (3) nor more than seven (7), and shall always be an odd number (i.e., 3, 5, 7). No decrease in the number of directors shall have the effect of shortening the terms of any incumbent director. The directors shall be elected at the annual meeting of Members and at each annual meeting thereafter, by a plurality of the votes cast at such election using a straight voting method for each seat on the Board of Directors to be filled, and shall hold office until the next succeeding annual meeting. Each director shall hold office for the term for



which he is elected and until his successor shall have been elected and qualified, until there is a decrease in the number of directors, or until his earlier resignation, removal from office or death.

6.2. Removal. Any director may be removed from office pursuant to the procedures set forth below:

- (a) Any member of the Board of Directors may be removed with or without cause by the vote or agreement in writing by a majority of all votes of the Members; provided, however, that a member of the Board of Directors elected by the Declarant pursuant to its rights under Section 8.2 of the Articles of Incorporation, may only be removed without cause by the Declarant and any such member of the Board of Directors appointed by the Declarant and so removed shall be replaced only by another director appointed by Declarant pursuant to its rights under such Section 8.2 of the Articles of Incorporation.
- (b) The notice of a meeting to recall a member or members of the Board of Directors shall state the specific director sought to be removed.
- (c) A proposed removal of a director at a meeting shall require a separate vote for each director sought to be removed where removal is sought by written agreement, a separate agreement is required for each director to be removed.
- (d) If removal is effectuated at a meeting, any vacancy created thereby shall be filled by vote of the Members at the same meeting.
- (e) Any director who is removed from the Board shall not be eligible to stand for re-election until the next annual meeting of the Members.
- (f) Any director removed from the Board shall turn over to the Board of Directors within seventy-two (72) hours any and all records of the Association in his or her possession.
- (g) If a director who is removed does not relinquish his office or turn over records as required under this section, the Association or any Member may petition the Circuit Court in the county where the Association's principal office is located to summarily order the director to relinquish his or her office and turn over Association records.



6.3. Directors Fees. Directors shall serve without compensation or fees; provided, however, nothing herein shall be deemed to prevent reimbursement of out-of-pocket expenses approved by the Board and incurred on behalf of the Association.

6.4. Vacancy. Any vacancy occurring on the Board of Directors shall be filled by the Members in accordance with the Articles of Incorporation and these Bylaws.

A director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of the predecessor in office. Any seat on the Board of Directors to be filled by reason of an increase in the number of directors may be filled by the Board of Directors, but only for a term of office continuing until the next election of directors by the Members or, if the Association has no Members or no Members having the right to vote thereon, for such term of office as is provided in the Articles of Incorporation.

A vacancy that will occur at a specific later date, by reason of a resignation effective at such later date, may be filled before the vacancy occurs. However, the new director may not take office until the vacancy occurs.

## 7. Meetings of Directors.

7.1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly without notice to directors at such place and hour as may be fixed from time to time by resolution of the Board; provided that no such meeting shall be scheduled on any day that is a legal holiday. Regular meetings of the Board of Directors shall be open to the Members. Notice of such meeting shall be posted in a conspicuous place on the Association property at least 48 hours in advance of such meeting, or mailed or delivered to each Member at least seven (7) days before the meeting, except in cases of emergency. In the event that the number of Members of the Association exceeds one hundred (100), then in lieu of the foregoing notice provisions, notice of such meetings may be made by providing to each Member a schedule of board meetings for any calendar year. Notice of any meeting in which Assessments against parcels are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

7.2. Special Meetings. Special meetings of the directors may be called by the President of the Association or by any director. Not less than forty-eight (48) hours' notice of the special meeting shall be given to each director, which notice shall state the date, time, place and purpose of the meeting. All special meetings of the Board of Directors shall be open to the Members. Notice of such meeting shall be posted in a conspicuous place on the Association property at least 48 hours in advance of such meeting, or mailed or delivered to each Member at least seven (7) days before the meeting, except in cases of emergency. In the event that the number of Members of the Association exceeds one hundred (100), then in lieu of the foregoing notice provisions, notice of such meetings may be made by providing to each Member a schedule of board meetings for any calendar year. Notice of any meeting in which Assessments against parcels are to



be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

7.3. Defects in Notice, etc. Waived by Attendance. Notice of a meeting of the Board of Directors need not be given to any director who signs a waiver of notice either before of after the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting and a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting or promptly upon arrival at the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened.

7.4. Telephone Participation. Members of the Board of Directors may participate in Board meetings by means of a conference telephone, or similar communications equipment, by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

7.5. Quorum. A quorum at directors meetings shall consist of a majority of all votes of the entire Board of Directors. The acts approved by a majority of those votes represented at a meeting at which a quorum is present shall constitute the act of the Board of Directors, except where approval by a greater number of directors is required by the Declaration, the Articles of Incorporation, or these Bylaws.

7.6. Adjourned Meetings. A majority of the directors present, whether or not a quorum exists, may adjourn any meeting of the Board of Directors to another time and place. Notice of any such adjourned meeting shall be given to the directors who were not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors.

7.7. Presiding Officer. The presiding officer of directors meetings shall be the President. In the absence of the President, the Vice President shall preside, and in the absence of both, the directors present shall designate one of their number to preside. Attendees at director's meetings other than directors may not participate in any discussion or deliberation unless permission to speak is requested on their behalf by a director. In such case, the presiding officer may limit the time any such individual may speak.

7.8. Powers and Duties of Board of Directors. All of the powers and duties of the Association existing under Chapter 617, Florida Statutes, the Declaration, the Articles of Incorporation, these Bylaws, and the Association Act shall be exercised by the Board of Directors, subject only to approval by Members when such is specifically required.

## 8. Officers.

8.1. Officers and Election. The officers of the Association shall be a President, who shall be selected from the Board of Directors, a Vice President, a Treasurer, and a Secretary,

all of whom shall be elected annually by the Board of Directors and each of whom may be removed by vote of the directors at any meeting with or without cause. Any person may hold two or more offices except that the President shall not also be the Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find necessary or convenient to manage properly the affairs of the Association.

8.2. President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of an Association, including but not limited to the power to appoint committees from among the Members from time to time as he may in his discretion determine appropriate to assist in the conduct of the affairs of the Association. He shall serve as chairman of all Board and Members' meetings.

8.3. Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors or the President.

8.4. Secretary. The Secretary shall keep the minutes of all proceedings of the directors and the Members. He shall attend to the giving and serving of all notices to the Members and directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the directors or the President. The duties of the Secretary may be fulfilled by a manager employed by the Association.

8.5. Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and provide for collection of assessments; and he shall perform all other duties incident to the office of Treasurer. The duties of the Treasurer may be fulfilled by a manager employed by the Association.

8.6. Compensation. Officers shall serve without compensation or fees; provided, however, nothing herein shall be deemed to prevent reimbursement of out-of-pocket expenses approved by the Board and incurred on behalf of the Association.

9. Books and Records.

9.1. The Association shall keep as records minutes of all meetings of its Members and Board of Directors, a record of all actions taken by the Members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Association and shall maintain such records for at least seven (7) years. The Association shall maintain accurate accounting records, kept in accordance with good accounting practices, and shall maintain such records for at least seven (7) years. The Association shall also maintain a record of its Members in a form that permits preparation of a list of the names

and address of all Members in alphabetical order by class of voting Members, and shall keep such records in written form or in other form capable of conversion into writing within a reasonable time. The Association shall also keep a copy of the following records at its principal office:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Property or other property that the Association is obligated to maintain, repair or replace.
- (b) A copy of its Articles or restated Articles of Incorporation and all amendments currently in effect,
- (c) A copy of its Bylaws or restated Bylaws and all amendments currently in effect.
- (d) A copy of the Declaration and all amendments currently in effect.
- (e) Written communications to all Members generally or all Members of a class within the past three (3) years, including all financial statements furnished for the past three (3) years.
- (f) A list of the names and business street, or home if there is no business, addresses of its current directors, officers and Neighborhood Representatives, as well as the written instruments signed by Declarant designating the Neighborhoods and allocating Lots and/or Units to such Neighborhoods.
- (g) Its most recent annual report delivered to the Department of State.
- (h) A copy of the current Architectural Guidelines and other rules of the Association.
- (i) A current roster of all Members and their mailing addresses, parcel identifications and if known telephone numbers.
- (j) All current insurance policies of the Association or a copy thereof.
- (k) A current copy any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Members have an obligation or responsibility. The Association shall also keep for a period of one (1) year all bids received by the Association for work to be performed on behalf of the Association.

9.2. A Member of the Association may inspect and copy, during regular business hours at the Association's principal office, any of the records of the Association set forth in 9.1

above, if such Member gives the Association written notice of the demand to inspect at least ten (10) business days before the date on which the Member wishes to inspect and copy. All other records of the Association will be available for inspection in accordance with the provisions of applicable Florida law. The Association may impose a reasonable charge for the cost of copies of all documents to be provided pursuant to the provisions of this section 9.2.

10. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions.

10.1. Accounts. The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications and any other classifications as shall be appropriate, when authorized and approved by the Board of Directors. The receipts shall be entered by the amounts of receipts by accounts and receipt classifications, and expenses by the amounts of expenses by accounts and expense classifications.

(a) Current Expense. The current expense account shall include all receipts and expenditures to be made within the year for which the expenses are budgeted and may include a reasonable allowance for contingencies and working funds. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expense for the succeeding year or to fund reserves. This may include but not be limited to:

- (1) Professional, administration and management fees and expenses;
- (2) Taxes on common property;
- (3) Expenses for utility services and maintenance expense relating to the common property;
- (4) Insurance costs;
- (5) Administrative and salary expenses;
- (6) Operating capital; and
- (7) Other expenses.

(b) Reserve for Deferred Maintenance. If required by the Board of Directors, there shall be established a reserve account for deferred maintenance which shall include funds for major maintenance items which are the obligation of the Association and which occur less frequently than annually.

(c) Reserve for Replacement. If required by the Board of Directors, there shall be established a reserve account for replacement which shall include funds for repairs or



replacements which the Association is obligated to make resulting from damage, depreciation or obsolescence.

10.2. Budget. The Board of Directors shall adopt such budgets as are required by the Declaration.

10.3. Assessments. Assessments against the Owners for their shares of the items of the operating budget shall be made in accordance with the provisions of the Declaration.

10.4. Depository. The depository of the Association will be such banks in Orange County, Florida, as shall be designated from time to time by the directors and the withdrawal of monies from such accounts shall be only by checks signed by such persons as authorized by the directors; provided, however, that the provisions of a management agreement between the Association and a manager relative to the subject matter of this section shall supersede the provisions hereof.

11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings, when not in conflict with the Florida Not for Profit Corporation Act, the Declaration, the Articles of Incorporation or these Bylaws.

12. Access to Common Property and Recreational Facilities. All Common Property serving the Association shall be available, subject to all restrictions set forth in the Declaration or in any rules and regulations adopted by the Association, to Members of the Association and their invited guests for the use intended to such Common Property. The Association may adopt reasonable rules and regulations pertaining to the use of such Common Property. Members shall have the right to peaceably assemble, or invite public officers or candidates for public office to appear and speak, in Common Property subject to reasonable rules and regulations adopted by the Association. Notwithstanding anything in the foregoing to the contrary, access to Limited Common Property shall be limited to those Members, and their invited guests, who are Owners of Residential Property to which the use of such Limited Common Property has been reserved and dedicated.

13. Amendment. These Bylaws may be changed, amended or modified, at any time and from time to time, by the Members, as and to the extent provided in, and pursuant to the procedures set forth in, the Declaration.

14. Pronouns. Whenever the context permits, the singular shall include the plural and one gender shall include all.