

11/16/92

Redwinsted Clerk Circuit Court
 Recorded and Verified Brevard County, FL
 # Pgs. 37 # Homes 2
 Trust Fund 19.00 Rec Fee 19.00
 Stamp-Deed _____ Excise Tax _____
 Stamp-Mtg _____ Int Tax _____
 Service Chg _____ Refund _____

DECLARATION OF COVENANTS AND RESTRICTIONS
 OF
 ISLAND VILLAS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS OF ISLAND VILLAS is made this 5th day of October, 1992, by SANDY POINT LAND DEVELOPMENT CORP., a Florida corporation ("DECLARANT").

DECLARANT owns the property described herein as Exhibit "A" attached hereto, and intends to develop the property as a residential community. The purpose of this DECLARATION is to provide various use and maintenance requirements and restrictions in the best interest of the future OWNERS of dwellings within the property to protect and preserve the values of the property. This DECLARATION will also establish an association which will own, operate, and/or maintain various portions of the property and improvements constructed within the property, will have the right to enforce the provisions of this DECLARATION, and will be given various other rights and responsibilities. The expenses of the association will be shared by the OWNERS of the property, who will be members of the association.

NOW, THEREFORE, DECLARANT hereby declares that the SUBJECT PROPERTY, as herein defined, and such additions as may hereafter be made pursuant to the terms of this DECLARATION, shall be held, sold, conveyed, leased, mortgaged, and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens, and charges set forth herein, all of which are created in the best interest of the OWNERS and residents of the SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and shall be binding upon all PERSONS having and/or acquiring any right, title, or interest in the SUBJECT PROPERTY or any portion thereof, and shall inure to the benefit of each and every PERSON, from time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.

1. **DEFINITIONS.** The terms used in this DECLARATION, and in the ARTICLES and the BYLAWS, shall have the following meanings, unless the context otherwise requires:
 - 1.01 **ARTICLES** means the Articles of Incorporation of the ASSOCIATION, as same may be amended from time to time.
 - 1.02 **ASSESSMENT** means the amount of money which may be assessed against an OWNER for the payment of the OWNER's share of COMMON EXPENSES, and/or any other funds which an OWNER may be required to pay to the ASSOCIATION as provided by this DECLARATION, the ARTICLES, or the BYLAWS.
 - 1.03 **ASSOCIATION** means the corporation established pursuant to the Articles of Incorporation attached hereto as an exhibit.
 - 1.04 **BOARD** means the Board of Directors of the ASSOCIATION.
 - 1.05 **BUILDING** means any building contained within the SUBJECT PROPERTY from time to time. A BUILDING may contain one or more UNITS which may be connected by party walls and, in that event, the term BUILDING includes the UNITS within the BUILDING.
 - 1.06 **BYLAWS** means the Bylaws of the ASSOCIATION, as same may be amended from time to time.

Hold 10/16/92

5
5
5
5
5

SECTION 11, PM 3:43

1.07 COMMON AREAS means any property, whether improved or unimproved, or any easement or interest therein, now or hereafter owned by the ASSOCIATION or which is declared to be a COMMON AREA by this DECLARATION. COMMON AREAS may include, but are not limited to, parks, open areas, lakes, recreational facilities, roads, entrance ways, parking areas, and other similar properties, provided that the foregoing shall not be deemed a representation or warranty that any or all of the foregoing types of COMMON AREAS will be provided.

1.07.1 LIMITED COMMON AREA is that area within the SUBJECT PROPERTY now or hereafter owned by the ASSOCIATION or which is declared to be a LIMITED COMMON AREA by this DECLARATION, which is limited to the exclusive use of specific UNIT OWNERS. LIMITED COMMON AREAS may include, but are not limited to, the following:

A. FRONT LIMITED COMMON AREA: That area of each INTERNAL UNIT bounded on each side by an imaginary line extended from the center line of each side PARTY WALL of the UNIT to the inside edge of the road curb.

B. BACK LIMITED COMMON AREA: That area behind each INTERNAL UNIT bounded on each side by an imaginary line extended from the center line of each side PARTY WALL of the UNIT, extending no more than twenty feet (20') from the original outside edge of the exterior back wall of the UNIT or ten feet (10') from the outside edge of any enclosed concrete patio area.

C. SIDE LIMITED COMMON AREA: That area on the external side of each END UNIT located by an imaginary line set at the widest part of the UNIT plus eight feet (8') from the outside edge of the exterior wall, not including any exterior appendages and parallel to the PARTY WALL of said UNIT. Said side area shall extend from the front line of the FRONT LIMITED COMMON AREA to the rear line of the BACK LIMITED COMMON AREA.

1.08 COMMON EXPENSES means all expenses of any kind or nature whatsoever incurred by the ASSOCIATION, including, but not limited to, the following:

1.08.1 Expenses incurred in connection with the ownership, maintenance, repair, improvement, or operation of the COMMON AREAS, or any other property to be maintained by the ASSOCIATION as provided in this DECLARATION, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements, and alterations.

1.08.2 Expenses of obtaining, repairing, or replacing personal property in connection with any COMMON AREA or the performance of the ASSOCIATION's duties.

1.08.3 Expenses incurred in connection with the administration and management of the ASSOCIATION.

1.08.4 Expenses declared to be COMMON EXPENSES by the provisions of this DECLARATION or by the ARTICLES or BYLAWS.

- 1.09 COMMON SURPLUS means the excess of all receipts of the ASSOCIATION over the amount of the COMMON EXPENSES.
- 1.10 DECLARANT means the PERSON executing this DECLARATION, or any PERSON who may be assigned the rights of DECLARANT pursuant to a written assignment executed by the then present DECLARANT recorded in the public records of the county in which the SUBJECT PROPERTY is located. In addition, in the event any PERSON who obtains title to all the SUBJECT PROPERTY then owned by DECLARANT as a result of the foreclosure of any mortgage or deed in lieu thereof, such PERSON may elect to become the DECLARANT by a written election recorded in the public records of the county in which the SUBJECT PROPERTY is located, and regardless of the exercise of such election, such PERSON may appoint as DECLARANT any third party who acquires title to all or any portion of the SUBJECT PROPERTY by written appointment recorded in the public records recorded in the county in which the SUBJECT PROPERTY is located. In any event, any subsequent DECLARANT shall not be liable for any defaults or obligations incurred by any prior DECLARANT, except as same may be expressly assumed by the subsequent DECLARANT.
- 1.11 DECLARATION means this document as it may be amended from time to time.
- 1.12 END UNIT means a typical UNIT which is bound by no more than one UNIT.
- 1.13 INSTITUTIONAL LENDER means the holder of a mortgage encumbering a LOT, which holder in the ordinary course of business makes, purchases, guarantees, or insures mortgage loans, and which is not owned or controlled by the OWNER of the LOT encumbered. An INSTITUTIONAL LENDER may include, but is not limited to, a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension or profit sharing plan, mortgage company, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any agency of the United States, or any other governmental authority, or any other similar type of lender generally recognized as an institutional-type lender. For purpose of definition only, an INSTITUTIONAL LENDER shall also mean the holder of any mortgage executed by or in favor of DECLARANT, whether or not such holder would otherwise be considered an INSTITUTIONAL LENDER.
- 1.14 INTERNAL UNIT means a typical UNIT which is bounded on both sides by another UNIT.
- 1.15 LOT means any parcel of land located within the SUBJECT PROPERTY, which has been or is intended to be conveyed by DECLARANT to an OWNER and which contains or is intended to contain a UNIT, and shall include any UNIT constructed upon the LOT.
- 1.16 OWNER means the record owner(s) of the fee title to a LOT.
- 1.17 PARTY WALL means that wall which exists between and is common to two existing UNITS. Said PARTY WALL acts as a dividing line between those existing UNITS.
- 1.18 PERSON means an individual, corporation, partnership, trust, or any other legal entity.
- 1.19 SUBJECT PROPERTY means all of the property subject to this DECLARATION from time to time, which initially is the property described in Exhibit "A" attached hereto, and includes any UNITS or improvements constructed thereon.

- 1.20 SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating method to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40 or 40C-42, F.A.C.
- 1.21 UNIT means the residential dwelling constructed upon a LOT, which may be connected to one or more UNITS by a common party wall.
- 1.22 AREAS OF CONCERN Areas of concern shall mean and be defined as a list prepared by the Transition Committee prior to turnover of the association identifying members' concerns regarding the common areas.
- 1.23 GROUNDS COMMITTEE A grounds committee shall mean those individuals appointed by the Board of Directors to review and oversee the day-to-day maintenance requirements of the association's common areas and those concerns or suggestions submitted by members.
- The Grounds Committee shall be an ad hoc committee established to advise the Developer and his board, and the Ground Committee Chairman shall make recommendations to the Board regarding such maintenance, concerns and suggestions. The Board will take appropriate action based on the Grounds Committee's recommendations.
- 1.24 Transition Committee The Transition Committee shall be that committee appointed by the Board of Directors prior to the turnover of the association to assist in accomplishing a smooth turnover. The Transition Committee shall remain intact until the initial election of the Board of Directors.
- 1.25 Turnovers Turnover shall mean and be defined as the point in time at which the Developer transfers control of the association to the unit owners, which occurs when the Board of Directors is elected by the members and no longer exclusively appointed by the Developer.

2. ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY and this DECLARATION, the ASSOCIATION has been organized under the Laws of the State of Florida.

- 2.01 ARTICLES. A copy of the ARTICLES is attached hereto as Exhibit "B". No amendment to the ARTICLES shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict amendments to the ARTICLES, except as specifically provided herein.
- 2.02 BYLAWS. A copy of the BYLAWS is attached as Exhibit "C". No amendment to the BYLAWS shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict amendments to the BYLAWS, except as specifically provided herein.
- 2.03 Powers of the ASSOCIATION. The ASSOCIATION shall have all of the powers indicated or incidental to those contained in its ARTICLES and BYLAWS. In addition, the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all of the powers granted to it by this DECLARATION. By this DECLARATION, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

- 2.04 Approval or Disapproval of Matters. Whenever the decision of the OWNERS is required upon any matter, whether or not the subject of an ASSOCIATION meeting, such decision shall be expressed in accordance with the ARTICLES and the BYLAWS, except as otherwise provided herein.
- 2.05 Acts of the ASSOCIATION. Unless the approval or action of the OWNERS and/or a certain specific percentage of the BOARD is specifically required by this DECLARATION, the ARTICLES, or BYLAWS, or by applicable law, all approvals or actions required or permitted to be given or taken by the ASSOCIATION shall be given or taken by the BOARD, without the consent of the OWNERS, and the BOARD may so approve an act through the proper officers of the ASSOCIATION without a specific resolution. When an approval or action of the ASSOCIATION is permitted to be given or taken, such action or approval may be conditioned in any manner the ASSOCIATION deems appropriate, or the ASSOCIATION may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.
- 2.06 Management and Service Contracts. The ASSOCIATION shall have the right to contract for professional management or services on such terms and conditions as the BOARD deems desirable in its sole discretion provided, however, that any such contract shall not exceed three (3) years and shall be terminable by either party without cause and without payment of a termination or penalty fee on ninety (90) days or less written notice.
- 2.07 Membership. All OWNERS shall be members of the ASSOCIATION. Membership as to each LOT shall be established, and transferred, as provided by the ARTICLES and the BYLAWS.
- 2.08 OWNERS Voting Rights. The votes of the OWNERS shall be established and exercised as provided in the ARTICLES and BYLAWS.

3. COMMON AREAS, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.

- 3.01 Conveyance of COMMON AREAS to ASSOCIATION.
- 3.01.1 By DECLARANT. DECLARANT shall have the right to convey title to any property owned by it, or any easement or interest therein, to the ASSOCIATION as a COMMON AREA, and the ASSOCIATION shall be required to accept such conveyance. Any such conveyance shall be effective upon recording the deed or instrument of conveyance in the public records of the county where the SUBJECT PROPERTY is located.
- 3.01.2 By Any Other PERSON. Any other PERSON may also convey title to any property owned by such PERSON, or any easement or interest therein, to the ASSOCIATION as a COMMON AREA, but the ASSOCIATION shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation, or improvement of any such property upon the ASSOCIATION, unless the BOARD expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance in the public records of the county in which the SUBJECT PROPERTY is located.

- 3.02 Use and Benefit. All COMMON AREAS shall be held by the ASSOCIATION for the use and benefit of the ASSOCIATION and the OWNERS, the residents of the SUBJECT PROPERTY, and their respective guests and invitee, the holders of any mortgage encumbering any PROPERTY from time to time, and any other PERSONS authorized to use the COMMON AREAS or any portion thereof by DECLARANT or the ASSOCIATION, for all property and reasonable purposes and uses for which the same are reasonably intended, subject to the terms of this DECLARATION, subject to the terms of any easement, restriction, reservation, or limitation of record affecting the COMMON AREA or contained in the deed or instrument conveying the COMMON AREA to the ASSOCIATION, and subject to any rules and regulations adopted by the ASSOCIATION. An easement and right for such use is hereby created in favor of all OWNERS, appurtenant to the title to their PROPERTY.
- 3.03 Grant or Modification of Easements. The ASSOCIATION shall have the right as provided by law to grant, modify, or terminate easements over, under, upon, and/or across any property owned by the ASSOCIATION, and shall have the further right to modify, relocate, or terminate existing easements in favor of the ASSOCIATION.
- 3.04 Additions, Alterations, or Improvements. The ASSOCIATION shall have the right to make additions, alterations, or improvements to the COMMON AREAS, and to purchase any personal property, as it deems necessary or desirable from time to time provided, however, that the approval of two-thirds (2/3) of the votes of the OWNERS shall be required if any recreational facility is removed or substantially and adversely affected, or for any addition, alteration, or improvement or any purchase of personal property, exceeding a sum equal to one (1) month's total ASSESSMENTS for COMMON EXPENSES payable by all of the MEMBERS, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum equal to two (2) months' ASSESSMENTS for COMMON EXPENSES payable by all of the OWNERS.
- The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair, or replacement of existing COMMON AREAS, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations, or improvements to the COMMON AREAS, or the purchase of any personal property, shall be a COMMON EXPENSE. In addition, so long as DECLARANT owns any portion of the SUBJECT PROPERTY, DECLARANT shall have the right to make any additions, alterations, or improvements to the COMMON AREAS as may be desired by DECLARANT in its sole discretion from time to time, at DECLARANT's expense.
- 3.05 Utilities. The ASSOCIATION shall pay for all utility services for the COMMON AREAS, or for any other property to be maintained by the ASSOCIATION, as a COMMON EXPENSE.
- 3.06 Taxes. The ASSOCIATION shall pay all real and personal property taxes and assessments for any property owned by the ASSOCIATION, as a COMMON EXPENSE.
- 3.07 Mortgage and Sale of COMMON AREAS. The ASSOCIATION shall not abandon, partition, subdivide, encumber, sell, or transfer any COMMON AREA owned by the ASSOCIATION without the approval of at least two-thirds (2/3) of the votes of the OWNERS. If ingress or egress to any PROPERTY is through any COMMON AREA, any conveyance or encumbrance of such COMMON AREA shall be subject to an appurtenant easement for ingress and egress in favor of the OWNER(s) of such PROPERTY, unless alternative ingress and egress is provided to the OWNER(s).

- 3.08 Special Provisions Regarding Recreational Facilities. It is acknowledged that DECLARANT plans to construct various recreational facilities within the property described in Exhibit "D" attached hereto, which are planned to consist of a swimming pool and deck, a cabana building, and various personal property associated therewith, the kind, value, and nature of which shall be determined in DECLARANT's sole discretion, and DECLARANT reserves the right to increase or add to the foregoing recreational facilities, or to expand the recreational facilities, without the consent of the OWNERS or the ASSOCIATION. Notwithstanding the foregoing, DECLARANT shall have no obligation to complete the recreational facilities or to convey same to the ASSOCIATION until six (6) months after the closing of the twentieth (20th) UNIT within the SUBJECT PROPERTY.
- 3.09 Assigned Parking. It is acknowledged that the COMMON AREAS include parking areas for automobiles of the residents of the SUBJECT PROPERTY, and their guests and invitee. The ASSOCIATION shall have the right to assign one parking space for the exclusive use of the residents of each UNIT. In the event of such assignment, no resident of any other UNIT, or their guests and invitee, shall park in a parking space assigned to another UNIT. All unassigned parking spaces will be for the general use of the residents of the SUBJECT PROPERTY, and their guests and invitee. For good cause, the ASSOCIATION shall have the right to reassign parking spaces from time to time upon written notice to the affected OWNERS.
- 3.10 Boat Docks. It is acknowledged that DECLARANT plans, but shall not be obligated to, coordinate permitting of a limited number of boat docks along the portion of the SUBJECT PROPERTY that is contiguous to the Flamingo Waterway, and any other contiguous waterway. Dock walkways shall be limited in the CONSERVATION EASEMENT as recorded in Book 3232, Page 2642 - 2647 in the public records of Brevard County, Florida; to not more than a total of twelve (12) crossings. Said crossings shall be limited to a four (4) foot wide area starting from the docks most landward point traveling over and across the conservation easement to the dock's most waterward point. Each boat dock shall be considered LIMITED COMMON AREA and shall be designated to certain OWNERS by the DECLARANT. Each OWNER shall be responsible to obtain all federal, state and local permits and approvals before constructing a boat dock. No boat dock shall be constructed unless approved by the DECLARANT and in accordance with standard plans and specification set forth by the DECLARANT.

Any such UNIT OWNER may permit another resident of the SUBJECT PROPERTY to use his boat dock on such terms and conditions as the UNIT OWNER may desire, but no person who does not reside within the SUBJECT PROPERTY or who is not visiting a resident shall be permitted to use any boat dock without the prior written consent of the ASSOCIATION.

The ASSOCIATION shall have the right to permit any PERSON to use any boat docks which are not within the projection of the side walls of the UNITS on such terms and conditions as the ASSOCIATION may establish from time to time provided, however, that the residents of the SUBJECT PROPERTY shall be given the first right to use any common boat dock space.

Any UNIT OWNER having the exclusive right to any boat dock space may not run any electric or water lines to the boat dock without the prior written consent of the ASSOCIATION and, in any event, any such utility lines must comply with all governmental requirements and must be maintained by the UNIT OWNER in good condition at all times and, if not so maintained, the ASSOCIATION shall have the right to repair or remove the utility lines at the expense of the applicable UNIT OWNER.

The maintenance and repair of all of the boat docks shall be the responsibility of only these UNIT OWNERS utilizing said boat docks provided, however, that if any UNIT OWNER's boat dock requires maintenance or repairs in excess of the other boat docks due to the UNIT OWNER's actions, the UNIT OWNER may be assessed a share of the cost of such excess repair, such cost equal to 50% of the cost if the repairs are of an accelerated nature, and 100% of the cost if the repairs are solely due to the actions of the UNIT OWNER. And in this regard, the ASSOCIATION shall have the right to determine the source of damage and the amount of any assessment. The ASSOCIATION reserves the right to repair, remove, or replace all or any portion of the boat docks at any time.

4. EASEMENTS. Each of the following easements are hereby created, which shall run with the land and, notwithstanding any of the other provisions of this DECLARATION, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of this DECLARATION.

4.01 Easements for Pedestrian and Vehicular Traffic. Easements for pedestrian traffic over, through, and across sidewalks, paths, lanes, and walks, as the same may from time to time exist upon the COMMON AREAS and be intended for such purpose; and for pedestrian and vehicular traffic and parking over, through, across, and upon such portion of the COMMON AREAS as may from time to time be paved and intended for such purposes, same being for the use and benefit of the OWNERS and the residents of the SUBJECT PROPERTY, their mortgagees, and their guests and invitee.

4.02 Perpetual Nonexclusive Easement in COMMON AREAS. The COMMON AREAS shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement in favor of all OWNERS and residents of the SUBJECT PROPERTY from time to time, and their guests and invitee, for all property and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

4.03 Service and Utility Easements. Easements in favor of governmental and quasi-governmental authorities, utility companies, cable television companies, ambulance or emergency vehicle companies, and mail carrier companies, over and across all roads existing from time to time within the SUBJECT PROPERTY, and over, under, on, and across the COMMON AREAS, as may be reasonably required to permit the foregoing, and their agents and employees, to provide their respective authorized services to and for the SUBJECT PROPERTY. Also, easements as may be required for the installation, maintenance, repair, and providing of utility services, equipment, and fixtures in order to adequately serve the SUBJECT PROPERTY, including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage, television antenna, and cable television facilities, and electronic security.

However, easements affecting any LOT which serve any other portion of the SUBJECT PROPERTY shall only be under the LOT, and shall only be for utility services actually constructed, or reconstructed, and for the maintenance thereof, unless otherwise approved in writing by the OWNER of the LOT. An OWNER shall do nothing on his LOT which interferes with or impairs the utility services using these easements. The BOARD or its designee shall have a right of access to each LOT and UNIT to inspect, maintain, repair, or replace the utility service facilities contained under the LOT and to remove any improvements interfering with or impairing the utility services or easement herein reserved; provided such right of access shall not unreasonably interfere with the OWNER's permitted use of the LOT, and except in the event of an emergency, entry into any UNIT shall be made with reasonable notice to the OWNER.

4.04 Support. Every portion of a UNIT contributing to the support of a BUILDING or an adjacent UNIT shall be burdened with an easement of support for the benefit of all other UNITS in the BUILDING.

4.05 Encroachments. If any portion of the COMMON AREAS encroaches upon any LOT, if any UNIT or other improvement encroaches upon any LOT or upon any portion of the COMMON AREAS, or if any encroachment shall hereafter occur as a result of:

(i) construction or reconstruction of any improvements;

(ii) settling or shifting of any improvements;

(iii) any addition, alteration, or repair to the COMMON AREAS made by or with the consent of the ASSOCIATION;

(iv) any repair or restoration of any improvements (or any portion thereof) of any UNIT after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any UNIT or the COMMON AREAS; or

(v) any non-purposeful or non-negligent act of an OWNER except as may be authorized by the BOARD; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand.

No change or improvement on any portion of the LIMITED COMMON AREA will, at any time, be allowed to block or impede access to any UNIT.

4.06 Easements for overhanging troughs or gutters, downspouts, and the discharge therefrom of rainwater and the subsequent flow thereof over the LOTS and the COMMON AREAS.

4.07 Additional Easements. DECLARANT (so long as it owns any LOTS) and the ASSOCIATION, on their behalf and on behalf of all OWNERS, each shall have the right as provided by law to:

(i) grant and declare additional easements over, upon, under, and/or across the COMMON AREAS in favor of the OWNERS and residents of the SUBJECT PROPERTY and their guests and invitee, or in favor of any other person, entity, public or quasi-public authority, or utility company; or

(ii) modify, relocate, abandon, or terminate existing easements within or outside of the SUBJECT PROPERTY in favor of the ASSOCIATION and/or the OWNERS and residents of the SUBJECT PROPERTY and their guests and invitee or in favor of any person, entity, public or quasi-public authority, or utility company, as the DECLARANT or the ASSOCIATION may deem desirable for the proper operation and maintenance of the SUBJECT PROPERTY, or any portion thereof, or for the health, safety, or welfare of the OWNERS, or for any other reason or purpose.

So long as such additional easements, or the modification, relocation, or abandonment of existing easements will not unreasonably and adversely interfere with the use of LOTS for dwelling purposes, no joinder of any OWNER or any mortgagee of any LOT shall be required or, if same would unreasonably and adversely interfere with the use of any LOT for dwelling purposes, only the joinder of the OWNERS and INSTITUTIONAL LENDERS of LOTS so affected shall be required. To the extent required, all OWNERS hereby irrevocably appoint DECLARANT and/or the ASSOCIATION as their attorney-in-fact for the foregoing purposes.

- 4.08 Sale and Development Easement. DECLARANT reserves and shall have an easement over, upon, across, and under the SUBJECT PROPERTY as may be reasonably required in connection with the development, construction, sale, and promotion, and leasing of the SUBJECT PROPERTY or any portion thereof.
- 4.09 Conservation Easement. There has been created an easement for the protection of the wetlands shoreline vegetation of the SUBJECT PROPERTY. See "Deed of Conservation Easement" as is recorded in the public records of Brevard County, Book ____, Page ____, and is attached as Exhibit "B".
3232 2642

5. MAINTENANCE OF THE SUBJECT PROPERTY.

- 5.01 By the ASSOCIATION. The ASSOCIATION shall operate, maintain, repair, and replace, as a COMMON EXPENSE, the following portions of the SUBJECT PROPERTY:
- 5.01.1 COMMON AREAS. The ASSOCIATION shall maintain all COMMON AREAS or other areas for which the duty to maintain has been delegated to and accepted by the ASSOCIATION, and all paving, parking areas, landscaping, and improvements contained thereon from time to time.
- 5.01.2 Landscaping. The ASSOCIATION shall be responsible for the maintenance and care of all landscaping throughout the SUBJECT PROPERTY and in the unpaved portion of contiguous road right-of-ways, except for any landscaping contained within a fenced or walled-in area of any LOT. The ASSOCIATION shall plant, remove, and/or replace sod, plants, flowers, shrubbery, and trees when in the sole discretion of the BOARD same is appropriate and in the best interest of the SUBJECT PROPERTY. The ASSOCIATION's responsibility shall include mowing, trimming, pruning, edging, fertilizing, and control of weeds, insects, and disease.
- 5.01.3 Subdivision Wells and Water Sprinkler System. The ASSOCIATION shall maintain and repair wells (if any), pipes, and water sprinkler systems throughout the SUBJECT PROPERTY, except for wells, pipes, and sprinkler systems serving the fenced or walled-in area of any LOT.
- 5.01.4 Utility Services. The ASSOCIATION shall maintain all utility services not owned by any governmental authority or utility company, and any septic tanks within the SUBJECT PROPERTY, except for utility services located within any LOT, which serve only the LOT or the UNIT on the LOT. The ASSOCIATION shall have the right to enter into a temporary utility contract on behalf of the UNIT OWNERS for private sewer facilities, if public sewer facilities are not available, and to assess the UNIT OWNERS for a portion of the cost associated with the private sewer facilities.
- 5.01.5 Building Exteriors and Roof. The ASSOCIATION shall perform periodic exterior wall, roof, and garage door painting and maintenance, except that each UNIT OWNER shall be responsible for any repairs or replacements required to the garage door of his UNIT, other than painting or staining.

- 5.01.6 Surface Water or Stormwater Management System. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified as approved by the St. Johns River Water Management District.
- 5.01.7 Other Property. The ASSOCIATION shall have the right to maintain such other areas within or contiguous to the SUBJECT PROPERTY as the BOARD determines from time to time is in the best interest of the OWNERS, and the cost of any such maintenance shall be a COMMON EXPENSE. In particular, the ASSOCIATION shall have the right to maintain landscaping within any road right-of-way contiguous to the SUBJECT PROPERTY, to the edge of the pavement within such right-of-way, and if any lake or canal is contiguous to the SUBJECT PROPERTY, the ASSOCIATION shall have the right to maintain landscaping to the water line of any such lake or canal.
- 5.01.8 Notwithstanding the foregoing, if any special maintenance, other than regular periodic maintenance performed by the ASSOCIATION or maintenance necessitated by ordinary wear and tear, is required due to the actions of any OWNER, or the residents of any UNIT, or their guests or invitee, the OWNER of the UNIT shall be responsible for the cost of such maintenance and may be assessed for such cost by the ASSOCIATION.
- 5.02 By the OWNERS. Each OWNER shall maintain his UNIT and all improvements upon his LOT in first class condition, except those portions of his UNIT and LOT which are to be maintained by the ASSOCIATION as discussed above. Included within the responsibility of the OWNER, shall be windows, screens, sliding glass doors, garage doors, and doors on the exterior of his UNIT, and framing for same; the repair and replacement of any garage door on the UNIT OWNER's UNIT; all landscaping and improvements within any fenced or walled-in area of the OWNER's LOT; and all fences on the LOT, all of which shall be maintained by the OWNER in good condition and repair and in a neat and attractive manner. In addition, if any OWNER installs landscaping outside of any fence or walled-in area of the OWNER's LOT, then at the option of the ASSOCIATION and upon notice to the OWNER, the OWNER will be required to maintain such landscaping, and if the OWNER fails to do so, the ASSOCIATION shall have the right to remove such landscaping.
- 5.02.01 Maintenance of LIMITED COMMON AREA. Each UNIT OWNER shall enjoy exclusive use over the LIMITED COMMON AREA associated with his UNIT. Each UNIT OWNER is responsible for the maintenance in good condition of all exterior improvements, lawn furniture, etc., which must be kept in good condition or same may be removed by the ASSOCIATION, at OWNER's expense, following failure to remove or repair to good condition within fifteen (15) days after written notice.

The ASSOCIATION shall be responsible for the maintenance and care of all landscaping and sprinkler systems as provided by DECLARANT per Paragraph 5.01.2 and 5.01.3.

5.02.2 LIMITED COMMON AREA IMPROVEMENTS. Any improvement in any LIMITED COMMON AREA which is common to more than one UNIT will be enjoyed equally by each associated OWNER in its entirety. No change will be made to the improvement or LIMITED COMMON AREA without the express written consent by both OWNERS being on record with the ASSOCIATION, unless the change is made by the DECLARANT or ASSOCIATION. Any repair or replacement expense will be shared equally by both OWNERS.

5.03 By DECLARANT. Notwithstanding the foregoing, until such time as all of the UNITS to be built within the SUBJECT PROPERTY have been completed, and all of the improvements and landscaping within the COMMON AREAS have been completed, DECLARANT shall maintain all unimproved and undeveloped portions of the SUBJECT PROPERTY in a safe and sanitary condition in compliance with the requirements of all controlling governmental authorities, so that the unimproved and undeveloped portions of the SUBJECT PROPERTY will not be a nuisance or unreasonably detract from the completed portions of the SUBJECT PROPERTY. If DECLARANT fails to satisfy its obligations hereunder, the ASSOCIATION may perform such maintenance and assess DECLARANT for the reasonable costs thereof.

6. INSURANCE. The insurance, other than title insurance, which shall be carried upon the SUBJECT PROPERTY and the UNITS shall be governed by the following provisions:

6.01 Purchase, Custody, and Payment of Policies.

6.01.1 Purchase. All insurance policies covering the SUBJECT PROPERTY shall be purchased by the ASSOCIATION and shall be issued by an insurance company authorized to do business in Florida which has an office or agent located in the vicinity of the SUBJECT PROPERTY.

6.01.2 Approval by INSTITUTIONAL LENDERS. Each INSTITUTIONAL LENDER shall have the right, upon reasonable notice to the ASSOCIATION, to review and approve, which approval shall not be unreasonably withheld, the form, content, insurer, limits, and coverage of all insurance purchased by the ASSOCIATION, and to require the ASSOCIATION to purchase insurance complying with the reasonable and customary requirements of the INSTITUTIONAL LENDER. In the event of a conflict between INSTITUTIONAL LENDERS, the decision of the INSTITUTIONAL LENDER holding mortgages encumbering LOTS which secure the largest aggregate indebtedness shall control.

6.01.3 Named Insured. The named insured on all policies purchased by the ASSOCIATION shall be the ASSOCIATION, individually and as agent for all OWNERS covered by the policy, without naming them, and as agent for their mortgagees, without naming them.

6.01.4 Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer on account of casualty to any portion of the SUBJECT PROPERTY shall be paid to the Insurance Trustee, and all policies and endorsements for casualty losses shall be deposited with the Insurance Trustee.

6.01.5 Copies to OWNERS or INSTITUTIONAL LENDERS. One (1) copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the ASSOCIATION to each OWNER or INSTITUTIONAL LENDER who

holds a mortgage upon a LOT covered by the policy, and in writing requests the ASSOCIATION to provide it with such policies.

6.01.6 Personal Property and Liability. OWNERS may obtain insurance at their own expense and at their own discretion for their personal property, personal liability, living expenses, flood damage and for improvements made to heir LOT or UNIT.

6.01.7 Deductibles. Any deductible or exclusion under an insurance policy purchased by the ASSOCIATION shall be a COMMON EXPENSE, and shall not exceed \$2,500.00 or such other sum as is approved by the members of the ASSOCIATION.

6.02 Coverage.

6.02.1 Casualty. All UNITS and all improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION are to be insured in an amount equal to one hundred percent (100%) of the then current replacement cost, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the ASSOCIATION. Prior to obtaining any casualty insurance or renewal thereof, the ASSOCIATION shall obtain an appraisal from a fire insurance company or otherwise of the full replacement cost of the UNITS and improvements upon the SUBJECT PROPERTY and all personal property of the ASSOCIATION, without deduction for depreciation, for the purposes of determining the amount of casualty insurance to be obtained pursuant to this Paragraph. Such coverage shall afford protection against:

6.02.1.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

6.02.1.2 Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location, and use, including, but not limited to, vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

6.02.1.3 The hazard insurance policy shall cover, among other things, all of the UNITS including, but not limited to, walls, doors, stairways, kitchen cabinets and fixtures, built-in kitchen appliances, electrical fixtures, and bathroom cabinets and fixtures, all as originally supplied by DECLARANT or having a value not in excess of that originally supplied by DECLARANT. The hazard insurance policy shall not include any improvements made in any UNIT by an OWNER in addition to or having a value in excess of that originally supplied by DECLARANT, or any wall coverings, furniture, furnishings, or other personal property installed or brought into a UNIT from time to time by the OWNER or residents of a UNIT, or their guests or invitee.

6.02.2 Liability. Comprehensive general public liability insurance insuring the ASSOCIATION against loss or damage resulting from accidents or occurrences on or about or in connection with the SUBJECT PROPERTY, or any work, matters, or things related to the SUBJECT PROPERTY or this DECLARATION and its exhibits, with such coverage as shall be required by the ASSOCIATION, but with a combined single limit liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury, death, or property

damage, arising out of a single occurrence, and with cross liability endorsement to cover liabilities of the OWNERS as a group to an OWNER.

- 6.02.3 Workmen's Compensation as shall be required to meet the requirements of the law.
- 6.02.4 Fidelity Bonds. If required by an INSTITUTIONAL LENDER, the ASSOCIATION shall obtain blanket fidelity bonds for all officers, directors, trustees, and employees of the ASSOCIATION and all other persons handling or responsible for funds of or administered by the ASSOCIATION. The total amount of fidelity bond coverage, if required, shall in no event be less than a sum equal to three (3) months aggregate ASSESSMENTS on all LOTS plus reserve funds held by the ASSOCIATION, if any.
- 6.02.5 Such Other Insurance as the ASSOCIATION shall determine from time to time to be desirable or as may reasonably be required by an INSTITUTIONAL LENDER pursuant to Paragraph 6.01.2, and as is customarily obtained with respect to UNITS and improvements similar in construction, location, and use to those contained within the SUBJECT PROPERTY, such as, where applicable, contractual and all-written contract insurance, employer's liability insurance, and comprehensive automobile liability insurance. In no event shall the ASSOCIATION be required to purchase flood insurance, and in the event any INSTITUTIONAL LENDER requires flood insurance, the responsibility for same shall be the applicable OWNER's.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to:

(i) subrogation against the ASSOCIATION and against the OWNERS individually and as a group,

(ii) any prorata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk, and

(iii) avoid liability for a loss that is caused by an act of one or more directors of the ASSOCIATION or by one or more OWNERS; and shall provide that such policies may not be canceled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the ASSOCIATION and to the holder of a first mortgage encumbering any LOT which is listed as a scheduled holder of a first mortgage in the insurance policy.

6.03 Premiums. Premiums for insurance policies purchased by the ASSOCIATION shall be paid by the ASSOCIATION as a COMMON EXPENSE, except that any increase in any insurance premium occasioned by misuse, occupancy, or abandonment of a UNIT by a particular OWNER, or by a resident of any UNIT, or by a member of their families or their guests or invitee, shall be assessed against and paid by that OWNER.

6.04 Insurance Trustee. All casualty insurance policies purchased by the ASSOCIATION shall provide that all proceeds covering casualty losses shall be paid to any national bank or trust company in the vicinity of the SUBJECT PROPERTY with trust powers as may be designated by the ASSOCIATION, as Trustee, which Trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the

Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the OWNERS and their respective mortgagees in the following shares, which shares need not be set forth in the records of the Insurance Trustee.

Notwithstanding the foregoing, unless the BOARD so determines or unless any INSTITUTIONAL LENDER otherwise requires by written notice to the ASSOCIATION, no Insurance Trustee will be required and all references in this DECLARATION to an Insurance Trustee shall refer to the ASSOCIATION where the context requires.

6.04.1 COMMON AREAS. Proceeds on account of damage to COMMON AREAS shall be held in as many undivided shares as there are LOTS, the share of each OWNER being equal.

6.04.2 UNITS. Proceeds on account of damage to UNITS shall be held in the following undivided shares:

6.04.2.1 When the UNITS are to be repaired and restored, for the OWNERS of damaged UNITS in proportion to the cost of repairing the damage suffered by each OWNER.

6.04.2.2 When the UNITS are not to be repaired and restored as elsewhere provided, for the OWNERS of all damaged UNITS, each OWNER's share being equal.

6.04.2.3 INSTITUTIONAL LENDER. In the event a mortgagee endorsement has been issued as to a UNIT, the share of the OWNER shall be held in trust for the INSTITUTIONAL LENDER and the OWNER as their interests may appear. However, no INSTITUTIONAL LENDER shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no INSTITUTIONAL LENDER shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the OWNER and INSTITUTIONAL LENDER pursuant to the provisions of this DECLARATION.

6.05 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to, or for the benefit of, the beneficial owners in the following manner:

6.05.1 Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

6.05.2 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, remittances to OWNERS and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a LOT and may be enforced by such mortgagee.

6.05.3 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged UNITS for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the OWNERS of the

damaged UNITS, remittances to OWNERS and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a LOT and may be enforced by such mortgagee.

- 6.05.4 Certificate. In making distribution to OWNERS and their mortgagees, the Insurance Trustee may rely upon a certificate of the ASSOCIATION executed by the President and Secretary as to the names of the OWNERS and mortgagees together with their respective shares of the distribution.
- 6.05.5 Limitation on Use of Proceeds. In no event may any hazard insurance proceeds for losses to any portion of the SUBJECT PROPERTY be used for other than expenses of the Insurance Trustee or for repair, replacement, or reconstruction of any damage, without the approval of at least two-thirds (2/3) of the OWNERS, and the approval of OWNERS whose UNITS are to be repaired with such proceeds.
- 6.06 ASSOCIATION as Agent. The ASSOCIATION is hereby irrevocably appointed agent for each OWNER and for the holder of a mortgage or other lien upon a LOT and for each owner of any other interest in the SUBJECT PROPERTY to adjust all claims arising under insurance policies purchased by the ASSOCIATION and to execute and deliver releases upon the payment of claims.
- 6.07 Notice of Possible Inadequate Insurance Coverage. In any legal action in which the ASSOCIATION may be exposed to liability in excess of insurance coverage protecting it and the OWNERS, the ASSOCIATION shall give notice of any excess exposure within a reasonable time to all OWNERS who may be exposed to the liability and they shall have the right to intervene and defend.
- 6.08 Inspection of Insurance Policies. A copy of each insurance policy purchased by the ASSOCIATION shall be made available for inspection by any OWNER or INSTITUTIONAL LENDER at reasonable times.
7. RECONSTRUCTION OR REPAIR AFTER CASUALTY.
- 7.01 Determination to Reconstruct or Repair. If any part of the SUBJECT PROPERTY is damaged or destroyed by casualty, whether or not the damage will be repaired shall be determined in the following manner:
- 7.01.1 COMMON AREAS. If the damaged improvement is contained within a COMMON AREA, the damaged property shall be reconstructed or repaired, unless two-thirds (2/3) of the OWNERS vote to the contrary.
- 7.01.2 UNITS. In the event of damage to or destruction of any UNITS as a result of fire or other casualty, except as hereinafter provided, the ASSOCIATION shall arrange for the prompt repair and restoration of the UNITS(S) (including any damaged bathroom and kitchen fixtures equivalent in value to that initially installed by the DECLARANT, but not including improvements having a value in excess of that originally installed by DECLARANT, or furniture, furnishings, or other personal property supplied by an OWNER or tenant of an OWNER) and the Insurance Trustee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Notwithstanding the foregoing, if all of the UNITS within any BUILDING are very substantially damaged or destroyed, then within sixty (60) days after such damage or destruction, a special meeting of the OWNERS shall be called to determine whether the damage or destruction will be repaired and destroyed. The damage or destruction shall be repaired and restored unless two-thirds (2/3) of the OWNERS, including all of the OWNERS of the damaged or destroyed UNITS, vote to the contrary. In the event the damaged UNITS are not to be repaired or restored, the fee title to each LOT containing a damaged UNIT which is not to be repaired or restored shall be vested in the ASSOCIATION.

By accepting a deed conveying a LOT, each OWNER covenants for himself, his heirs, personal representatives, successors, and assigns to execute any and all instruments which may be reasonably required by the ASSOCIATION to carry out the terms of this paragraph, including, without limitation, a deed conveying all of the OWNER's rights, title, and interest in and to his LOT to the ASSOCIATION.

In such event, the ASSOCIATION shall diligently pursue selling all of the LOTS which contain UNITS which are not to be repaired or restored, and the net proceeds from such sale, together with the net proceeds of insurance resulting from damage or destruction shall be divided among all the OWNERS of such damaged UNITS, each OWNER to receive an equal amount of such net proceeds, provided, however that no payment shall be made to an OWNER until there has first been paid off out of his share of such funds all liens on his LOT in the order of priority of such liens. The Insurance Trustee may rely upon a certificate of the ASSOCIATION made by its President and Secretary to determine whether or not any damaged UNITS are to be reconstructed or repaired.

- 7.02 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements or, if not, then according to plans and specifications approved by a majority of the OWNERS and, if the damaged property is one or more UNITS, by the OWNERS of all such UNITS (and their respective INSTITUTIONAL LENDERS), the plans for which are to be altered, which approval shall not be unreasonably withheld. Any reconstruction or repair must be in accordance with the ordinances of the controlling governmental authority, and must be approved by the controlling governmental authority or its appropriate review committee where required by such ordinances. Any reconstruction or repair must be in conformance with the requirements of any controlling governmental authority, and where required, appropriate permits for same shall be obtained.
- 7.03 Responsibility. If the damage is only to those parts of a UNIT for which the responsibility of maintenance and repair is that of the OWNER, the OWNER shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the ASSOCIATION.
- 7.04 Estimates of Cost. Immediately after a determination is made to rebuild or repair damage to property for which the ASSOCIATION has the responsibility of reconstruction and repair, the ASSOCIATION shall obtain reliable and detailed estimates of the cost to rebuild or repair from one or more reliable licensed contractors and shall submit copies of all acceptable estimates to the Insurance Trustee.
- 7.05 ASSESSMENTS. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the ASSOCIATION or if at any time during or after the

reconstruction and repair the funds for the payment of the cost thereof are insufficient, ASSESSMENTS shall be made against the OWNERS in sufficient amounts to provide funds to pay such costs. Such ASSESSMENTS for damage to UNITS shall only be made against the OWNERS of the damaged UNITS in proportion to the cost of reconstruction and repair of each OWNER's respective UNIT. Such ASSESSMENTS for damage to COMMON AREAS shall be made against the OWNERS equally.

7.06 Deductible Provision. The OWNERS shall be responsible for the payment of any deductible under the ASSOCIATION's casualty insurance policy, in the same manner as the OWNERS are responsible for the payment of any excess costs of reconstruction and repair as set forth in the preceding paragraph.

7.07 Construction Funds. The funds for payment for costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the ASSOCIATION from ASSESSMENTS against OWNERS, shall be disbursed in payment of such costs in the following manner:

7.07.1 ASSOCIATION. If the total ASSESSMENTS made by the ASSOCIATION in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the ASSOCIATION is more than Twenty-five Thousand Dollars (\$25,000.00), then the sums paid upon such ASSESSMENT shall be deposited by the ASSOCIATION with the Insurance Trustee. In all other cases, the ASSOCIATION shall hold the sums paid upon such ASSESSMENTS and disburse the same in payment of the costs of reconstruction and repair.

7.07.2 Insurance Trustee. The proceeds of insurance collected on account of a casualty and the sums deposited with the Insurance Trustee by the ASSOCIATION from collections of ASSESSMENTS against OWNERS on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

7.07.2.1 ASSOCIATION Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the ASSOCIATION is less than Twenty-five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs upon the order of the ASSOCIATION, provided, however, that upon request to the Insurance Trustee by an INSTITUTIONAL LENDER which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

7.07.2.2 ASSOCIATION Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the ASSOCIATION is more than Twenty-five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs in the manner required by the ASSOCIATION and upon approval of an architect qualified to practice in the State of Florida and employed by the ASSOCIATION to supervise the work.

7.07.2.3 OWNER. If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the ASSOCIATION,

such balance shall next be distributed to OWNERS of damaged UNITS. The distribution shall be in the shares that the estimated costs of reconstruction and repair in each damaged UNIT bears to the total of these costs in all damaged UNITS; provided, however, that no OWNER shall be paid an amount in excess of the estimated costs of reconstruction and repair for his UNIT. If there is a mortgage upon a LOT, the distribution shall be paid to the OWNER and the mortgagee jointly and they may use the proceeds as they may determine.

7.07.2.4 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owners which is not in excess of ASSESSMENTS paid by such OWNER in the construction fund shall not be made payable to any mortgagee.

7.07.2.5 Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by OWNERS upon ASSESSMENTS shall be deposited by the ASSOCIATION with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the ASSOCIATION or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the ASSESSMENTS paid by OWNERS. Instead, the Insurance Trustee may rely upon a certificate of the ASSOCIATION executed by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided, however, that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee of any distribution of insurance proceeds to an OWNER and further provided that when the ASSOCIATION or a mortgagee which is the beneficiary of any insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the ASSOCIATION shall first be obtained by the ASSOCIATION for disbursements in payment of costs of reconstruction and repair.

8. USE RESTRICTIONS.

- 8.01 Garages. No garage shall be permanently enclosed, and no portion of a garage required for the parking of an automobile shall be converted into a living space or storage area. All garage doors shall remain closed when not in use.
- 8.02 Occupancy. No UNIT shall be permanently occupied by more than two (2) persons for each bedroom in the UNIT, and no more than one (1) child under the age of 18 is permitted to reside in a UNIT on a permanent basis for each bedroom in the UNIT. In addition, temporary guests are permitted so long as they do not create an unreasonable source of noise or annoyance to

the other residents of the SUBJECT PROPERTY.

- 8.03 No Trade or Business. No trade, business, profession, or commercial activity, or any other nonresidential use, shall be conducted upon any portion of the SUBJECT PROPERTY or within any LOT or UNIT by any UNIT OWNER or resident of the SUBJECT PROPERTY.
- 8.04 Leases. All leases of a UNIT must be in writing and specifically be subject to this DECLARATION, the ARTICLES and the BYLAWS and copies delivered to the ASSOCIATION prior to occupancy by the tenant(s). No lease shall be for a period of less than three (3) months. Notwithstanding anything contained herein to the contrary, no additional restrictions on leasing or selling a UNIT shall be imposed by an amendment to this DECLARATION, the ARTICLES, the BYLAWS, or by rule or regulation, without the approval of 100% of the UNIT OWNERS.
- 8.05 Outside Storage of Personal Property. The personal property of any resident of the SUBJECT PROPERTY shall be kept inside the resident's UNIT or a fenced or walled-in yard, except for tasteful patio furniture and other personal property commonly kept outside.
- 8.06 Portable Buildings. No portable, storage, temporary, or accessory buildings or structures, or tents, shall be erected, constructed, or located upon any LOT for storage or otherwise, without the prior written consent of the ASSOCIATION.
- 8.07 Garbage and Trash. Each OWNER shall regularly pick up all garbage, trash, refuse, or rubbish on the OWNER's LOT. Garbage, trash, refuse, or rubbish that is required to be placed at the front of the LOT in order to be collected may be placed and kept at the front of the LOT after 5:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day. All garbage, trash, refuse, or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters, or garbage facilities shall be stored inside a UNIT or fenced-in area and screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.
- 8.08 Vehicles. Only automobiles, vans constructed as private passenger vehicles with permanent rear seats and side windows, and other vehicles manufactured and used as private passenger vehicles, may be parked within the SUBJECT PROPERTY overnight without the prior written consent of the ASSOCIATION, unless kept within an enclosed garage. In particular and without limitation, no vehicle shall be parked outside of a UNIT overnight without the prior written consent of the ASSOCIATION if commercial lettering or signs are painted or affixed to the vehicle, or if commercial equipment is placed upon the vehicle, or if the vehicle is a truck, recreational vehicle, camper, trailer, or other than a private passenger vehicle as specified above. Notwithstanding the foregoing, automobiles owned by governmental law enforcement agencies are expressly permitted. The maximum number of vehicles kept upon the SUBJECT PROPERTY on a permanent basis by the residents of any UNIT, including boats and/or trailers, shall not be greater than the number of garage spaces within the UNIT available for parking and not used for other storage purposes plus one (1), without the prior written consent of the ASSOCIATION. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles while making delivery to and from or while used in connection with providing services to the SUBJECT PROPERTY.

All vehicles parked within the SUBJECT PROPERTY must be in good condition, and no vehicle which is unlicensed or which cannot operate on its own power shall remain within the SUBJECT

PROPERTY for more than 24 hours, and no major repair of any vehicle shall be made on the SUBJECT PROPERTY. Motorcycles are not permitted except with the prior written consent of the ASSOCIATION, which may be withdrawn at any time, and any permitted motorcycle must be equipped with appropriate noise muffling equipment so that the operation of same does not create an unreasonable annoyance to the residents of the SUBJECT PROPERTY.

- 8.09 Pets. No animals, livestock, or poultry of any kind shall be permitted within the SUBJECT PROPERTY except for common household domestic pets. Notwithstanding the foregoing, only two (2) cats and two (2) dogs not exceeding 30 pounds each, or one cat and one dog not exceeding 50 pounds, is permitted in any UNIT, except with the written consent of the BOARD, which may be granted or withheld in the BOARD's discretion. All pets must be registered with the ASSOCIATION. Any pet must be carried or kept on a leash when outside of a UNIT or fenced-in area. No pet shall be kept outside of a UNIT unless someone is present in the UNIT. Each OWNER shall be responsible for his pets and the pets of any person residing in his UNIT. Any pet must not be an unreasonable nuisance or annoyance to other residents of the SUBJECT PROPERTY. Any resident shall pick up and remove any solid animal waste deposited by his pet on the SUBJECT PROPERTY, except for designated pet-walk areas, if any. No commercial breeding of pets is permitted within the SUBJECT PROPERTY. The ASSOCIATION may require any pet to be immediately and permanently removed from the SUBJECT PROPERTY due to a violation of this paragraph.
- 8.10 Air Conditioning Units. Only central air conditioning units are permitted and no window, wall, or portable air conditioning units are permitted.
- 8.11 Clotheslines and Outside Clothes Drying. No clothesline or clothespole shall be erected, and no outside clothes-drying is permitted, except where such activity is advised or mandated by governmental authorities for energy conservation purposes, in which event the ASSOCIATION shall have the right to approve the portions of any LOT used for outdoor clothes-drying purposes and the types of devices to be employed in this regard, which approval must be in writing.
- 8.12 Nuisances. No nuisances shall be permitted within the SUBJECT PROPERTY, and no use or practice which is an unreasonable source of annoyance to the residents within the SUBJECT PROPERTY or which shall interfere with the peaceful possession and proper use of the SUBJECT PROPERTY by its residents shall be permitted. No unreasonably offensive or unlawful action shall be permitted, and all laws, zoning ordinances and regulations of all controlling governmental authorities shall be complied with at all times by the OWNERS.
- 8.13 Outside Antennas. No outside signal receiving or sending antennas, dishes, or devices are permitted. The foregoing shall not prohibit any antenna or signal receiving dish owned by the ASSOCIATION which services the entire SUBJECT PROPERTY.
- 8.14 Garbage Containers, Oil and Gas Tanks, Air Conditioners. All garbage and refuse containers, air conditioning units, oil tanks, bottled gas tanks, and all permanently affixed swimming pool equipment and housing shall be underground or placed in walled-in or landscaped areas as approved by the ASSOCIATION so that they shall be substantially concealed or hidden from any eye-level view from any street or adjacent property.
- 8.15 Signs. No signs shall be placed upon any LOT, and no signs shall be placed in or upon any UNIT which are visible from the exterior of the UNIT, without the prior written consent of the ASSOCIATION.

- 8.16 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets, or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an OWNER or tenant first moves into a UNIT or when permanent window treatments are being cleaned or repaired.
- 8.17 Boats. No boats may be kept or stored outside of any UNIT, without the prior written consent of the ASSOCIATION. All boats upon the SUBJECT PROPERTY, or tied to any boat dock, must be in good working order and in good condition. No major repair to any boat is permitted on the SUBJECT PROPERTY or in any boat dock.
- 8.18 Surface Water Management. No OWNER or any other PERSON shall do anything to adversely affect the surface water management and drainage of the SUBJECT PROPERTY without the prior written approval of the ASSOCIATION and any controlling governmental authority including, but not limited to, the excavation or filling in of any lake or any portion of the SUBJECT PROPERTY, provided the foregoing shall not be deemed to prohibit or restrict the initial construction of improvements upon the SUBJECT PROPERTY by DECLARATION or by the developer of any portion of the SUBJECT PROPERTY in accordance with permits issued by controlling governmental authorities.
- 8.19 Emergency Access and Drainage Easement. There is hereby created, declared, granted and reserved for the benefit of the CITY, a non-exclusive easement over and upon the COMMON STREETS AND ROADS, and all drainage easements comprising and appurtenant to the SURFACE WATER MANAGEMENT SYSTEM for the purpose of undertaking emergency maintenance and repairs to the SURFACE WATER MANAGEMENT SYSTEM in the event that inadequate maintenance or repair of the SURFACE WATER MANAGEMENT SYSTEM shall create a hazard to the public health, safety or general welfare. To the extent that the CITY shall, in fact, undertake any such emergency maintenance and repair thereof by the ASSOCIATION, the CITY shall have a lien upon the COMMON PROPERTY as security for the payment by the ASSOCIATION, of those costs and expenses reasonably incurred by the CITY in connection therewith. It is expressly provided, however, that the creation, declaration and reservation of such Emergency Access and Drainage Easement shall not be deemed to impose upon the CITY any obligation, burden, responsibility or liability to enter upon the SUBJECT PROPERTY or any portion thereof to take any action to maintain or to repair the SURFACE WATER MANAGEMENT SYSTEM or any portion or portions thereof.
- 8.20 Berm and Swale Areas. There is hereby created, declared, granted and reserved for the benefit of the DEVELOPER, the CITY, and the ASSOCIATION a drainage easement over and upon all berm and swale areas as determined by the St. Johns River Water Management District permit for the SUBJECT PROPERTY, and any of its modifications from time to time, together with an easement and license to enter upon such berm and swale areas for the purposes of construction, installing, inspecting, maintaining, repairing or replacing environmental berms and swales and their associated storm water drainage retention/detention areas constituting a part of the SURFACE WATER MANAGEMENT SYSTEM for the SUBJECT PROPERTY. Alteration and/or removal of the berm, swale and associated storm water retention/detention system constructed and installed within such berm and swale areas shall be prohibited.
- 8.21 Swimming Pool. Children under the age of 12 years old are not permitted in or around the swimming pool unless accompanied by an adult. All persons must shower before entering the swimming pool, and all suntan lotion or oils must be removed before entering the swimming pool. No rafts or floatation devices are permitted when others are using the swimming pool. No food or beverages are permitted in or around the swimming pool, and breakable containers

are prohibited. No diving is permitted in the swimming pool. Anyone using suntan lotion or oil must cover any lounge or chair they are sitting on with a towel or other covering. All infants or toddlers must wear a rubberized form-fitted or waterproof garment over a diaper while in the swimming pool.

If the swimming pool is heated, the BOARD shall have the right not to turn on the heater in the BOARD's discretion; and in particular while DECLARANT appoints a majority of the directors of the ASSOCIATION the heater shall not be required to be turned on at any time.

8.22 Boat Docks. All boat docks are to be kept clean and free from blockage at all times. No UNIT OWNER may cause any excess wear of any boat dock. No UNIT OWNER may place any permanent fixture to any boat dock without the written consent of the ASSOCIATION.

8.23 Architectural Control for Exterior Changes.

8.23.1 OWNER to Obtain Approval. No OWNER shall make, install, place, or remove any building, fence, wall, patio area, pool, spa, landscaping, or any other alteration, addition, improvement, or change of any kind or nature to, in, or upon any portion of the COMMON AREAS, the OWNER's LOT, or the exterior of the OWNER's UNIT, unless the OWNER first obtains the written approval of the ASSOCIATION to do same, except that such approval shall not be required for any maintenance or repair which does not result in a material change in any improvement, including the color of same.

Any improvement within the LIMITED COMMON AREA or the exterior of the UNIT, other than that provided by the DECLARANT is expressly prohibited without prior written consent of the ASSOCIATION. The ASSOCIATION may, at its discretion, remove any improvement not receiving prior written consent, or repair and maintain any improvement not in first-class condition and, at the ASSOCIATION's option, charge the UNIT OWNER for such repair, maintenance, and/or removal.

8.23.2 ASSOCIATION's Consent. Any request by an OWNER for approval by the ASSOCIATION to any addition, alteration, improvement, or change shall be in writing and shall be accompanied by plans and specifications or other details as the ASSOCIATION may deem reasonably necessary in connection with its determination as to whether or not it will approve same. The ASSOCIATION shall have the right to charge a reasonable fee in connection with the approval of any request to pay for the cost of any architect or engineer hired by the ASSOCIATION to review any plans or specifications.

Approval of any request shall not be unreasonably withheld, and shall not be withheld in a discriminatory manner or in a manner which unreasonably prohibits the reasonable improvement of any LOT or UNIT, but may be withheld due to aesthetic considerations.

The ASSOCIATION shall notify the OWNER of its approval or disapproval by written notice within thirty (30) days after request for such consent is made in writing by the ASSOCIATION, and in the event the ASSOCIATION fails to disapprove any request within such 30-day period, the consent shall be deemed approved and, upon request, the ASSOCIATION shall give written notice of such approval.

In consenting to any plans or specifications, the ASSOCIATION may condition such consent upon changes being made. If the ASSOCIATION consents to any plans and specifications, the OWNER may proceed to make the alteration, addition, improvement, or change in strict conformance with the plans and specifications approved by the ASSOCIATION, and subject to any conditions of the ASSOCIATION's approval.

8.23.3 No Liability. The ASSOCIATION shall not be liable to any OWNER in connection with the exercise or non-exercise of architectural control hereunder, or the approval or disapproval of any alteration, addition, improvement, or change. Furthermore, any approval of any plans or specifications by the ASSOCIATION shall not be deemed to be a determination that such plans or specifications are complete or do not contain defects, or in fact meet any standards, guidelines, and/or criteria of the ASSOCIATION, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the ASSOCIATION shall not be liable for any deficiency, or any injury resulting from any deficiency, in such plans and specifications.

8.23.4 Remedy for Violations. In the event this section is violated in that any alteration, addition, improvement, or change is made without first obtaining the approval of the ASSOCIATION, or is not made in strict conformance with any approval granted by the ASSOCIATION, the ASSOCIATION shall specifically have the right to injunctive relief to require the OWNER to stop, remove, and/or alter any alteration, addition, improvement, or change in a manner which complies with the requirements of the ASSOCIATION, or the ASSOCIATION may pursue any other remedy available to it. In connection therewith, the ASSOCIATION shall have the right to enter onto any LOT and make any inspection necessary to determine that the provisions of this paragraph have been complied with. Any action to enforce this Section must be commenced within one (1) year after the date of the violation. The foregoing shall be in addition to any other remedy set forth herein for violations of this DECLARATION. Notwithstanding anything contained within this DECLARATION to the contrary, the ASSOCIATION shall have the exclusive authority to enforce the provisions of this paragraph.

8.23.5 Architectural Control Vested in DECLARANT. Notwithstanding the foregoing, so long as DECLARANT owns any LOT, UNIT, or any portion of the property described in Exhibit "D" attached hereto, architectural control shall be vested in DECLARANT and not the ASSOCIATION, and during such period all references contained in this subparagraph to the ASSOCIATION shall be deemed to refer to DECLARANT provided, however, that at any time DECLARANT may assign its right of architectural control to the ASSOCIATION by a written assignment.

8.23.6 Plants. No plants may be removed from or added to any COMMON AREA and/or LIMITED COMMON AREA for any reason without the prior written consent of the ASSOCIATION.

8.23.7 Inspection. The Board of Directors or its representative shall have the right to inspect any portion of a UNIT's LIMITED COMMON AREA.

8.24 Rules and Regulations. The ASSOCIATION may adopt additional reasonable rules and regulations relating to the use and maintenance of the SUBJECT PROPERTY, and rules and

regulations relating to the recreational facilities within the SUBJECT PROPERTY may be posted at such recreational facilities. Copies of such rules and regulations and amendments shall be furnished by the ASSOCIATION to any OWNER upon request.

8.25 Waiver. The ASSOCIATION shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any LOT where, in the discretion of the BOARD, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of the ASSOCIATION, or any other person having the right to enforce these restrictions, from insisting upon strict compliance with respect to all other LOTS, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future. Notwithstanding the foregoing, so long as DECLARANT owns any LOT, if any waiver or deviation of any restriction requires the consent of the ASSOCIATION, such consent shall be obtained from DECLARANT, and not from the ASSOCIATION, unless DECLARANT voluntarily relinquishes this right at an earlier date.

8.26 Exceptions. The foregoing use and maintenance restrictions shall not apply to DECLARANT, or to any portion of the SUBJECT PROPERTY while owned by DECLARANT, or to any undeveloped PROPERTY, and shall not be applied in a manner which would prohibit or restrict the development of any portion of the SUBJECT PROPERTY and the construction of any UNITS, BUILDINGS, and other improvements thereon, or any activity associated with the sale of any new UNITS by DECLARANT or by the developer of any portion of the SUBJECT PROPERTY. Specifically, and without limitation, DECLARANT and any developer(s) of any portion of the SUBJECT PROPERTY shall have the right to:

(i) construct any buildings or improvements within the SUBJECT PROPERTY and make any additions, alterations, improvements, or changes thereto;

(ii) maintain customary and usual sales, general office, and construction operations on any PROPERTY;

(iii) place, erect, or construct portable, temporary, or accessory buildings or structures upon any PROPERTY for sales, construction, storage, or other purposes;

(iv) temporarily deposit, dump, or accumulate materials, trash, refuse, and rubbish in connection with the development or construction of any PROPERTY;

(v) post, display, inscribe, or affix to the exterior of a UNIT or upon any PROPERTY, signs and other materials used in developing, constructing, selling, or promoting any PROPERTY;

(vi) excavate fill from any lakes within and/or contiguous to the SUBJECT PROPERTY by dredge or dragline, store fill on the SUBJECT PROPERTY, and sell excess fill from the SUBJECT PROPERTY; and

(vii) grow plants and trees upon the SUBJECT PROPERTY for later use and sell excess plants and trees.

9. PARTY WALLS.

- 9.01 Party Walls. Each common wall shared by two (2) UNITS which divides the two (2) UNITS shall be a party wall for the perpetual benefit of and use by the OWNERS of the two (2) UNITS, including their respective heirs, assigns, successors, and grantees.
- 9.02 Easement for Encroachment. Each OWNER hereby grants to the OWNER of the adjacent UNIT(s) an easement for the continuance of any encroachment of the party wall on the adjoining UNIT existing as a result of the construction of the party wall, or which may come into existence thereafter as a result of settling or shifting of the party wall, or as a result of repair or reconstruction of the party wall.
- 9.03 Repair and Maintenance. Except as otherwise provided herein, each OWNER shall bear the responsibility to repair and maintain the unfinished surface of the exterior portion of the party wall which is located within his UNIT. As to the structural and interior portions of the party wall, each OWNER shall share equally in the cost of the repair, maintenance, and reconstruction of same. However, if any OWNER's negligence or willful misconduct causes damage to or destruction of a party wall, such negligent or willfully mischievous OWNER shall bear the entire cost of repairing or reconstructing the party wall. If an OWNER executes a mortgage encumbering his UNIT, then the holder of the mortgage shall have the full right, at its option, to exercise the rights of its mortgagor as an OWNER hereunder and, in addition, the right to add to the outstanding balance of such mortgage any amounts paid by the mortgagee for repairs or reconstruction and not reimbursed to the mortgagee by the OWNER.
- 9.04 Easement for Repairs. Each OWNER shall have the right to enter into an adjacent UNIT at reasonable times and upon reasonable notice where necessary in connection with the repair, maintenance, or reconstruction of a party wall. The foregoing right shall constitute an easement and a covenant running with the land.
- 9.05 Materials, Location, and Size. Whenever a party wall is to be repaired, maintained, or reconstructed, same shall be performed with the same or similar materials and quality as the original party wall. Whenever a party wall or any part thereof shall be reconstructed, it shall be reconstructed such that it shall be of the same size and shall be at the same location as initially constructed, and shall be of the same or similar materials and quality as used to initially construct the party wall.
- 9.06 Use. Each OWNER shall have the right to the full use of the party wall for whatever purposes he chooses, subject to the limitation that such use shall not infringe upon the rights of the OWNER of the adjoining UNIT or his enjoyment of the party wall or in any manner impair the structure of the party wall. The term "use" shall and does include normal interior usage such as paneling, plastering, painting, decorating, and erection of tangent walls and shelving, but prohibits any form of alteration (other than a minor alteration) which would cause an aperture, hole, break, or other displacement of the original structure forming the party wall. Additionally,

each OWNER shall not cut windows or other openings in the party wall, nor make any hereinabove prohibited alterations, additions, or structural changes to the party wall unless agreed upon by both OWNERS sharing the party wall.

10. ASSESSMENT FOR COMMON EXPENSES.

10.01 Each OWNER of a UNIT shall be responsible for the payment to the ASSOCIATION of ASSESSMENTS for COMMON EXPENSES for each UNIT owned by the OWNER, which amount shall be assessed to the OWNER as described below. In addition, each OWNER shall be responsible for the payment to the ASSOCIATION of any ASSESSMENTS owed by the prior OWNER, except for any ASSESSMENTS owed by DECLARANT, and except as provided in Paragraph 12.01.6 of this DECLARATION.

10.02 Prior to the beginning of each fiscal year, the BOARD shall adopt a budget for such fiscal year which shall estimate all of the COMMON EXPENSES to be incurred by the ASSOCIATION during the fiscal year. The BOARD shall then establish the ASSESSMENT for COMMON EXPENSES for each UNIT, which shall be equal, and which shall be determined by dividing the total amount to be assessed for COMMON EXPENSES by the number of UNITS for which ASSESSMENTS for COMMON EXPENSES are to be made pursuant to the budget. The ASSOCIATION shall then notify each OWNER in writing of the amount, frequency, and due dates of the ASSESSMENT for COMMON EXPENSES.

From time to time during the fiscal year, the BOARD may modify the budget and, pursuant to the revised budget or otherwise, the BOARD may, upon written notice to the OWNERS, change the amount, frequency, and/or due dates of the ASSESSMENTS for COMMON EXPENSES.

If the expenditure of funds for COMMON EXPENSES is required in addition to funds produced by ASSESSMENTS for COMMON EXPENSES, the BOARD may make special ASSESSMENTS for COMMON EXPENSES, which shall be levied in the same manner as hereinbefore provided for regular ASSESSMENTS, and shall be payable in the manner determined by the BOARD, as stated in the notice of any special ASSESSMENTS for COMMON EXPENSES.

In the event any ASSESSMENTS for COMMON EXPENSES are made payable in equal periodic payments, as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until:

(i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date or the payment of the specified amount; or

(ii) the ASSOCIATION notifies the OWNER in writing of a change in the amount and/or frequency of the periodic payments.

In no event shall any ASSESSMENTS for COMMON EXPENSES be due less than ten (10) days from the date of the notification of such ASSESSMENTS.

10.03 In addition to ASSESSMENTS for COMMON EXPENSES, the first OWNER acquiring title from DECLARANT to a UNIT shall pay to the ASSOCIATION a contribution to a working capital fund of the ASSOCIATION in an amount equal to two (2) months' ASSESSMENTS for COMMON EXPENSES, which shall be in addition to the OWNER's responsibility for ASSESSMENTS for COMMON EXPENSES. The working capital fund shall be used by the ASSOCIATION for start-

up expenses, or otherwise as the ASSOCIATION shall determine from time to time, and need not be restricted or accumulated.

- 10.04 Notwithstanding the foregoing, until such time as DECLARANT no longer owns any UNIT, or until DECLARANT notifies the ASSOCIATION in writing that DECLARANT elects to pay ASSESSMENTS for COMMON EXPENSES as in the case of any other OWNER, DECLARANT shall not be liable for ASSESSMENTS for COMMON EXPENSES for any UNITS owned by DECLARANT but, in lieu thereof, DECLARANT shall be responsible for all COMMON EXPENSES in excess of the ASSESSMENTS for COMMON EXPENSES receivable from the other OWNERS (including working capital contributions), and other income received by the ASSOCIATION.

During such period when DECLARANT is not liable for ASSESSMENTS for COMMON EXPENSES for UNITS owned by DECLARANT, the ASSESSMENTS for COMMON EXPENSES shall be established by DECLARANT based upon DECLARANT's estimate of what the expenses of the ASSOCIATION would be if all UNITS and IMPROVEMENTS contemplated within the SUBJECT PROPERTY were completed, so that ASSESSMENTS for COMMON EXPENSES during such period will be approximately what said ASSESSMENTS would be if the development of the SUBJECT PROPERTY as contemplated by DECLARANT was complete. In any event, DECLARANT shall not be required to fund reserves allocated to any un-built UNITS or any UNITS owned by DECLARANT.

11. DEFAULT.

11.01 Monetary Defaults and Collection of Assessments.

11.01.1 Late Fees and Interest. If any ASSESSMENT is not paid within ten (10) days after the due date, the ASSOCIATION shall have the right to charge the defaulting OWNER a late fee of ten percent (10%) of the amount of the ASSESSMENT, or Ten Dollars (\$10.00), whichever is greater, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any a particular ASSESSMENT, then the ASSESSMENT shall be due ten (10) days after written demand by the ASSOCIATION.

11.01.2 Acceleration of ASSESSMENTS. If any OWNER is in default in the payment of any ASSESSMENT owed to the ASSOCIATION for more than thirty (30) days after written demand by the ASSOCIATION, the ASSOCIATION, upon written notice to the defaulting OWNER, shall have the right to accelerate and require such defaulting OWNER to pay to the ASSOCIATION ASSESSMENTS for COMMON EXPENSES for the next twelve (12) month period, based upon the then existing amount and frequency of ASSESSMENTS for COMMON EXPENSES.

In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular ASSESSMENTS for COMMON EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and/or for all other ASSESSMENTS payable to the ASSOCIATION.

- 11.01.3 Lien for ASSESSMENTS. The ASSOCIATION has a lien on each UNIT for unpaid ASSESSMENTS owed to the ASSOCIATION by the OWNER of such UNIT, and for late fees and interest, and for reasonable attorneys' fees incurred by the ASSOCIATION incident to the collection of the ASSESSMENTS or enforcement of the lien, and all sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens, or encumbrances in order to preserve and protect the ASSOCIATION's lien.

The lien is effective from and after recording a claim of lien in the public records in the county in which the UNIT is located stating the description of the UNIT, the name of the record OWNER, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all ASSESSMENTS or other monies owed to the ASSOCIATION by the OWNER until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

- 11.01.4 Collection and Foreclosure. The ASSOCIATION may bring an action in its name to foreclose a lien for ASSESSMENTS in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgement for the unpaid ASSESSMENTS without waiving any claim of lien, and the applicable OWNER shall be liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION in connection with the collection of any unpaid ASSESSMENTS and the filing, enforcement, and/or foreclosure of the ASSOCIATION's lien including reasonable attorneys' fees and all sums paid by the ASSOCIATION for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the ASSOCIATION's lien.

The BOARD is authorized to settle and compromise the ASSOCIATION's lien if the BOARD deems a settlement or compromise to be in the best interest of the ASSOCIATION.

- 11.01.5 Rental and Receiver. If an OWNER remains in possession of his UNIT and the claim of lien of the ASSOCIATION against his UNIT is foreclosed, the court, in its discretion, may require the OWNER to pay a reasonable rental for the UNIT and the ASSOCIATION is entitled to the appointment of a receiver to collect the rent.

- 11.01.6 Subordination of Lien. Where any person obtains title to a LOT pursuant to the foreclosure of a first mortgage of record of an INSTITUTIONAL LENDER, or where an INSTITUTIONAL LENDER accepts a deed to a LOT in lieu of foreclosure of the first mortgage of record of such lender, such acquirer of title, its successors, and assigns shall not be liable for any ASSESSMENTS or for other monies owed to the ASSOCIATION which are chargeable to the former OWNER of the LOT and which became due prior to acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the payment of such funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid ASSESSMENTS or other monies are COMMON EXPENSES collectable from all of the OWNERS, including such acquirer and his successors and assigns. The new OWNER, from and after the time of acquiring such title, shall be liable for payment of

all future ASSESSMENTS for COMMON EXPENSES and such other expenses as may be assessed to the OWNER's LOT. Any person who acquires a LOT, except through foreclosure of a first mortgage of record of an INSTITUTIONAL LENDER or deed in lieu thereof, including, without limitation, persons acquiring title by sale, gift, devise, operation of law, or by purchase at a judicial or tax sale, shall be liable for all unpaid ASSESSMENTS and other monies due and owing by the former OWNER to the ASSOCIATION, and shall not be entitled to occupancy of the UNIT or enjoyment of the COMMON AREAS, or of the recreational facilities as same may exist from time to time, until such time as all unpaid ASSESSMENTS and other monies have been paid in full.

11.01.7 Assignment of Claim and Lien Rights. The ASSOCIATION, acting through its BOARD, shall have the right to assign its claim and lien rights for the recovery of any unpaid ASSESSMENTS and any other monies owed to the ASSOCIATION, to any third party.

11.01.8 Unpaid ASSESSMENTS Certificate. Within fifteen (15) days after written request by any OWNER or any INSTITUTIONAL LENDER holding or making a mortgage encumbering any LOT, the ASSOCIATION shall provide the OWNER or INSTITUTIONAL LENDER a written certificate as to whether or not the OWNER of the LOT is in default with respect to the payment of ASSESSMENTS or with respect to compliance with the terms and provisions of this DECLARATION, and any person or entity who relies on such certificate in purchasing or in making a mortgage loan encumbering any LOT shall be protected thereby.

11.01.9 Application of Payments. Any payments made to the ASSOCIATION by any OWNER shall first be applied towards any sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens, or encumbrances which may have been advanced by the ASSOCIATION in order to preserve and protect its lien, next toward reasonable attorneys' fees incurred by the ASSOCIATION incidental to the collection of assessments and other monies owed to the ASSOCIATION by the OWNER and/or for the enforcement of its lien; next towards interest on any ASSESSMENTS or other monies due to the ASSOCIATION, as provided herein, and next towards any unpaid ASSESSMENTS owed to the ASSOCIATION in the inverse order that such ASSESSMENTS were due.

11.02 Non-Monetary Defaults. In the event of a violation by any OWNER, or any tenant of an OWNER, or any person residing with them, or their guests or invitee (other than the non-payment of any ASSESSMENT or other monies) of any of the provisions of this DECLARATION, the ARTICLES, the BYLAWS, or the Rules and Regulations of the ASSOCIATION, the ASSOCIATION shall notify the OWNER and any tenant of the OWNER of the violation by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven-day period, if the OWNER or tenant fails as practicable within seven (7) days after written notice by the ASSOCIATION, or if any similar violation is thereafter repeated, the ASSOCIATION may, at its option:

11.02.1 Impose a fine against the OWNER or tenant as provided in Paragraph 11.03; and/or

11.02.2 Commence an action to enforce the performance on the part of the OWNER or tenant, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

11.02.3 Commence any and all actions reasonably necessary to correct such failure, which action may include where applicable but is not limited to, removing any addition, alteration, improvement, or change which has not been approved by the ASSOCIATION, or performing any maintenance required to be performed by this DECLARATION.

All expenses incurred by the ASSOCIATION in connection with the correction of any failure, plus a service charge of ten percent (10%) of such expenses, and all expenses incurred by the Association in connection with any legal proceedings to enforce this DECLARATION, including reasonable attorneys' fees, shall be assessed against the applicable OWNER, and shall be due upon written demand by the ASSOCIATION. The ASSOCIATION shall have a lien for any such ASSESSMENT and any interest, costs, or expenses associated therewith, including attorneys' fees incurred in connection with such ASSESSMENT, and may take such action to collect such ASSESSMENT or foreclose said lien as in the case and in the manner of any other ASSESSMENT as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the County in which the SUBJECT PROPERTY is located.

11.03

Fines. The amount of any fine shall be determined by the BOARD and shall not exceed one-third (1/3) of one month's ASSESSMENT for COMMON EXPENSES for the first offense, two-thirds (2/3) of one month's ASSESSMENT for COMMON EXPENSES for a second similar offense, and one month's ASSESSMENT for COMMON EXPENSES for a third or subsequent similar offense. Any fine shall be imposed by written notice to the OWNER or tenant signed by an officer of the ASSOCIATION and shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the OWNER or tenant has the right to contest the fine by delivering written notice to the ASSOCIATION within ten (10) days after receipt of the notice imposing the fine.

If the OWNER or tenant timely and properly objects to the fine, the BOARD shall conduct a hearing within thirty (30) days after receipt of the OWNER's or tenant's objection and shall give the OWNER or tenant not less than ten (10) days written notice of the hearing date. At the hearing, the BOARD shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred and that the fine imposed is appropriate. The OWNER or tenant shall have the right to attend the hearing and to produce evidence on his behalf.

At the hearing, the BOARD shall ratify, reduce, or eliminate the fine, and shall give the OWNER or tenant written notice of its decision. Any fine shall be due and payable within ten (10) days after written notice of the imposition of the fine or, if a hearing is timely requested, within ten (10) days after written notice of the BOARD's decision at the hearing.

Any fine levied against an OWNER shall be deemed an ASSESSMENT and, if not paid when due, all of the provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be applicable. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the ASSOCIATION shall have the right to evict the tenant pursuant to Paragraph 12.06.

11.04 Negligence. An OWNER shall be liable, and may be assessed by the ASSOCIATION, for the

expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, but only to the extent that such expense is not met by the proceeds of insurance carried by the ASSOCIATION. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a LOT or UNIT, or the COMMON AREAS.

- 11.05 Responsibility of an OWNER for Occupants, Tenants, Guests, and Invitee. Each OWNER shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his UNIT and for all guests and invitee of the OWNER or any such resident and, in the event the acts or omissions of any of the foregoing shall result in any damage to the COMMON AREAS or any liability to the ASSOCIATION, the OWNER shall be assessed for same as in the case of any other ASSESSMENT, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the ASSOCIATION. Furthermore, any violation of any of the provisions of this DECLARATION, of the ARTICLES, or the BYLAWS by any resident of any UNIT, or any guest or invitee of an OWNER or any resident of a UNIT, shall also be deemed a violation by the OWNER and shall subject the OWNER to the same liability as if such violation was that of the OWNER.
- 11.06 Right of ASSOCIATION to Evict Tenants, Occupants, Guests, and Invitee. With respect to any tenant or any person present in any UNIT or any portion of the SUBJECT PROPERTY, other than an OWNER and the members of his immediate family permanently residing with him in the UNIT, if such person shall materially violate any provision of this DECLARATION, the ARTICLES, or the BYLAWS, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of the SUBJECT PROPERTY, or shall willfully damage or destroy any COMMON AREAS or personal property of the ASSOCIATION, then upon written notice by the ASSOCIATION, such person shall be required to immediately leave the SUBJECT PROPERTY and, if such person does not do so, the ASSOCIATION is authorized to commence an action to evict such tenant or compel the person to leave the SUBJECT PROPERTY and, where necessary, to enjoin such person from returning. The expense of any such action, including attorney's fees, may be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the ASSOCIATION.
- 11.07 No Waiver. The failure of the ASSOCIATION to enforce any right, provision, covenant, or condition which may be granted by this DECLARATION, the ARTICLES, or the BYLAWS, shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provision, covenant, or condition in the future.
- 11.08 Rights Cumulative. All rights, remedies, and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants, or conditions of this DECLARATION, the ARTICLES, or the BYLAWS, shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION from executing any additional remedies, rights, or privileges as may be granted or as it might have by law.
- 11.09 Enforcement By or Against Other Persons. In addition to the foregoing, this DECLARATION may be enforced by DECLARANT or the ASSOCIATION by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this DECLARATION shall be borne by the person against whom enforcement is sought, provided such proceeding

results in a finding that such person was in violation of this DECLARATION.

In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this DECLARATION against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

11.10 Enforcement. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

12. TERM OF DECLARATION. All of the foregoing covenants, conditions, reservations, and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their successors, heirs, or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of the DECLARATION unless, within such time, one hundred percent (100%) of the OWNERS execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time). After such fifty-year period, unless sooner terminated as provided above, these covenants, conditions, reservations, and restrictions shall be automatically extended for successive periods of ten (10) years each until a majority of the votes of the entire membership of the ASSOCIATION execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time).

Any termination of this DECLARATION shall be effective on the date the instrument of termination is recorded in the public records of the county in which the SUBJECT PROPERTY is located provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by the DECLARANT so long as the DECLARANT owns any LOT or holds any mortgage encumbering any LOT.

13. AMENDMENT.

13.01 This DECLARATION may be amended upon the approval of not less than two-thirds (2/3) of the OWNERS. In addition, so long as DECLARANT owns any portion of the SUBJECT PROPERTY, this DECLARATION may be amended from time to time by DECLARANT and without the consent of the ASSOCIATION or any OWNER, and no amendment may be made by the OWNERS without the written joinder of DECLARANT. Such right of DECLARANT to amend this DECLARATION shall specifically include, but shall not be limited to:

(i) amendments adding any contiguous property which will be developed in a similar manner as the SUBJECT PROPERTY, or deleting any property from the SUBJECT PROPERTY which will be developed differently than the SUBJECT PROPERTY (provided that any such amendment shall require the joinder of the owners of such property or any portion thereof if different than DECLARANT, and further provided that DECLARANT shall not have the obligation to add any property to or delete any property from the SUBJECT PROPERTY), and

(ii) amendments required by any INSTITUTIONAL LENDER or governmental authority in order to comply with the requirements of same. In order to be effective, any amendment to this

DECLARATION must first be recorded in the public records of the county in which the SUBJECT PROPERTY is located and, in the case of an amendment made by the OWNERS, such amendment shall contain a certification by the President and Secretary of the ASSOCIATION that the amendment was duly adopted.

- 13.02 No amendment shall discriminate against any OWNER or class or group of OWNERS unless the OWNERS so affected join in the execution of the amendment. No amendment shall change the number of votes of any OWNER or increase any OWNER's proportionate share of the COMMON EXPENSES unless the OWNERS affected by such amendment join in the execution of the amendment. No amendment may prejudice or impair the priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL LENDERS join in the execution of the amendment. No amendment shall make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to DECLARANT unless DECLARANT joins in the execution of the amendment.
- 13.03 Notwithstanding anything contained herein to the contrary, any amendment to this DECLARATION which would adversely affect the surface water management system, including the water management portions of the COMMON AREAS, must have the prior approval of the governmental authority having jurisdiction over the surface water management for the SUBJECT PROPERTY.
- 13.04 Amendment. Any Amendment to the Covenants and Restrictions which alter the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

14. SPECIAL PROVISIONS REGARDING INSTITUTIONAL LENDERS.

- 14.01 Notice of Action. Upon written request to the ASSOCIATION by an INSTITUTIONAL LENDER holding, insuring, or guaranteeing a first mortgage encumbering any LOT, identifying the name and address of the holder, insurer, or guarantor of the LOT number or address, any such holder, insurer, or guarantor will be entitled to timely written notice of:
- 14.01.1 Any condemnation or casualty loss which affects a material portion of the SUBJECT PROPERTY or the LOT;
- 14.01.2 Any sixty (60) day default in the payment of ASSESSMENTS or charges owed to the ASSOCIATION or in the performance of any obligation hereunder by the OWNER of the LOT;
- 14.01.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION;
- 14.01.4 Any proposed action which would require the consent of a specified percentage of INSTITUTIONAL LENDERS.
- 14.02 Consent of INSTITUTIONAL LENDERS. Whenever the consent or approval of any, all, or a specified percentage or portion of the holder(s) of any mortgage(s) encumbering any LOTS is required by this DECLARATION, the ARTICLES, the BYLAWS, or any applicable statute or law to any amendment of the DECLARATION, the ARTICLES, or the BYLAWS, or to any action of the ASSOCIATION, or to any other matter relating to the SUBJECT PROPERTY, the

ASSOCIATION may request such consent or approval of such holder(s) by written request sent certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by such holders).

Any holder receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested in writing by certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by the ASSOCIATION), which response must be received by the ASSOCIATION within thirty (30) days after the holder receives such request and, if such response is not timely received by the ASSOCIATION, the holder shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by all the directors of the ASSOCIATION, which affidavit, where necessary, may be recorded in the public records of the county where the SUBJECT PROPERTY is located and which affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained. The foregoing shall not apply where an INSTITUTIONAL LENDER is otherwise required to specifically join in an amendment to this DECLARATION.

- 14.03 Payment of Taxes and Insurance. Any INSTITUTIONAL LENDER may pay any taxes or assessments which are in default, or any overdue insurance premiums, or may secure new insurance upon the lapse of a policy, and shall be owed immediate reimbursement therefor from the ASSOCIATION, plus interest at the highest rate permitted by law and any costs of collection, including attorneys' fees.

15. TURNOVER OF ASSOCIATION

- 15.01 Appointment of Transition Committee. At least ninety (90) days prior to the time members are entitled to elect any directors as provided in the ARTICLES, the Developer and his Board shall appoint a Transition Committee to assist in the smooth turnover of the association. Such Transition Committee shall have the following duties, responsibilities and authority to accomplish those items prior to the special meeting to elect the Board of Directors:

- 15.01.1 To examine the association's books and records, making a written report to the Developer and his Board recommending whether a formal audit and its associated expense should be scheduled.
- 15.01.2 To review the current budget and make recommendations in writing regarding any adjustments or changes felt necessary. Such recommendations will be reviewed by the newly elected Board of Directors at their first meeting, and a budget established.
- 15.01.3 To review the possibility of hiring a management company to oversee the association's accounts and day-to-day management of the association, including developing a scope of services required soliciting proposals, and making a recommendation in writing to be presented to the newly elected Board. If the hiring of a management company is not recommended, the Transition Committee shall identify and obtain approval from those individuals who wish to submit their names as willing and able to assist in the management of the association. Such recommendations shall be reviewed by the newly elected Board of Directors at their first meeting.

15.01.4 To identify Areas of Concern and present the findings to the Developer and his Board in writing. The necessary meetings with the Developer and Transition Committee shall then be scheduled to review the Areas of Concern and determine the resolution of as many items as possible. The Transition Committee will prepare a Status Report identifying the resolved items and noting any unresolved items. Such Status Report shall be mailed to the unit owners and Developer not more than thirty (30) days nor less than ten (10) days prior to the annual meeting or special meeting at which the unit owners elect the Board of Directors.

Should the Board, Developer and Transition Committee be unable to agree to the resolution of any items, those items shall be reviewed by the newly elected Board at its first meeting.

15.02 Transition Committee Expenditures. The Transition Committee may present a request and budget to the Developer and his Board of Directors itemizing any expenditures it may feel are necessary to accomplish a smooth turnover. Such request and budget shall be reviewed by the Developer and his Board and presented to the members for approval of a special assessment, if necessary, prior to any expenditures being made. In the event such special assessment is not approved by the members and the Transition Committee feels it cannot proceed without such expenditures, the Developer and his Board is authorized to call for the termination of the Transition Committee and to commence with the initial election of the Board of Directors, and such elected Board shall address any areas of concern.

16. MISCELLANEOUS.

16.01 Conflict with ARTICLES or BYLAWS. In the event of any conflict between the ARTICLES and the BYLAWS and this DECLARATION, this DECLARATION, the ARTICLES, and the BYLAWS, in that order, shall control.

16.02 Authority of ASSOCIATION and Delegation. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.

16.03 Severability. The invalidation in whole or in part of any of these covenants, conditions, reservations, and restrictions, or any section, subsection, sentence, clause, phrase, word, or other provision of this DECLARATION shall not affect the validity of the remaining portions, which shall remain in full force and effect.

16.04 Validity. In the event any court shall hereafter determine that any provisions as originally drafted herein violate the rule against perpetuities, the period specified in this DECLARATION shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

16.05 Assignment of DECLARANT's Rights. Any or all of the rights, privileges, or options provided to or reserved by DECLARANT in this DECLARATION, the ARTICLES, or the BYLAWS, may be assigned by DECLARANT, in whole or in part, as to all or any portion of the SUBJECT PROPERTY, to any person or entity pursuant to an assignment recorded in the public records of the county in which the SUBJECT PROPERTY is located. Any partial assignee of any of the

rights of DECLARANT shall not be deemed the DECLARANT, and shall have no other rights, privileges, or options other than as are specifically assigned. No assignee of DECLARANT shall have any liability for any acts of DECLARANT or any prior DECLARANT unless such assignee is assigned and agrees to assume such liability.

16.06 Performance of ASSOCIATION's Duties by DECLARANT. DECLARANT shall have the right from time to time, at its sole discretion, to perform at DECLARANT's expense the duties and obligations required hereunder to be performed by the ASSOCIATION and, in connection therewith, to reduce the budget of the ASSOCIATION and the ASSESSMENTS for COMMON EXPENSES payable by the OWNER provided, however, that any such performance on the part of DECLARANT may be discontinued by DECLARANT at any time, and any such performance shall not be deemed to constitute a continuing obligation on the part of DECLARANT.

16.07 Inapplicability of Condominium Act. It is acknowledged that the ASSOCIATION is not intended to be a condominium association and is not intended to and shall not be governed by the provisions of Florida Statutes, Chapter 718.

16.08 Actions Against DECLARANT. The ASSOCIATION shall not institute any legal proceedings against DECLARANT without the consent of seventy-five percent (75%) of the votes of the OWNERS.

IN WITNESS WHEREOF, DECLARANT has executed this DECLARATION this 5th day of October, 1992.

WITNESSES:

SANDY POINT LAND DEVELOPMENT CORP., a Florida corporation

Rebecca J. Clayton
Mary Ann Every

David T. McWilliams

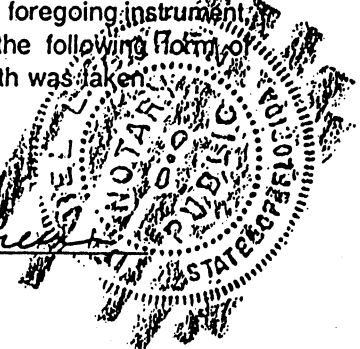
BY: DAVID T. McWILLIAMS, PRESIDENT

STATE OF FLORIDA

COUNTY OF BREVARD

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgements, personally appeared DAVID T. McWILLIAMS, PRESIDENT of SANDY POINT LAND DEVELOPMENT CORP., a Florida corporation authorized to do business in the State of Florida, on behalf of said corporation, known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that he executed the same, that I relied upon the following form of identification of the above-named person: Florida Drivers License and that an oath was taken.

MY COMMISSION EXPIRES: 10-22-95

David T. McWilliams
Notary Public


c:\liv\declarat.iv - 093092 - rhj

14.6 Secretary. The Secretary of the ASSOCIATION shall be the Secretary of the BOARD.

The Secretary shall record the votes and keep or cause to be kept the minutes of all meetings of the BOARD and members of the ASSOCIATION in a minute book or books to be kept for that purpose; shall keep all other records of the ASSOCIATION; shall see that all notices are duly given as required by law and as provided in accordance with the DECLARATION, the ARTICLES, the BY-LAWS or the RULES AND REGULATIONS of the ASSOCIATION; shall record in a book kept for that purpose the names of all members of the ASSOCIATION together with their addresses as filed by such members; shall together with the President or Vice President sign all notes, contracts, leases, mortgages, deeds and all other instruments (other than checks) executed by or on behalf of the ASSOCIATION; and shall, in general, perform all duties incident to the office of Secretary and such duties as from time to time may be assigned by the President or imposed by the BOARD.

14.7 Assistant Secretary. The Assistant Secretary of the ASSOCIATION shall perform all duties of the Secretary in the absence of the Secretary and shall otherwise assist the Secretary in the performance of the Duties, responsibilities and obligations of the Secretary as set forth therein, and shall have such other duties as from time to time may be assigned by the President or imposed by the BOARD.

14.8 Treasurer. The Treasurer of the ASSOCIATION shall receive and deposit in appropriate bank accounts all monies of the ASSOCIATION and shall disburse such funds as directed by resolution of the BOARD; provided, however, that a resolution of the BOARD shall not be necessary for disbursements of funds made in the ordinary course of business of the ASSOCIATION conducted within the limits of the budget adopted by the BOARD. Further, the Treasurer shall sign all checks of the ASSOCIATION.

Additionally, the Treasurer shall keep or cause to be kept proper books of account of the ASSOCIATION; shall supervise and assist in the preparation of an annual budget and other financial statements of the ASSOCIATION; shall establish adequate reserves in accordance with the DECLARATION and as required by law; shall select and utilize, with the approval of the BOARD a Certified Public Accountant for the ASSOCIATION; and shall, in general, perform all duties incident to the financial affairs of the ASSOCIATION, and such other duties as may from time to time be assigned by the President or imposed by the BOARD.

ARTICLE XV

FISCAL MANAGEMENT

15.1 Fiscal Year. The fiscal year of the ASSOCIATION shall be the calendar year.

15.2 Accounting; Accounts. The ASSOCIATION shall use the accrual basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection in accordance with Section 16.1 of these BY-LAWS. Written summaries of the accounting records shall be prepared by or caused to be prepared by the Treasurer and shall be made available at least annually to the members of the ASSOCIATION. Such records shall include, but not be limited to, a record of all receipts and expenditures, and an accurate account for each LOT which shall designate the name and address of the OWNER thereof, the amount of the Regular ASSESSMENTS and all other ASSESSMENTS, if any, assessed against or charged to such LOT, the amounts and due dates for payment of same, and the amounts paid upon the account and the balance due thereunder.

15.3 ASSESSMENTS. All ASSESSMENTS, whether Regular ASSESSMENTS, Special ASSESSMENTS, Capital Expenditure ASSESSMENTS or Individual Lot ASSESSMENTS, shall be fixed, assessed, levied, enforced and collected in accordance with, and pursuant to, the terms and provisions of the DECLARATION.

- 15.4 Budget. The BOARD shall adopt an annual budget for the ASSOCIATION after review of the proposed annual budget and financial statements prepared by the Treasurer.
- 15.5 Deposit of Funds. The monies of the ASSOCIATION, whether collected by ASSESSMENTS or otherwise, shall be deposited in accounts in such bank or banks as shall be designated from time to time by the BOARD. Withdrawal of monies from such accounts shall be only by checks signed by such officers as are authorized pursuant to Article XIV of these BY-LAWS. All sums collected by the ASSOCIATION from ASSESSMENTS or any other source may be commingled in a single fund or divided into more than one fund, as determined by the BOARD; provided, however, that all reserve funds shall be maintained as, and deposited in, a separate bank account, and shall be used only for the purpose or purposes for which such reserve fund is created and maintained, unless said reserves have been waived by the BOARD.
- 15.6 Financial Statements. Financial statements of the ASSOCIATION, including, without limitation, a statement of income and expenses and a balance sheet shall be made annually by the Treasurer and approved by the BOARD in accordance with Section 14.8 of these BY-LAWS, and a copy thereof shall be furnished to each member of the ASSOCIATION not later than the first day of April of the year following the year for which the statements are prepared. The BOARD may, at its option, elect to have a review or an audit made by an auditor, accountant, or Certified Public Accountant.

ARTICLE XVI

BOOKS AND RECORDS

- 16.1 Accounting Records. All accounting records of the ASSOCIATION shall be open to inspection by members of the ASSOCIATION or their respective authorized representatives at reasonable times in the presence of an officer of the ASSOCIATION designated by the BOARD. Such authorization as a representative of a member must be in writing and signed by the PERSON giving such authorization and dated not more than fifteen (15) days prior to such inspection.
- 16.2 Other Books, Etc. All books, records, minutes, and papers of the ASSOCIATION shall be kept by the ASSOCIATION at the ASSOCIATION office and shall at all times during reasonable business hours, be subject to the inspection of any member in the presence of an officer of the ASSOCIATION designated by the BOARD, unless waived by the BOARD.

ARTICLE XVII

COMPLIANCE AND DEFAULT

- 17.1 Violations. In the event of a violation (other than the non-payment of an ASSESSMENT) by a member of any of the provisions of the DECLARATION or of the ARTICLES, these BY-LAWS, or the RULES AND REGULATIONS of the ASSOCIATION, the ASSOCIATION, through its BOARD, may notify the violating member by written notice in accordance with Section 17.8 of the DECLARATION of such violation and demand that such violation cease and be discontinued immediately and direct that any damages or injury caused thereby be immediately repaired or corrected at the sole cost and expense of the violating member.

LEGAL DESCRIPTION: (BY SURVEYOR)

A PARCEL OF LAND LYING IN SECTION 2 AND SECTION 3, TOWNSHIP 27 SOUTH, RANGE 37 EAST OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 2, AND GO NORTH 89 53'41" EAST ALONG THE SOUTH LINE OF SAID SECTION 2 A DISTANCE OF 1619.38 FEET TO THE WEST RIGHT-OF-WAY LINE OF SOUTH PATRICK DRIVE AND THE SOUTHEAST CORNER OF WINDWARD COVE AS RECORDED IN PLAT BOOK 32, PAGE 91 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE NORTH 31 08'19" WEST ALONG THE SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 1818.02 FEET TO THE POINT-OF-CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 16 30'36" AND A RADIUS OF 2050.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 590.72 FEET TO THE POINT-OF-BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 76 55'05" WEST A DISTANCE OF 389.25 FEET; THENCE NORTH 11 46'05" EAST A DISTANCE OF 38.25 FEET TO THE SAFE UPLAND LINE OF THE GRAND CANAL (1.00 FOOT N.G.V.D. CONTOUR LINE); THENCE CONTINUE ALONG THE SAID SAFE UPLAND LINE FOR THE FOLLOWING 7 CALLS; NORTH 15 55'04" WEST - 22.49', NORTH 36 51'29" WEST - 82.25', NORTH 00 29'55" EAST - 103.03; NORTH 04 50'12" WEST - 88.74; NORTH 12 51'06" WEST - 90.85; NORTH 04 59'46" WEST - 106.44; NORTH 06 38'15" WEST - 88.73; THENCE NORTH 82 26'59" EAST A DISTANCE OF 117.07 FEET; THENCE NORTH 10 00'75" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 82 26'59" EAST A DISTANCE OF 94.55 FEET; THENCE NORTH 00 05'11" WEST A DISTANCE OF 20.67 FEET TO A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 09 12'59" RADIUS OF 392.51 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 72 08'59" EAST - 63.07 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 63.14 FEET; THENCE SOUTH 00 05' 11" EAST A DISTANCE OF 36.25 FEET; THENCE NORTH 89 54'51" EAST A DISTANCE OF 138.61 FEET TO THE SAID WEST RIGHT-OF-WAY LINE OF SOUTH PATRICK DRIVE; THENCE SOUTH 00 16'03" EAST ALONG SAID WEST RIGHT-OF-WAY OF SOUTH PATRICK DRIVE A DISTANCE OF 5.76 FEET TO THE POINT-OF-CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHEAST, HAVING A CENTRAL ANGLE OF 14 21'39" AND A RADIUS OF 2050.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE, BEING THE SAID WEST RIGHT-OF-WAY OF SOUTH PATRICK DRIVE AN ARC DISTANCE OF 513.82 FEET TO THE POINT-OF-BEGINNING. CONTAINING 5.25 ACRES OF LAND MORE OR LESS TOGETHER WITH ANY LANDS LYING BETWEEN THE SAFE UPLAND LINE AND THE ORDINARY HIGH WATER LINE. SUBJECT TO A DRAINAGE EASEMENT ALONG THE SOUTH 50 FEET.

LEGAL DESCRIPTION

Return to:
David T. McWilliams
1790 Highway A1A, Suite 206
Satellite Beach, FL 32937

McWilliams Clerk Circuit Court
Recorded and Verified Brevard County, FL
Pgs. 6 # Names 2
Trust Fund 3.50 Rec Fee 25.00
Stamp-Deed .70 Excise Tx _____
Stamp-Mtg _____ Int Tx _____
Service Chg 7.00 Refund _____

DEED OF CONSERVATION EASEMENT

ISLAND VILLAS

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 25 day of September, 1992 by Sandy Point Land Development Corporation, having an address at 1790 Highway A1A, Suite 206, Satellite Beach, Florida, 32937 hereinafter referred to as "Grantor", in favor of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, having a mailing address at P.O. Box 1429, Palatka, Florida 32078-1429 ("Grantee").

250638

WITNESS:

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Brevard County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the Property possesses environmental value (the "environmental value") of great importance to the Grantor and to the people of Brevard County, Florida; and

WHEREAS, Grantor intends, as owner of the Property, to convey to Grantee the right to preserve and protect the environmental value of the Property in perpetuity; and

WHEREAS, Grantee agrees by accepting this Grant to honor the intentions of Grantor stated herein, and to preserve and protect in perpetuity the environmental value of the Property for the benefit of this generation and the generations to come;

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the provisions of 704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth (the "Easement").

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever except as herein

92 SEP 28 AM 10:21

provided, in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.

2. Rights of Grantee. To accomplish the purposes stated above, the following rights are conveyed to Grantee by this Easement:

(a) To preserve and protect the environmental value of the Property;

(b) To prevent any activity on or use of the Property that is inconsistent with this Easement, and to require the restoration of areas or features of the Property that may be damaged by a breach of this Easement.

(c) To enter upon and inspect the Property, in reasonable manner and at reasonable times to determine if the Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

(d) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, and to prevent the occurrence of any of the prohibited activities hereinafter set forth.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited without the prior written approval of the Grantee:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground, unless otherwise permitted in this Easement;

(b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials;

(c) Removal or destruction of living trees, shrubs, or other vegetation;

(d) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such a manner as

to affect the surface, unless proper permits have been obtained;

(e) surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition;

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; and

(g) Acts or uses detrimental to such retention of land or water areas.

4. Allowed Uses. Normal maintenance of this area is allowed. Without limiting the generality of the foregoing, the following activities and uses are allowed with the prior written approval of the Grantee:

(a) Removal of exotic plant types such as Brazilian Pepper Trees;

(b) Removal of dead plants, or dead branches on plants as approved by the Grantee;

(c) Pruning of plants as approved by the Grantee (Mangrove trimming is prohibited unless permitted pursuant to Chapter 17-321 F.A.C.);

(d) Construction of docks over and across this area provided the docks are equal to or less than four (4) feet in width; and

(e) No more than twelve (12) dock walkways shall be allowed over and across this area; and

(f) Other approved work set forth by permit(s) obtained through Grantee.

5. Reserved Rights. Grantor reserves and excepts unto itself and its personal representatives, heirs, successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement.

6. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any

forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of the Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

7. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes or other causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes.

8. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under section 170(h) of the Internal revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold environmental easements under the statutes of the State of Florida (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the environmental purposes that this Grant is intended to advance, continue to be carried out.

9. Recordation. Grantor shall record this instrument in timely fashion the official records of Brevard County, Florida, and may re-record it any time as may be required to preserve its rights in this Easement.

10. Successors. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue

as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, The said Grantor have signed and sealed these presents the day and year above written

Signed, Sealed and delivered in the presence of:

Sandy Point Land Development Corporation

Mary Ann Every
Witness Signature

Mary Ann Every
Printed Name

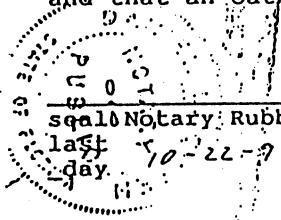
BY: [Signature]
David T. McWilliams
President/Secretary
1790 Highway A1A, Suite 206
Satellite Beach, FL 32937

Rebecca H. Jones
Witness Signature

Rebecca H. Jones
Printed Name

STATE OF Florida)
COUNTY OF Brevard)

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared DAVID T. McWILLIAMS known to me to be the person described in and who executed the foregoing instrument, who acknowledged before me that he executed the same, that I relied upon the following form of identification of the above-named person: _____ and that an oath ~~was~~ (was not) taken.



Witness my hand and official in the County and State aforementioned on this 25 of SEPT, 1992.

[Signature]
Notary Signature

DANIEL L. GREEN
Printed Notary Signature

DESCRIPTION: (BY SURVEYOR)

A PARCEL OF LAND LYING SECTIONS 2 & 3, TOWNSHIP 27 SOUTH, RANGE 37 EAST, OF BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LANSING ISLAND (ENTRANCE) ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 36 PAGE 13 OF THE PUBLIC RECORDS OF SAID BREVARD COUNTY, FLORIDA; THENCE RUN S.89°54'51"W. ALONG THE SAID SOUTH LINE OF THE ENTRANCE TO LANSING ISLAND A DISTANCE OF 138.61 FEET; THENCE N.00°05'11"W. ALONG SAID SOUTH LINE A DISTANCE OF 36.25 FEET TO A POINT ON A CIRCULAR CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 392.51 FEET, A CENTRAL ANGLE OF 09°12'59", AND A CHORD BEARING OF N.72°08'59"W.; THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 03.14 FEET; THENCE S.00°05'11"E. ALONG SAID SOUTH LINE A DISTANCE OF 20.67 FEET; THENCE S.82°26'59"W. ALONG SAID SOUTH LINE A DISTANCE OF 94.55 FEET; THENCE S.10°00'15"E. ALONG SAID SOUTH LINE A DISTANCE OF 10.00 FEET; THENCE S.82°26'59"W. ALONG SAID SOUTH LINE A DISTANCE OF 97.07 FEET TO THE POINT-OF-BEGINNING OF THE HEREIN DESCRIBED EASEMENT; THENCE S.06°38'15"E. A DISTANCE OF 89.34 FEET; THENCE S.04°59'46"E. A DISTANCE OF 105.35 FEET; THENCE S.12°51'06"E. A DISTANCE OF 90.88 FEET; THENCE S.04°50'11"E. A DISTANCE OF 91.07 FEET; THENCE S.00°29'55"W. A DISTANCE OF 97.20 FEET; THENCE S.30°51'29"E. A DISTANCE OF 87.31 FEET; THENCE N.73°40'11"E. A DISTANCE OF 71.45 FEET; THENCE N.78°28'35"E. A DISTANCE OF 60.33 FEET; THENCE N.73°59'52"E. A DISTANCE OF 65.43 FEET; THENCE N.78°43'18"E. A DISTANCE OF 117.24 FEET; THENCE N.87°42'32"E. A DISTANCE OF 46.03 FEET TO THE WEST RIGHT-OF-WAY LINE OF SOUTH PATRICK DRIVE (100 FOOT RIGHT-OF-WAY), SAID POINT BEING IN A CIRCULAR CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 2050.00 FEET, A CENTRAL ANGLE OF 01°41'47", AND A CHORD BEARING OF S.13°43'41"E.; THENCE SOUTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 60.69 FEET; THENCE S.76°55'05"W. A DISTANCE OF 388.33 FEET; THENCE N.11°46'05"E. A DISTANCE OF 38.18 FEET TO THE SAFE UPLAND LINE (1.00 FOOT NGVD CONTOUR LINE) OF THE FLAMINGO WATERWAY; THENCE NORTHERLY ALONG SAID SAFE UPLAND LINE FOR THE FOLLOWING SEVEN CALLS: N.53°50'23"W.-32.20 FEET; N.36°51'29"W.-82.25 FEET; N.00°29'55"E.-103.03 FEET; N.04°50'11"W.-88.74 FEET; N.12°51'06"W.-90.85 FEET; N.04°59'46"W.-106.41 FEET; N.06°38'16"W.-88.73 FEET TO THE SAID SOUTH LINE OF THE ENTRANCE OF LANSING ISLAND; THENCE N.82°26'59"E. ALONG SAID SOUTH LINE A DISTANCE OF 40.00 FEET TO THE POINT-OF-BEGINNING CONTAINING 1.14 ACRES OF LAND MORE OR LESS.

BK 3232 PG 2647

STATE OF FLORIDA, COUNTY OF BREVARD
I HEREBY CERTIFY that the above and foregoing is a true
copy of the original filed in this office.
R. C. WINSTEAD, JR., Clerk Circuit Court

DATED 9-28-92
BY Alan M Peterson D.C.