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DEERCREEK COUNTRY CLUB  
DECLARATION OF  
COVENANTS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION, made on the date hereinafter set forth by GSW PARTNERSHIP, a Florida general partnership (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Jacksonville, County of Duval, State of Florida, which is more particularly described on Exhibit A attached hereto and made a part hereof ("Property").

WHEREAS, Declarant desires to provide for the orderly development of the Property so as to promote the well being of the residents and the value of the Property.

WHEREAS, that Declarant deems it desirable to create a not-for-profit association to manage the property. Such Association, as hereinafter defined, shall own, operate, maintain and administer all the Common Property, as hereinafter defined; shall administer and enforce the covenants, conditions, restrictions and limitations set forth herein; the Association shall enforce the easements created herein and shall collect and disburse the assessments hereinafter created.

NOW, THEREFORE, Declarant hereby declares that all of the Property described herein shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Additional Property" shall mean and refer to any land which is adjacent or contiguous with the Property including, without limitation, the land described on Exhibit B attached hereto and made a part hereof or land which is located such that if such land is annexed to the Declaration by the Declarant, or its successors or assigns, it shall form an integrated community with the Property. Declarant or its successors or assigns may annex the Additional Property by recording in the public records a supplemental declaration subjecting such Additional Property to the covenants and conditions of this Declaration in the manner hereinafter set forth.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 3. "Association" shall mean and refer to Deercreek Country Club Owners Association, Inc., its successors and assigns.

Section 4. "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 5. “Common Expenses” shall mean and refer to those items of expense for which the Association is or may be responsible under this Declaration and those additional items of expense approved and adopted in the manner set forth in the Declaration, the Articles or the Bylaws.

Section 6. “Common Roads” shall mean and refer to the roads depicted on any plat of the Property which provide ingress and egress to a Lot. The Common Roads shall be conveyed to the Association upon completion and accordingly unless specifically set forth to the contrary, references to Common Property shall mean and include the Common Roads.

Section 7. “Common Property” shall mean and refer to those tracts of land which are deeded to the Association and designated in the deed as “Common Property” and such improvements thereon as are specifically conveyed to the Association. The term “Common Property” shall also include any personal property acquired by the Association, if the personal property is designated as “Common Property,” as well as certain land not owned by the Association but for which the Association is assigned responsibility. All Common Property is to be designated to and intended for the common use and/or enjoyment of the Owners and their guests, lessees or invitees subject to any operating rules adopted by the Association and subject to any use rights made or reserved by Declarant prior to conveyance of such Common Property or the granting of the easements or the designation for Association maintenance. Common Property shall not include the facilities which are designated a part of the Deercreek Country Club, including without limitation, the golf course, tennis courts and swimming pool and related facilities.

Section 8. “County” shall mean and refer to Duval County, Florida.

Section 9. “Declarant” shall mean and refer to GSW PARTNERSHIP, a Florida general partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development and provided that such rights as Declarant are specifically assigned to the successor or assign and such successor or assign shall specifically assume the obligations of Declarant under the Declaration, Articles and Bylaws. Declarant may assign all or part of its rights in the manner set forth in the Assignment.

Section 10. “Declaration” shall mean and refer to this Deercreek Country Club Declaration of Covenants, Conditions, Restrictions and Easements applicable to the Property.

Section 11. “Lot” shall mean and refer to any plot of land together with the improvements thereon shown upon any recorded subdivision plat of the Property or on any preliminary plan for Additional Property which the Declarant intends to plat as a part of the Property.

Section 12. “Member” shall mean and refer to those persons entitled to Class “A” or “B” Membership in the Association as provided in the Declaration and Articles.

Section 13. “Mortgagee” shall mean and refer to any institutional holder of a first mortgage encumbering a portion of the Property as security for the performance of an obligation; an insurer or guarantor of such mortgage, including without limitation, the Veterans Administration (“VA”) or Federal Housing Administration (“FHA”) and/or a purchaser or guarantor of such mortgages in the secondary market including without limitation, Federal National Mortgage Association (“FNMA”) and Governmental National Mortgage Association (“GNMA”); and the Declarant, if it is holding a first mortgage on any portion of the Property.

Section 14. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 15. “Property” or “Properties” shall mean and refer to that certain real property described in Exhibit A together with improvements thereon (except such

improvements the title of which are reserved by the Declarant or its assignees), and such portions of the Additional Property as may hereafter be brought within the jurisdiction of the Declaration by annexation.

Section 16. "Surface Water or Stormwater Management Systems" shall mean and refer to a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42 F.A.C. (AS AMENDED DECEMBER 12, 1990)

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Common Property Easements. Subject to the provisions of the Declaration, the rules and regulations of the Association, and any prior use rights granted by the Declarant in the Common Property, every Owner(s), their successors and assigns and their families and every guest, tenant, and invitee of such Owner(s) is hereby granted a right and easement of ingress and egress and enjoyment in and to Common Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights by an Owner for any period during which any Assessment against his Lot remains unpaid; and for a period, not to exceed sixty (60) days, for any infraction of its published rules and regulations.

(b) The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer or grant an easement over all or any part of the Common Property to any public agency, authority or utility company for the purpose of providing utility or cable television service to the Property and the right of the Board to acquire, extend, terminate or abandon such easement.

(c) The right of the Association to sell, convey or transfer the Common Property or any portion thereof to any third party other than those described in Subsection (b) for such purposes and subject to such conditions as may be approved by a two-thirds vote of the Board of Directors.

(d) The right of the Board of Directors to adopt rules and regulations pertaining to the use of the Common Property.

(e) The right of the Declarant or the Board to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' rights therein.

(f) The right of the Board to mortgage any or all of the Common Property for the purpose of improvement or repair of the Common Property.

(g) The right of the Association, after compliance with the voting requirements of subparagraph (c), above, to grant an easement over a portion of Deercreek Club Road in favor of such parties and for such purposes as the Association shall reasonably deem to be in the best interests of the owners in settlement of the dispute delineated in Recital E, above. (AS AMENDED AUGUST 31<sup>ST</sup> 1994)

Section 2. Delegation of Use. Any Owner may delegate his right of use and enjoyment of the Common Property to the members of his family, his tenants, or contract purchasers who occupy the Lot within the Property.

Section 3. Owners' Common Road Easements. It is specifically acknowledged that the Common Roads, which constitute a part of the Common Property, will be conveyed by the Declarant to the Association free and clear of all liens and encumbrances, except taxes and except Declarant's reserved right to install, repair, restore and maintain all utility installations, street lighting and signage, including without limitation, cable television in the road right of way. Each Owner of a Lot, his successors and assigns, Mortgagees, domestic help, delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities serving the Property, and such other persons as the Declarant and/or the Association shall designate, are hereby granted a perpetual non-exclusive easement for ingress and egress over the Common Roads.

The Declarant and the Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Declarant or the Association, may create or participate in a disturbance or nuisance on any part of the Property; provided that, the Declarant or Association shall not deny an Owner or Mortgagee the right of ingress and egress to any portion of the Property owned by such Owner or Mortgagee in favor of such Mortgagee. The Declarant and the Association shall have (a) the right to adopt rules and regulations pertaining to the use of the Common roads, (b) the right, but no obligation, from time to time, to control and regulate all types of traffic on the Common Roads, including the installation of gatehouses and gate systems, if the Declarant or Association so elects. The Declarant and the Association shall have the right, but no obligation, to control speeding and impose speeding fines to be collected by the Association in the same manner as described in Article IV for the collection of assessments and to prohibit use of the Common Roads by traffic or vehicles (including without limitation motorcycles, "go-carts", three wheeled vehicles, all terrain vehicles), which in the opinion of Declarant or the Association would or might result in damage to the Common Roads or create a nuisance for the residents, (c) the right, but no obligation, to control and prohibit parking on all or any part of the Common Roads, and (d) the right, but no obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial which is placed or located on the Property, if the location of the same will in the opinion of the Declarant or the Association obstruct the vision of a motorist.

The Declarant reserves the sole and absolute right at any time to dedicate a Common Road for public use and to redesignate, relocate, or close any part of the Common Roads without the consent or joinder of any Owner or Mortgagee so long as no Owner or his Mortgagee is denied reasonable access from his Lot to a public roadway by such redesignation, relocation or closure. In such event, the foregoing easement over the Common Road shall be terminated and the Association shall reconvey the Common Road at the request of the Declarant. Upon the termination of the Declarant's Class B Membership, the foregoing right of the Declarant shall vest in the Association.

Section 4. Conveyance of Common Property. The Declaration may convey the Common Property (other than the Common Roads, which shall be conveyed as provided above) to the Association at such time as all the planned improvements, if any, are complete and in the event the Common Property is unimproved at such time as the Declarant determines, but in all events prior to the termination of the Class B membership. Such conveyance shall be subject to easements and restrictions of record and free and clear of all liens and financial encumbrances other than taxes for the year of conveyance. The Declarant may reserve certain rights to itself for use of the Common Property and/or Common Roads which are not inconsistent with use by the Owners.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Qualification for Membership: Every Owner of a Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration.

Section 2. Classes of Membership: The Association shall have two classes of voting membership:

(a) Class A. Class A Members shall be all Owners of Lots, with the exception of the Declarant, and there shall be one vote for each Lot.

(b) Class B. Class B Members shall be the Declarant who shall be entitled to the number of votes equal to the number of Lots from time to time subject to the Declaration or which are depicted on a preliminary plan for the Property which the Declarant intends to plat as a part of the Property plus one. The total number of votes of the Class B member shall be increased at the time of submission of the preliminary plat to the County to include the number of Lots contained within the Additional Property plus one. The Class B membership shall cease upon the happening of the first of the following events to occur:

- (i) when the Declarant no longer owns any Property, Additional Property, or any portion of the Deercreek Country Club;
- (ii) twenty-five (25) years from the date of recording this Declaration;
- (iii) when Declarant, in its sole discretion, elects to transfer control to the Class A Members.

Section 3. Approval by Voting. Whenever in this Declaration a proposed action or issue must be approved by a specified percentage of the vote of the Association such approval may be obtained by:

(a) the specified percentage of Members casting their respective votes to approve such action or issue in person or by proxy at duly noticed and constituted meeting of the Members at which a quorum is present, or

(b) the specified percentage of Members holding all votes giving the approval by written consent to approve the action or issue.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments as set forth in Sections 4 and 13 of this Article, such assessments to be established and collected as hereinafter provided. The annual and special assessments, (sometimes jointly referred to herein as "Assessments") together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The Personal obligation for delinquent Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share from the grantor.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation of Owners and residents of the

Property, for the improvement, maintenance and repair of the Common Property, including without limitation, the Common Roads, for the operation and administration of the Association, for the maintenance operation and repair of the Surface Water or Stormwater Management System, including but not limited to work within the retention areas, drainage and drainage easements for the establishment of a maintenance, for the establishment of a maintenance, repair and reserve account, for payment of taxes and insurance on all Common Property and for such other purposes as are set forth or permitted in this Declaration, the Articles or Bylaws. (AS AMENDED DECEMBER 12, 1990)

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment per Lot shall be Seven hundred and twenty Dollars (\$720.00) per year.

(a) From and after January 1 of the year immediately following the recording of this Declaration, the maximum Annual Assessment against a Lot may be increased each year not more than ten percent (10%) above the maximum Annual Assessment for the previous year without any approval other than that of the majority of the Board.

(b) From and after January 1 of the year immediately following the recording of this Declaration, the maximum Annual Assessment against a Lot may be increased by more than ten percent (10%) by a vote of a two-thirds majority of the Board.

(c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum Annual Assessment for the applicable year.

Section 4. Special Assessment for Capital Maintenance or Repair. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds (2/3) majority vote of the Board unless the Special Assessment is required due to the inadequacy of the insurance proceeds to cover the cost of a repair to Common Property (See Article IX, Section 1) wherein no approval shall be required.

Section 5. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments for the purposes set forth in Section 4 above, must be fixed at a uniform rate for all Lots in a class and any increase must be applied uniformly for all classes. In the event that an Owner or his family, guest or invitees specifically damage the Common Property or fail to properly maintain the Lot as provided in the other provisions hereof, such Lot may be subjected to a nonuniform Special Assessment for payment of such costs.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments shall commence upon substantial completion of the installation of the Common Roads and utilities serving a specified Lot subject to this Declaration. A Lot. A Lot shall be deemed substantially complete and subject to Assessments when the Common Roads necessary to provide access to a particular Lot have been constructed, utilities for use of Owner are in place and the Owner is able to obtain a building permit therefor. In the event that any Additional Property is annexed to this Declaration, Assessments for the land annexed shall commence at such time as the Lots within the Additional Property are substantially complete. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The Annual Assessment may be payable annually and the due date shall be the first day of the fiscal year unless specifically changed by the Board of Directors.

Section 7. Association Certificate. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments for a specified Lot have been paid. A properly

executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate of interest permitted by the law. The Association may bring an action at law against the Owner personally obligated to pay the same. The Association may record a claim of lien of record in the County and thereafter foreclose the claim of lien against the Lot. No Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Property or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage held by a Mortgagee. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due or from the lien thereof. Any such delinquent Assessments which were extinguished pursuant to the foregoing may be reallocated and assessed against all of the Lots as part of the annual budget.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority or utility company and serving a public use, all properties owned by a charitable or non-profit organization exempt from ad valorem taxation by the laws of the State of Florida, properties owned by the Association and all facilities constituting a part of the Deercreek Country Club shall be exempt from the Assessment created herein, except no land or improvements which are occupied as a residence shall be exempt from Assessments.

Section 11. Reserves. The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Property, including the Common Roads which shall be maintained out of the Annual Assessments. This reserve fund shall constitute a portion of the annual budget. In addition, the Board of Directors may establish reserve funds from the Annual Assessments to be held in reserve for:

- (a) major rehabilitation or major repairs;
- (b) for emergency and other repairs required as a result of storms, fire, mutual disaster or other casualty loss; and
- (c) initial cost of any new service to be performed by the Association.

Section 12. Declarant Payment. The Declarant, is obligated to pay the Annual Assessment for each Lot it owns which is substantially complete as provided in Section 6 hereof. All Assessments paid by the Declarant during the time the Declarant is a Class B Member shall be placed in the Association's account and shall not be commingled with Declarant's general funds.

Section 13. Assessments for Failure to Maintain. In the event that an Owner fails to maintain his Lot or the improvements thereupon as required herein, the Association shall give written notice specifying such failure to the Owner and if the Owner fails to correct such unperformed maintenance within ten (10) days from the Association's written notice, the Association may perform such maintenance and the cost of such shall constitute a Special Assessment for which a claim of lien may be filed and enforced.

Section 14. Failure to Give Notice or Revise Budget. The failure or delay of the Board to prepare or adopt the annual budget for any fiscal year or to give notice thereof shall not constitute a waiver or release in a manner of the Owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined. In the absence of an annual budget or notice of change, each Owner shall continue to pay the Assessment as established for the previous year.

## ARTICLE V

### ARCHITECTURAL CONTROL

Section 1. General Provisions. No building, fence, wall or other structure, landscaping or exterior lighting plan or any other type of improvement, other than those erected by the Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration thereon be made until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant. Improvements or modifications which are specifically subject to architectural approval include without limitation, the construction of the initial structures on a Lot and the painting or alteration of a dwelling (including doors, windows, roof), installation of solar panels or other devices, construction of fountains, swimming pools, jacuzzis, construction of privacy fences; additions of awnings, shelters, gates, flower boxes, shelves, and statues.

Section 2. Architectural Review Board ("ARB").

(a) Composition of the ARB.

The architectural review and control functions set forth in the Declaration shall be administered and performed by the ARB, which shall consist of at least three (3) members who need not be members of the Association. The Declarant shall have the right to appoint all of the members of the ARB, or such lesser number as it may, in its sole discretion, appoint for so long as it owns a Lot subject to this Declaration. Thereafter, members of the ARB as to whom Declarant may relinquish the right to appoint, may be the Board of Directors or may be a committee appointed by, and shall be serving at the pleasure of, the Board of Directors of the Association. At such time as the Board of Directors has the right to constitute the ARB or appoint the members of the ARB, the Board shall appoint at least one (1) architect or building contractor thereto. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors; except that Declarant, to the exclusion of the Board, shall fill any vacancy created by the death, resignation, removal or other termination of services of any member of the ARB appointed by Declarant. **Notwithstanding anything contained herein to the contrary, any improvements of any nature whatsoever made or to be made by the Declarant shall not be subject to ARB review and approval. (AS AMENDED AUGUST 1<sup>ST</sup>, 1994)**

(b) Powers and Duties of the ARB.

The ARB shall have the following powers and duties:

(i) To draft Architectural Planning Criteria. The Declarant has created a set of Architectural Planning Criteria and has sole control of such criteria until Declarant no longer owns any Lots subject to this Declaration. Subsequent to the termination of the Declarant's control of the ARB, the ARB may recommend to the Board modifications and/or amendments to the Architectural Planning Criteria. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association. Notice of any modification or amendment to the Architectural Planning Criteria including verbatim copy of such change or modification, shall be delivered to each Owner. However, a receipt of a copy of a modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification. No Board approval of the Architectural Planning Criteria shall be required during the time the Declarant has control of the ARB.

(ii) To require submission to the ARB of two (2) complete sets of preliminary and final plans and specifications as hereinafter defined for any improvement or structure of any kind, to be constructed by any person or entity other than the Declarant, including, without limitation, any building, dwelling, fence, wall, sign, site paving, grading, parking and building additions, alterations, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object, exterior lighting scheme or other improvement described in Section 1 ("Proposed Improvement") the construction or placement of which is proposed upon any Lot or Property. The ARB may also require submission of samples of building materials and colors proposed for use in the Proposed Improvement and may require such additional information as reasonably may be necessary for the ARB to completely evaluate the Proposed Improvement in accordance with the Declaration and the Architectural Planning Criteria.

(iii) To approve or disapprove any Proposed Improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot or the Property. Subsequent to the transfer of control of the ARB by the Declarant, any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board within thirty (30) days of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall be dispositive; provided, however, during the time the Declarant controls the ARB, determination by the ARB shall be final.

(iv) To evaluate each application for the total effect, including the manner in which the homesite is developed. This evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a Proposed Improvement might meet individual criteria delineated in this Article and the Architectural Planning Criteria and still not receive approval, if in the sole judgment of the ARB, its overall aesthetic impact is unacceptable. The approval of an application for one Proposed Improvement shall not be construed as creating any obligation on the part of the ARB to approve applications involving similar designs for Proposed Improvements pertaining to different Lots.

(v) If any Proposed Improvement as aforesaid shall be changed, modified or altered without prior approval of the ARB of such change, modification or alteration, and the plans and specifications therefor, if any, then the Owner shall, upon demand, cause the Proposed Improvement to be restored to comply with the original plans and specifications, or the plans and specifications originally approved by the ARB, and shall bear all costs and expenses of such restoration, including costs and reasonable attorneys' fees of the ARB, plus applicable sales tax.

(vi) In addition, any Owner making or causing to be made any Proposed Improvement or additions to the Property or a Lot agrees and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors and assigns to hold the ARB, Association, Declarant and all other Owners harmless from any liability, damage to the Property and from expenses arising from the construction and installation of any Proposed Improvement and such Owner shall be solely responsible for the maintenance, repair and insurance of any alteration, modification or change and for assuring that the Proposed Improvement meets with all applicable governmental approvals, rules and regulations.

(vii) The ARB is hereby authorized to make such charges as it deems necessary to cover the cost of review of the plans and specifications.

Section 3. Procedure for Approval of Plans. The ARB shall approve or disapprove the preliminary and final applications for a Proposed Improvement within thirty (30) days after each has been submitted to it in proper form together with all supporting information. If the plans are not approved within such period, they shall be deemed disapproved. The applications and plans submitted to the ARB shall meet the following standards:

(a) The preliminary application shall be submitted in duplicate and "sketch" form and shall include:

- (i) landscape plan by a reputable landscape company showing location, quantity and species of all plants, trees, shrubs and ground cover to be used.
  - (ii) a suggested layout of home on Lot at one fourth inch = 20 feet showing proposed drainage plan, location of all decks, pools, patios, driveways and utility routing;
  - (iii) dimensioned floor plan at one fourth inch = 1 foot; one section through main living area of house one fourth inch = 1 foot and an indication of materials and colors to be specified for exterior walls, roofs, window trims and exterior trims;
  - (iv) sketch of improvement showing elevations from all sides of house;
- (b) Upon approval of the preliminary application, a final application shall be filed in duplicate and shall include everything shown on preliminary application and actual samples of exterior material with specified paint colors applied to those materials.
- (c) Once commenced, construction must be completed within nine (9) months.

Section 4. Architectural Planning Criteria.

(a) Building Type. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family residence containing not less than one thousand seven hundred (1,700) square feet for one floor buildings and two thousand one hundred (2,100) square feet of livable, enclosed, heated floor area (exclusive of open or screen porches, patios, terraces, garages and carports) not to exceed thirty-five (35) feet in height and having a private and enclosed garage (or carport if approved) for not less than two (2) nor more than four (4) cars, with the exception of the residences constructed on the Club Homes Land, which must have a minimum square footage of one thousand two hundred (1,200) square feet of livable, enclosed, heated floor area for both single story and two story dwellings. (AS AMENDED FEBRUARY 28, 1994)

(b) Set Back Restrictions. No part of any structure shall be constructed within twenty-five (25) feet of the front property line, provided no dwelling shall be located less than ten (10) feet from rear line and seven and one-half ( 7 ½) feet of any side line, with the exception of the residences constructed on the Club Homes Land, which shall not be constructed within ten (10) feet of the front property line, provided no such residence shall be located less than ten (10) feet from the rear and five (5) feet of any side line. (AMENDED FEBRUARY 28, 1994) A dwelling may be located upon a single platted lot or on a combination of platted lots and in such event the set back lines shall apply to the outermost lot lines. The coverage by all buildings on the Lots shall not exceed thirty percent (30%). (AMENDED DECEMBER 12, 1990) The ARB shall have the right to impose additional set back requirements for all lot lines to preserve line of sight of neighboring properties. The ARB may modify the set back restrictions for an individual lot where in its opinion and sole discretion, such modification is necessary for the preservation of trees or the maintenance of overall aesthetics in the area.

(c) Height Limitations. No structure shall exceed thirty-five (35) feet in height without ARB approval and the approval required under the applicable zoning.

(d) Exterior Color Plan. The ARB shall have final approval of all exterior colors plans and each Owner must submit to the ARB prior to initial construction and development upon any Lot a color plan showing the color of the roof, exterior walls, shutters, trims, which shall be consistent with the homes in the surrounding areas.

(e) Roofs. Flat roofs shall not be permitted unless approved by the ARB. Minimum pitch of roof will be 6/12". (AS AMENDED FEBRUARY 28, 1994) Protrusions through roofs for power ventilations or other apparatus, including the color location thereof, must be approved by the ARB.

(f) Elevations. Similar elevations shall not be built directly adjacent or across from each other.

(g) Garages and Automobile Storage. In addition to the requirements stated in Paragraph (a) above, all garages shall have a minimum width of twenty (20) feet and a minimum length of twenty (20) feet as measured from the inside walls of the garage. All garages must have either a single overhead door with a minimum door width of sixteen (16) feet for a two-car garage, or two (2) sixteen (16) foot doors for a four-car garage, or two (2), three (3), or four (4) individual overhead doors, each a minimum of eight (8) feet in width, and a service door. All overhead doors shall be kept closed when not in use. No carports will be permitted unless approved by the ARB. Automobiles shall be stored in garages when not in use. No garage shall be converted to living space, unless a garage, in compliance with these provisions, is constructed in its stead and unless the façade of the enclosed garage is approved by the ARB and a new garage in compliance with these restrictions is built. **The use of side entry garages is encouraged wherever possible, with the exception of the residences constructed on the Club Homes Land in Unit Four. (AS AMENDED FEBRUARY 28, 1994)**

(h) Driveway Construction. All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. All driveways must be constructed of an approved material.

(i) Games and Play Structures. All basketball backboards, tennis courts and play structures shall be located at the rear of the dwelling, or on the inside portion of a corner Lot within the setback lines. No platform, doghouse, tennis court, playhouse or structure of a similar kind or nature shall be constructed on any part of a Lot located in front of the rear line of residence constructed thereon and shall be constructed so as to not adversely affect the adjacent Lots or the use thereof. Any such structure must have prior approval of the ARB and without limiting any other criteria for approval, the ARB shall review the height of such structure to assure the privacy of neighboring Owners.

(j) Fencing and Walls. The composition, location and height of any fence or wall to be constructed on any Lot shall be subject to the approval of the ARB. The ARB shall require the composition of any fence or wall to be consistent with the material used in the surrounding homes and other fences, if any. Wire or chain link fences are prohibited. If an Owner owns a pet as permitted hereunder, such Owner shall be required either to erect and maintain a fenced rear yard or to construct and maintain another ARB-approved method for keeping and maintaining such permitted pets when outdoors. Any fence, wall, hedge or other similar structure or improvement must be included in the development plan with respect to location, height, and type of material and must be approved by the ARB.

(k) Landscaping. A basic landscaping plan shall be prepared for each Lot and must be submitted to and approved by the ARB prior to initial construction and development thereon. The plan shall call for landscaping improvements, exclusive of sodding and sprinkling systems, requiring a minimum expenditure of \$500.00 by Owner. No artificial grass, plants or other artificial vegetation or sculptural landscape décor shall be placed or maintained on any Lot unless approved by the ARB. Any vegetable garden shall be screened from view with an approved form of screening.

(l) Swimming Pools and Tennis Courts. Any swimming pool or tennis court to be constructed on any Lot shall be subject to the requirements of the ARB, which include, but are not limited to the following:

(i) Composition to be of material thoroughly tested and accepted by the industry for such construction;

(ii) The outside edge of any pool wall may not be closer than four (4) feet to a line extended and aligned with the side walls of a dwelling unless approved by the ARB;

(iii) No screening of pool areas may extend beyond a line extended and aligned with the side walls of the dwelling unless approved by the ARB;

(iv) Pool screening may not be visible from the street in front of the dwelling except on a corner Lot unless approved by the ARB;

(v) Location and construction of tennis or badminton courts must be approved by the ARB;

(vi) Any lighting of a pool or other recreation area shall be designed so as to buffer the surrounding residences from the lighting;

(vii) Tennis court lighting shall not be permitted.

If one Owner elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be adequately screened by landscaping and/or walls or fences on both the front and side as required by the ARB.

(m) Garage and Trash Containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers which shall be kept within an enclosure constructed with each dwelling in a location approved by the ARB. All Lots shall be maintained during construction in a neat nuisance-free condition. Owner agrees that the ARB or the Association shall have the discretion to rectify any violation of this subsection, with or without notice, and that Owner shall be responsible for all expenses incurred by the ARB thereby, which expenses shall constitute a Special Assessment as described in Article IV, Section B.

(n) Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently, except that the Declarant and/or its designees may erect and utilize temporary structures for construction or sales.

(o) Removal of Trees. In reviewing building plans, the ARB shall take into account the natural landscaping such as trees, shrubs and palmettos, and encourage the Owner to incorporate them in his landscaping plan. No tree of six (6) inches in diameter at two (2) feet above natural grade shall be cut or removed without approval of the ARB, which approval may be given when such removal is necessary for the construction of a dwelling or other improvement.

(p) Window Air Conditioning Units. No window or wall air conditioning units will be permitted. All air conditioner compressors shall be screened from view by a fence, wall or shrubbery.

(q) Utility Connections. Building connections for all utilities, including, but not limited to, water, electricity, telephone and televisions shall be run underground from the proper connecting points to the dwelling in such a manner to be acceptable to the governing utility authority. Approval of water to air heat pumps will not be considered unless excess water can be dispelled directly into a storm water drainage structure.

(r) Mailboxes. No mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Lot without the approval of the ARB as to style and location. If and when the United States Postal Service or the newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to dwellings, each Owner, on the request of the ARB, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to dwellings.

(s) Well Limitation. Any wells to be installed and constructed on any portion of the Property shall be for irrigation purposes, shall be approved by the ARB and shall be in strict compliance with any regulations of the applicable utility company.

(t) Lot Size. No Lot which has been improved by the construction of a single family dwelling shall be further subdivided or separated into small lots by any Owner; provided that this provision shall not prohibit corrective deeds or similar corrective instruments. The Declarant shall have the right to modify the subdivision plats of the Property for use of Lots as roadway or in such other manner as Declarant deems necessary or convenient.

(u) Sight Distance at Intersection. No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street line.

(v) Sidewalks. Each Owner shall install at its cost and expense a sidewalk which shall comply with applicable governmental standards and shall be submitted to and approved by the ARB as a part of the Proposed Improvements.

(w) Waiver of Architectural Planning Criteria. The Architectural Planning Criteria set forth herein are intended as guidelines to which adherence shall be required by each Owner in the Property; provided, however, the ARB shall have the express authority to waive any requirement set forth herein if, in its professional opinion, it deems such waiver in the best interest of the Property and the deviation requested is compatible with the character of the Property. A waiver shall be evidenced by an instrument signed and executed by the ARB upon approval by a majority of its members.

## ARTICLE VI

### USE RESTRICTIONS

In order to provide for congenial occupancy of the Property and for the protection of the value of the Lots, the use of the Property and Lots shall be in accordance with the following restrictions and conditions so long as the Property and Lots are subject to this Declaration.

Section 1. Residential Uses. Lots shall be used for residential living units and for no other purpose, and no business or commercial building may be erected on any Lot and no business may be conducted on any part of any Lot.

Section 2. Antennae. No serial, antenna, satellite receptor or dish or similar device shall be placed or erected upon any Lot or affixed in any manner to the exterior of any improvement on such Lot.

Section 3. Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless screened from the view of neighboring Owners and from the street unless such drying device is of a temporary nature and removed when the clothes are dry.

Section 4. Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors of the Association and the written decision of the Board shall be dispositive of such dispute or question.

Section 5. Signs. With respect to individual Lots, only one sign may be posted at any given time. Such sign shall consist of a 4" x 4" post no taller than 48" - 52" with a sign blade no larger than 12" long and 8 inches high. A Lot with a model home constructed thereon may have the standard sign listed above as well as a second sign no larger than three square feet which may consist of up to two 4" x 4" posts not taller than 52". The color for all signage shall be dark green (PMS color 553C) with metallic gold lettering and shall be subject to the prior approval of the Architectural Review Board. (AS AMENDED FEBRUARY 28, 1994)

Section 6. Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearances of such devices will be closely scrutinized and controlled to assure consistency with neighborhood aesthetics. Request for approval of installation of any type of solar

equipment shall be included in the development plan and must be constructed in accordance therewith.

Section 7. Window Coverings. No reflective window coverings or treatments shall be permitted on any building in the Property. All window coverings shall have linings or other treatment so that their exterior appearance of the window appears neutral from the street and further no unsightly objects shall be placed in the windows so as to be visible from the street. The ARB, at its discretion, may control or prohibit other window coverings and treatments not reasonable compatible with aesthetic standards set forth herein.

Section 8. Off-Street Motor Vehicles. No motorized vehicles including, without limitation, two and three wheel all terrain vehicles or "dirt bikes" may be operated on the Property off of paved roadways and drives.

Section 9. Noise. Exterior noise, and noise emanating from within buildings or other improvements, including without limitation, talking, singing, television, radio, record or tape player or musical instruments, shall be maintained from 11:00 p.m. until 7:30 a.m. at such volume that the noise is not audible beyond the boundaries of the Lot from which it originates and at all times so as not to constitute a nuisance or unreasonable annoyance to neighbors.

Section 10. Pets and Animals. No animals except common domestic household pets, within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Lot or within the Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance; and no pets will be allowed on the Property other than on the Lot of the Owner of such pets, unless confined to a leash or under voice control. No pet shall be allowed to run at large and all pets shall be kept with an enclosed area, which must be clean, sanitary and reasonably free of refuse and waste. Upon written request of any Owner, the Board may conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether such animal is making an unreasonable amount of noise, whether an animal is being allowed to run at large or whether an animal is a nuisance. The decision of the Board in such matters is conclusive and shall be enforced as other restrictions contained herein. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels for boarding or operation shall be allowed.

Section 11. Oil and Mining Operation. No oil drilling, mining operations, oil refining, quarrying or oil development operations, or tanks, tunnels, mineral excavations or shafts shall be permitted upon, in, or under any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 12. Lawful Use. No improper, offensive or unlawful use shall be made of the Property or any part thereof and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 13. Repair and Parking of Vehicles. No commercial or inoperative vehicle shall be parked in the street or in the driveway on any Lot. No vehicles shall be parked in the driveway or on the street overnight but shall be stored in garages with the doors closed. Boats, trailers, campers and vans must be stored with an enclosure so as to be screened from view. No vehicle repair shall be performed in the driveway unless it is of a short term duration or repairs which take less than three (3) hours.

Section 14. Additional Use Restrictions. The Board of Directors of the Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Property and to waive or modify application of the foregoing use restrictions with respect to any Lot(s) as the Board, in its sole discretion, deems appropriate.

Section 15. Maintenance Required and Failure to Maintain. No weeds, underbrush or other unsightly vegetation permitted to grow or remain upon any Lot, and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain

anywhere on any Lot. The Owner shall maintain the exterior of all buildings and improvements on his Lot in good and workmanlike manner, and shall present a neat and clean appearance upon the Lot including painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. In the event that any Owner fails or refuses to keep his Lot free of weeds, underbrush, refuse piles, debris or other unsightly growth or objects, or to keep the buildings or improvements on his Lot in a good and workmanlike manner, or in a neat and clean appearance, after written notice to Owner, the ARB or the Board may authorize its agents to enter upon the Lot and perform any necessary maintenance at the expense of the Owner, and such entry will not be deemed a trespass. During construction of a dwelling or other improvement, each Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot.

## ARTICLE VII

### RIGHTS OF MORTGAGEES

Section 1. Mortgagee Notice Rights. Upon written request to the Association, identifying the name and address of a Mortgagee, such Mortgagee will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot on which there is a first mortgage held, insured or guaranteed by such Mortgagee.

(b) Any delinquency in the payment of Assessments owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such Mortgagee, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of Mortgagees.

Section 2. Mortgagee Information. The Association shall make available to Owners and Mortgagees current copies of this Declaration, Articles, Bylaws and rules and regulations of the Association, as well as books, records and financial statements of the Association. "Available" means available for inspection, upon written request during normal business hours or under other reasonable circumstances.

## ARTICLE VIII

### ANNEXATION OF PROPERTY

Section 1. Declarant's Annexation. The Declarant shall have the right, for so long as it is a Class B Member from time to time and in its sole discretion, to annex to the Property and to include within this Declaration any Additional Property.

Section 2. Association Annexation. The Association may annex Additional Property owned by the Association to the Property with the approval of 2/3 of the votes of the Board of Directors.

Section 3. Supplemental Declarations. Any such additions authorized in section 1 or 2 above may be made by filing of record of one or more supplemental declarations. With respect to Additional Property annexed by the Declarant, the supplemental declaration need only be executed by the Declarant; in the case of Additional Property to be annexed by the Association, the supplemental declaration shall be executed by the President of the Association and shall state that such annexation is in accordance with a resolution passed by the Association in accordance with the terms of

this Declaration. A supplemental declaration shall contain a statement that the real property that is the subject of the supplemental declaration constitutes Additional Property which is to become a part of the Properties subject to this Declaration. In addition the supplemental declaration may contain additional covenants and restrictions provided that such covenants and restrictions are consistent with those contained herein. Such supplemental declaration shall become effective upon being recorded in the public records of the county.

Section 4. Effect of Annexation. In the event that any Additional Property is annexed to the Property pursuant to the provisions of this Article, then such Additional Property shall be considered within the definition of Property for all purposes of this Declaration, and each Owner of a Lot therein shall be a Class A Member and shall be entitled to one (1) vote and the Class B Member shall be entitled to additional votes as provided in Article III. Provided, however, until a supplemental declaration is recorded subjecting any portion of the Additional Property shall not constitute a defect or encumbrance on the title of the Additional Property.

Section 5. Withdrawal. Declarant may at any time in its sole discretion determine to withdraw Property from this Declaration by recording in the public records a declaration of withdrawal of the Property which shall be consented to by the owner of the Property and its Mortgagee, if any, if such is not the Declarant. Subsequent to the termination of the Declarant's ownership of any Property subject to this Declaration, the Association may withdraw Property in the manner stated herein with the consent of the Owner if it is not the Association.

## ARTICLE IX

### INSURANCE CONDEMNATION AND RECONSTRUCTION

Section 1. Damage to or Condemnation of Common Property. In the event that any portion of the Common Property is damaged or destroyed by casualty or natural events, or taken through condemnation proceedings or conveyance in lieu thereof, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction.

Repair, reconstruction or restoration of the Common Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the repair, reconstruction, restoration and repair of such damage. If the insurance proceeds or condemnation award and any reserves maintained by the Association for such purpose are insufficient, the deficit shall be assessed against all Owners as a Special Assessment. If there is a surplus of insurance proceeds, such shall become the property of the Association.

With respect to any insurance proceeds or condemnation award in connection with such loss or damage to the Common Property or improvements thereon, the Association is hereby designated to represent the Owners in any proceedings, negotiations, settlements or agreements in connections with such award.

Section 2. Damage to or Condemnation of the Lots. In the event of damage or destruction to any portion of the improvements on a Lot, due to casualty, natural events, condemnation or conveyance in lieu thereof, the improvements shall be repaired or restored by the Owner. In the event that the damage, destruction or condemnation renders the improvements uninhabitable or the damage is so substantial that the Owner determines not to rebuild the improvements on the Lot, the Owner shall clear the debris and have the Lot leveled within 60 days from the date of destruction or damage and shall thereafter maintain the Lot in a clean and sanitary condition.

Section 3. Damage to Common Property Due to Owner Negligence. In the event that the Common Property is damaged as a result of the willful or negligent acts of the Owner, his tenants, family, guests or invitees, such damage shall be repaired by the Association and the cost of repair thereof shall be a Special Assessment against such Owner as described in Article IV, Section 13.

Section 4. Insurance. The Association shall obtain and maintain insurance policies insuring the interests of the Association as hereinafter described. The policy of property insurance shall cover all of the Common Property (except land, foundation, excavation and other items normally excluded from coverage) but including fixtures and building services equipment, to the extent that they serve the Common Property.

The policy shall afford, as a minimum, protection against the following:

(a) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(b) all other perils which are customarily covered with respect to projects similar in construction, location and use, including flood insurance, if applicable, and all perils normally covered by the standard "all risk" endorsement, where such is available. If flood insurance is required, it must be in an amount of 100% of current replacement cost of the improvement or the maximum coverage under the National Flood Insurance program.

(c) losses covered by general liability insurance coverage covering all Common Property in the amount of at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of Common Property and any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

The hazard policy shall be in an amount equal to 100% of the current replacement cost of the insured properties exclusive of land, foundation, excavation and items normally excluded from coverage. The maximum deductible amount for such policies shall be the better of \$10,000 or 1% of the policy amount, provided that the funds to cover the deductible shall be included in the Association reserve accounts. The policy shall provide that it may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association. The Board may obtain such additional insurance as it in its sole discretion deems reasonable, convenient or necessary. In the event that any of the coverage required herein becomes unavailable or prohibitively expensive, the Association may make such changes in coverage as it deems reasonable and prudent provided such coverage is consistent with the then applicable requirements of FNMA.

In the event that any of the insurance requirements contained herein become unavailable and/or prohibitively expensive or the Mortgagees modify their insurance requirements, the Board, in its discretion, may determine to modify the coverages contained herein in such a manner as the Board using its business judgment determines reasonable and prudent.

## ARTICLE X

### EASEMENTS

Section 1. Utility Easements. For so long as the Declarant is a Class B member, the Declarant hereby reserves the right to grant perpetual nonexclusive easements for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Property for ingress, egress, installation, replacement, repair and maintenance of utility and service lines and service systems, public and private. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on such easements. Upon termination of the Declarant's right to grant such easements, the Association shall have the right to grant the easements described herein.

Section 2. Declarant's Easement of Correct Drainage. For so long as the Declarant is a Class B member, Declarant hereby reserves a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface

waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance.

Section 3. Easement for Unintentional Encroachment. The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any Lot upon the Common Property or vice-versa caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment which easement is appurtenant to the encroaching Property to the extent of such encroachment.

Section 4. Central Telecommunication Receiving and Distribution System. The Declarant hereby reserves unto itself, its successors and assigns, an exclusive easement for installing, maintaining and supplying the services of any central telecommunication receiving and distribution system serving the Property. Declarant reserves to itself, its successors and assigns, the right to connect to any central telecommunication receiving and distribution system to such source as Declarant may, in its sole discretion, deem appropriate, including, without limitation, companies licensed to provide CATV service in the County. The Declarant, its successors and assigns shall have the right to charge the Association and/or individual Owners a reasonable fee not to exceed any maximum allowable charge for CATV services to single family residences as from time to time permitted by the Code of Laws and Ordinances of the County.

Section 5. Easements for Golf Course. Each Lot abutting or contiguous with the golf course to be constructed in connection with the Deercreek Country Club is hereby subjected to an easement for the ordinary and usual activities associated with the playing of golf, including without limitation, removal of balls, noise of players and carts, and normal maintenance. All fencing and other improvement abutting the golf course shall be strictly reviewed to assure that such fencing and improvements do not interfere with the playing of golf.

Section 6. Conservation Easement. A conservation easement is hereby created over and upon the portion of real property waterward of the wetland jurisdictional line as shown on the plat of the Property. No Owner of any portion of the Property may construct any improvements waterward of the wetland jurisdictional line nor may such Owner dredge, fill or otherwise alter the portions of the Property subject to this easement. This easement may not be amended without the approval of all governmental agencies having jurisdiction thereover.

## ARTICLE XI

### LAKE AND WATER RIGHTS

Section 1. Ownership of Lakes. Certain portions of the Property, the Additional Property or the Deercreek Country Club shall be designated as stormwater retention ponds and are herein referred to as "lakes", which lakes provide the required stormwater retention for the Property. The bottom of any such lake subjected to this Declaration may be conveyed to an individual Owner, to the Association, or retained by the Declarant, and the fee simple title holder thereof shall be the "Owner" of the lake for the purposes set forth in this Declaration; provided however, the waters, water quality and maintenance of such lake shall be controlled by the Association.

Section 2. Maintenance of Lake Embankments and Lake Bottoms. Irrespective of the ownership of the lake, the Association shall be responsible for and obligated to maintain and control the water level and quality of the lake and shall maintain the lake bottom. The Association shall have the power and right as it deems appropriate, to control and eradicate plants, fowl, reptiles, animals, fish and fungi in and on any lake, as well as to maintain any drainage device and/or water level devices so as to insure compliance with the applicable governmental regulations as they exist from time to time. The Owner of the land adjacent to the water edge of the lake ("Adjacent Owner") shall maintain the embankment to the water edge as such level shall rise and fall from time to time. Maintenance of the embankment shall be conducted so that the grass, planting or other lateral support of the embankment shall exist in a clean and safe

manner and so as to prevent erosion. If the Adjacent Owner shall fail to maintain the embankment, the Association shall have the right, but not the obligation, to enter onto the Adjacent Owner's property and perform the maintenance at the expense of the Owner, which expense shall be a Special Assessment against the Owner and his property as provided in Article IV, Section 13.

Section 3. Improvements on Lake. In the event that Declarant, an entity designated by the Declarant, or the Association shall construct any bridges, docks, or other improvements which may extend over or into the lake or construct any bulkheads or similar improvements to support or enhance the lake, the Association shall maintain any and all improvements in good repair and condition. No Owner, except the Declarant, its designee or the Association, shall be permitted to construct any improvement, permanent or temporary, on, over or under any lake without the written consent of the ARB, which consent may be withheld for any reason. Any improvements constructed to serve solely the facilities which constitute the Deercreek Country Club shall be maintained by the owners of the club.

Section 4. Easements. The Owners' use and access to the lakes shall be subject to and limited by the rules and regulations of the Association. If permitted, the use of lakes shall be limited to fishing, boating, and/or recreational use. The Association is hereby granted a non-exclusive easement for ingress and egress over the lakes and a parcel of land extending landward five (5) feet from the water edge for the purpose of providing the maintenance required herein and the Adjacent Owners are hereby granted a non-exclusive easement over the lake for the purpose of providing any maintenance to the embankment.

Section 5. Lake Use Restrictions and Covenants. In connection with the use of any lake, the following restrictions shall apply:

(a) No motorized or power boats shall be permitted on any lake with the exception of boats used for maintenance thereof.

(b) No bottles, trash, cans or garbage of any kind or description shall be placed in any lake.

(c) No activity shall be permitted on any lake which may become an annoyance or nuisance to the adjacent property and the Owners thereof. The Association's determination whether any activity constitutes an annoyance or nuisance shall be dispositive.

(d) No person or entity, except Declarant or the Association, shall have the right to pump or otherwise remove any water from any lake for the purpose of irrigation or other use.

(e) The lake shall not be used in conjunction with any business enterprise or public use whatsoever.

(f) There shall be no fishing permitted from bridges, streets or right of ways except as expressly provided by the Declarant. Only Owners shall be permitted to fish in the lakes and only in areas so designated.

(g) The Board shall be entitled to establish, amend, or modify rules and regulations governing the use of the lake.

Section 6. Indemnification. In connection with the platting of the Property or obtaining permits necessary to develop the Property, the Declarant may assume or may be required to assume certain obligations for the maintenance of the lakes. The Declarant hereby assigns to the Association and the Association hereby assumes all the obligations of the Declarant under the plat, applicable permits or under any applicable governmental regulations and for any and all obligations for the maintenance of lakes within the Property, Additional Property or Deercreek Country Club. Association further agrees that subsequent to the recording of this Declaration, it shall indemnify and hold Declarant harmless from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage or other damage arising

from or out of occurrence, in, upon, at or from the maintenance of the lake, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees but not including any liability occasioned wholly or in part by the acts of the Declarant, its successors, assigns, agents or invitees.

Section 7. Maintenance of Surface Water or Stormwater Management System. The Association shall be responsible for the maintenance, operation, management and repair of the Surface Water or Stormwater Management System, in the manner consistent with SJRWMD Permit No. 4-031-0217AM8. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which all the systems to provide drainage, water storage convenience or other surface water or stormwater management capabilities as permitted by the SJRWMD. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be permitted, or if modified, as approved by SJRWMD. (AS AMENDED DECEMBER 12, 1990)

## ARTICLE XII

### MAINTENANCE RESPONSIBILITIES

Section 1. Owner/Maintenance Responsibility. Each Owner is obligated to and responsible for performing all maintenance, repair and restoration in connection with its Lot and all improvements thereupon. Each Owner shall maintain the exterior of all buildings and improvements on the Owner's Lot in a good and workmanlike manner and shall present a neat and clean appearance upon the Lot including painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Owners shall further assure that no weeds, underbrush or other unsightly vegetation is permitted to grow or remain upon Owner's Lot and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot.

Section 2. Enforcement of Owner Maintenance Responsibility. In the event that any Owner fails or refuses to maintain his Lot in the manner set forth above, after written notice to Owner, the Board may authorize its agents to enter upon the Lot and perform any necessary maintenance, the cost thereof shall be assessed against the Owner of the Lot as a Special Assessment. In the event that any Owner leases his Lot and the improvements thereon to a tenant, the Board shall notify the Owner and it shall be the Owner's responsibility to assure that the maintenance is performed.

Section 3. Association Maintenance Obligations. Notwithstanding any other specific requirements set forth therein, the Association is obligated to and responsible for performing all maintenance, repair and restoration in connection with the Common Property and any improvements thereon. In addition, the Association may be designated by the Declarant or by a governmental entity as the entity responsible for maintenance of land which is not owned by it but which serves to benefit the Owners in general including, without limitation, rights of way, drainage ditches, berms, fences, or conservation areas.

Provided, however, to the extent that the Association maintains any landscaped areas, the Association does not guaranty or warrant any of the landscaping or other flora or plants installed by it or its agent. Accordingly, in the event that any landscaping plants or flora which the Association installs does not survive, the Association may replace such landscaping plants or other flora with substitute plant material of its own selection, using its best judgment and discretion, and is not required to replace the landscaping or flora with exactly the same plant material.

## ARTICLE XIII

### GENERAL PROVISIONS

Section 1. Compliance and Enforcement. The following shall apply to each Lot and Owner, as applicable:

(a) It shall be the responsibility of each Owner (i) to conform with and abide by all of the requirements of this Declaration and all rules and regulations adopted pursuant to it including, without limitation, those established or to be established by the ARB or by bylaws of the Association, including, without limitation, those pertaining to traffic controls and speed limitations, and (ii) and to assure that family members, guests, tenants, employees, agents, servants and contractors do likewise.

(b) Upon violation of any of the foregoing, and in addition to any other remedy available, the Association may levy a fine or fines against the Owner and the Owner's Lot in an amount up to \$50.00 for (i) each traffic control or speed limit violation and (ii) each day any other violation exists after 15 days written notification to the Owner of the existence of the condition constituting the violation; a fine or fines so levied shall constitute a lien in favor of the Association upon the Owner's Lot, and the Association shall be entitled to record a notice of the existence of such lien in the current public records of Duval County, Florida, and to foreclose same as provided by law; however, said lien shall be subordinate to the lien of any first mortgage held by a Mortgagee.

(c) The Association, Declarant (while it remains a Class B member of the Association), or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all covenants, conditions, restrictions, assessments (regular or special), liens, fines or other obligations enforceable against an Owner. Enforcement includes, but is not limited to, actions for prohibitive or mandatory injunction, for specific performance, for declaratory relief, or for money damages. Notwithstanding rights of enforcement granted herein to others, only the Association may seek to effect the collection of assessments, fines or other monies due it.

(d) Nothing contained in this section shall be construed to limit the Declarant's rights under Article V to retain architectural control of Deercreek Country Club as provided herein.

(e) No failure, by any party having a right of enforcement under this Declaration, to seek the enforcement of any obligation or requirement as set forth in subparagraph (a), above, shall be construed to be a waiver of the right to thereafter seek such enforcement. (AS AMENDED AUGUST 1, 1994)

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument of termination thereof is executed by the Owners holding ninety-percent (90%) of the votes of the Association.

Section 4. Amendment. For so long as Declarant retains its Class B Membership, Declarant reserves the right without consent or joinder of any Owner or Mortgagee to (a) amend this Declaration, provided that such amendments shall conform to the general purposes and standards of the covenants and restrictions, herein contained, (b) amend this Declaration for the purposes of curing any ambiguity in or inconsistency between the provisions herein contained, (c) include in any supplemental declaration or other instrument hereafter made any additional covenants, restrictions and easements applicable to the Property which do not lower the standards of the covenants, restrictions and easements herein contained and (d) release any Lot from any part of the covenants and restrictions which have been violated, if Declarant, in its sole judgment determines such violation to be a minor or insubstantial violation. This Declaration may be amended during the first twenty (20) years after recording of this Declaration by an instrument signed by Owners representing not less than ninety percent (90%) of all the votes of the Association, and thereafter by an instrument signed by Owners representing not less than seventy-five percent (75%) of all the votes of the members. Any amendment must be recorded. **Any Amendment to this Declaration which alters the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common**

Property, must have the prior approval of the SJRWMD. (AS AMENDED DECEMBER 12, 1990)

Section 5. Multi Family and Commercial Parcels. Notwithstanding anything else to the contrary set forth herein, the Declarant reserves the right to grant non-exclusive easements over the Common Roads for ingress and egress and non-exclusive easements over the Common Property for utilities, water, sewer, cable television, drainage for the benefit of certain parcels of land which may be developed for multi-family or commercial use in accordance with the Planned Unit Development Ordinance governing the Property. Such easements shall be on such basis and subject to such rules and regulations as the Declarant shall determine.

SIGNED, SEALED AND DELIVERED ON JUNE 10<sup>TH</sup> 1988.

