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AZALEA POINTE

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this 18th day of January, 2000, by OCEAN REACH JOINT VENTURE, a Florida general partnership ("Developer"), which declares that the real property known as AZALEA POINTE, recorded in PLAT BOOK 6, PAGES 164 and 165, of the public records of Nassau County, Florida ("Property"), which is owned by the Developer, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Developer and all parties having or acquiring any right, title or interest in the Property or any part thereof. 199.50 (44)

ARTICLE I MUTUALITY OF BENEFIT AND OBLIGATION

Section 1.1 **Mutuality.** The covenants, restrictions and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every lot within the Property and are intended to create mutual equitable servitude's upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners and to create privity of contract and an estate between the grantees of each and every lot within the Property, their heirs, successors and assigns.

Section 1.2 **Benefits and Burdens.** Every person who is an Owner does, by reason of taking title to land located within the Property, agrees to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

ARTICLE II DEFINITIONS

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association.** The Azalea Pointe Owners Association, Inc., a Florida corporation not-for-profit. This is the Declaration to which the Articles of Incorporation ("Articles") and Bylaws ("Bylaws") of the Association make reference. Copies of the Articles and Bylaws are attached hereto as Exhibits "A" and "B" respectively.

Section 2.2 **Board.** The Board of Directors of the Association.

Section 2.3 **Common Area.** All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which is owned by the Developer, or by the Association, and which the Developer has designated for the common use and enjoyment of the Owners by reference thereto in this Section 2.3, or by recording a Supplementary Declaration, pursuant to the terms of Section 5.3 hereof. Specifically, Tract 'A' as described on the record plat, is included in the common area properties.

Section 2.4 **Developer.** Developer and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to Ocean Reach Joint Venture as the Developer of the Property is not intended and shall not be construed to impose upon Ocean Reach Joint Venture any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from Ocean Reach Joint Venture and develop and resell the same.

Section 2.5 **Limited Common Area.** The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a limited common area shall be determined by the Board of Directors of the Association.

Section 2.6 **Lot.** Any platted Lot or any other parcel of real property located within the Property, on which one or more residential dwellings have been or could be constructed.

Section 2.7 **Owner.** The record owner or owners of any Lot.

Section 2.8 **Property or Subdivision.** The real property described on the attached Exhibit "C" and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.9 PUD, Planned Unit Development Ordinance Number 98-35 as enacted by Nassau County Florida, as the same may be amended from time to time.

Section 2.10 Surface Water or Stormwater Management System. A system which is designed and constructed or implemented within the Property 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 4OC-4, 4OC-40, or 4OC-42, F.A.C., or regulations of similar import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area. 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.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 No Implied Extension of Covenants. Each Owner and each tenant of any improvements constructed on any Lot, by becoming an Owner or tenant, shall be deemed to have agreed that (a) the Property described on Exhibit "C" and such additional property as may be annexed pursuant to Section 3.2 hereof shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development shall be construed as subjecting or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 Additional Lands. Developer may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property separated only by public or private roads, or water bodies, shall be deemed contiguous) and (b) the Owners of property within additional lands made subject to this Declaration (or its assessment provisions) shall be and become subject to this Declaration (or its assessment provisions) and shall be responsible for their prorata share of common expenses for which assessments may be levied pursuant to the terms of Article VI of the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of Nassau County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3.3 Withdrawal of Lands. With the consent and joinder of Owners holding a majority of the votes in the Association, the Developer may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon the Developer's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of Nassau County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

ARTICLE IV
THE ASSOCIATION

Section 4.1 Membership. Each Owner, including the Developer (at all times so long as it owns any part of the Property) shall be a member of the Association, provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot.

Section 4.2 Classes and Voting. The Association shall have two classes of membership:

(a) Class A Members. The Class A Members shall be all Owners, with the exception of the Developer, who shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. However, the vote for any such Lot shall be exercised as the Owner's thereof shall determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) Class B Members. The Class B Member shall be the Developer who shall be entitled to three (3) votes for each Lot owned by Developer. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership; or

(ii) On December 31, 2005.

ARTICLE V
COMMON AREA RIGHTS

Section 5.1 Conveyance of Common Area. Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association free and clear from all encumbrances and the Association shall accept such conveyance or assignment. Subject to the provisions

of Section 5.3 hereof, the Common Area shall not be otherwise conveyed or mortgaged unless Owners holding two-thirds (2/3) of the votes allocated to the Class A Members shall consent to same.

Section 5.2 Owners' Easement of Enjoyment. Each Owner shall have a right and easement of enjoyment in and to the Common Area (for its intended purpose) which shall be appurtenant to and shall pass with the title to the land of such Owner, subject to the following:

- (a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility;
- (b) All provisions of this Declaration, any plat of all or any parts of the Property, governmental restrictions, including the provisions of the zoning or any environmental permit;
- (c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;
- (d) The rights of the Developer under Section 5.3 to add to or withdraw land from the Common Area;
- (e) Easements, restrictions, agreements and other matters of record as of the date of recordation of this Declaration or contained in this Declaration.

Section 5.3 Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area. Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this Section 5.3, property separated only by public or private roads, or water bodies shall be deemed contiguous). For so long as the Developer shall own any Lot, the Developer may, at any time, withdraw or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot or materially and adversely affect access, visibility or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of Nassau County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.3 hereof, or subsequently designated as such by the Developer pursuant to Section 2.3 hereof and this Section 5.3, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights or personal property owned by the Association shall

be withdrawn from the Common Area pursuant to this Section 5.3, upon the Developer's written request, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 5.4 Maintenance of Common Area. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and the paving, street lighting fixtures and appurtenances, landscaping, improvements and other structures (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone or similar utilities to the Property, or any portion thereof) situated on the Common Areas, if any. The Association shall maintain all lakes, drainage areas, drainage easements and control structures, and shall preserve and protect all designated conservation areas and littoral zones located within, adjacent or in near proximity to the Property, in accordance with all permit requirements and conditions contained in applicable dredge/fill, consumptive use, surface water permits or any other applicable permits issued by the United States Army Corps of Engineers, Florida Department of Environmental Protection, St. Johns River Water Management District and Nassau County, Florida, and all statutes, rules, regulations and requirements pertaining to surface water management, drainage and water quality promulgated by the St. Johns River Water Management District, the Florida Department of Environmental Protection and all other local, state and federal authorities having jurisdiction. The Association shall maintain those portions of the Common Area designated by applicable permit as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. 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 shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance of 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. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section 4.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 5.5 Easement for Maintenance Purposes. The Developer hereby grants to the Association and its successors, assigns, agents and contractors, a non-exclusive perpetual easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area, or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights granted hereby, such portions of

the Property shall be immediately restored to the condition that existed immediately prior to such damage or alteration.

ARTICLE VI
ARCHITECTURAL CONTROL

Section 6.1 **Architectural Review and Approval.** Except for the initial construction of residential dwellings and related structures, landscaping and other improvements ("Initial Construction") no landscaping, improvement or structure of any kind, including, without limitation, any building, fence, wall, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same have been submitted to and approved in writing by the Association. All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other natural vegetation and as to specific conformance with architectural criteria which may be imposed from time to time by the Developer or the Association. It shall be the burden of each Owner to supply one (1) set of completed plans and specifications to the Architectural Review Board ("ARB") and no plan or specification shall be deemed approved unless a written approval is granted by the ARB to the Owner submitting same. The ARB shall approve or disapprove plans and specifications properly submitted within thirty (30) days of each submission. Any change or modification to an approved plan shall not be deemed approved unless a written approval is granted by the ARB to the Owner submitting same.

Section 6.2 **Architectural Review Board.** The architectural review and control functions of the Association shall be administered and performed by the ARB, which shall consist of three (3) or five (5) members who need not be members of the Association. The Board of Directors of the Association shall have the right to appoint all of the members of the ARB. 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.

Section 6.3 **Powers and Duties of the ARB.** The ARB shall have the following powers and duties:

(a) To recommend amendments to the architectural standards to the Board at such time as the Board shall have the right to adopt or amend architectural standards for the Property. For so long as the Developer shall be entitled to elect or appoint a majority of the members of the Board, only the Developer shall have the right to promulgate, amend, eliminate or replace architectural standards applicable to architectural review to be conducted by the Association. At such time as members of the Association shall elect a majority of the members of the Board, such architectural standards shall be promulgated, amended, eliminated or replaced by the Board. Any amendment of the architectural

standards shall be consistent with the provisions of this Declaration. Notice of any amendment to the architectural standards, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the architectural standards shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the architectural standards, or any amendment thereto, to be recorded.

(b) To require submission to the ARB of one (1) complete set of all plans and specifications for any improvement or structure of any kind requiring review and approval of the ARB pursuant to this Article VI. The ARB may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the ARB to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable architectural criteria.

(c) To approve or disapprove in accordance with the provisions of this Article VI, any improvements or structures of any kind (other than Initial Construction) or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon. All decisions of the ARB may, but need not be evidenced by a certificate in recordable form executed under seal by the President or any Vice President of the Association. 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 review of any such decision shall be dispositive.

(d) To adopt a schedule of reasonable fees for processing requests for ARB approval of proposed improvements. Such fees, if any, shall be payable to the Association at the time that plans and specifications are submitted to the ARB.

Section 6.4 Compensation of ARB. The Board may, at its option, pay reasonable compensation to any or all members of the ARB.

Section 6.5 Review of Initial Construction by Developer. No Initial Construction shall be commenced upon any Lot unless and until the plans, specifications and location of the same have been submitted to and approved by the Developer in writing. All plans and specifications shall be evaluated as to visual and acoustical privacy as to harmony of external design and location in relation to surrounding structures, if any, topography, existing trees and other natural vegetation and as to consistency with this Declaration and architectural standards made applicable to Initial Construction by the Developer from time to time.

Section 6.6 Variance. The Developer and the ARB may authorize variances from compliance with any architectural provisions this Declaration or applicable architectural standards when

circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by an authorized representative of the Developer or ARB, as applicable. If such a variance was granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions of this Declaration or applicable architectural standards covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

Section 6.7 Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer, the ARB or the Association as contemplated by this Article VI, neither the Developer, the ARB nor the Association shall be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals whether given, granted or withheld by the Developer, the ARB or the Association.

ARTICLE VII
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 7.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot within the Property hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any annual assessments, and any special assessments established and collected as hereinafter provided. All such assessments, together with interest thereon from the due date at the highest lawful rate and costs of collection thereof (including reasonable attorneys' fees), shall be a charge and continuing lien upon each Lot against which each such assessment is made and shall also be the personal obligation of each Owner. No Owner may avoid liability for the assessments by waiver of rights to use or by non-use of the Common Areas or by abandonment.

Section 7.2 Purpose of Assessments.

7.2.1. The annual assessments levied by the Association shall be used for the purposes of management and accounting fees, taxes, insurance and utility charges relating to the Common Area, to fund the obligations of the Association set forth in Section 5.4 hereof and for all other purposes reasonably contemplated by this Declaration, the Articles or the Bylaws. Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related to the Common Area.

7.2.2. The Board of Directors may levy special assessments for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles or the Bylaws. Any funds collected pursuant to such a special assessment shall be used solely for the purpose or purposes identified by the Board of Directors at the time such special assessment is levied.

Section 7.3 Calculation and Collection of Assessments. Annual assessments shall be established by the Board of Directors based upon an annual budget. Each Owner's prorata share of the total annual assessment or any special assessment shall be based upon the following:

(a) All annual and special assessments shall be established at a uniform rate per Lot by dividing the total annual or special assessment amount by the total number of Lots within the Property.

(b) The assessment obligations of each Owner other than the Developer shall commence upon the recordation of this Declaration in the public records of Nassau County, Florida. Annual assessments shall be collectable in advance installments on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than quarterly. Special assessments shall be collectable in advance in the manner established by the Board of Directors at the time such special assessments are authorized.

(c) The annual assessment cannot be increased by the Board of Directors in excess of 5% of the prior years assessment without approval of a majority of the membership.

Section 7.4 Effect of Non-Payment of Assessment: Lien, Personal Obligation, and Remedies of Developer. The lien of the Association shall be effective from and after recording in the public records of Nassau County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount and the due date. Such claim of lien shall include assessments which are due and payable when the claim of lien is recorded as well as assessments which may accrue thereafter, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as herein provided. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Owner shall pay the cost of such satisfaction. If the assessment is not paid within fifteen (15) days after the due date, the Association may charge a reasonable late fee and at the Association's option, the assessment shall also bear interest from the due date at the highest lawful rate, and the Association may at any time thereafter bring an action to enforce the lien authorized hereby by appropriate foreclosure proceedings and/or a suit on the personal obligation against the Owner. In the event the Association shall fail to bring such an action for collection of a delinquent assessment within thirty (30) days following receipt of written notice from any Owner demanding that such proceedings be commenced, such Owner shall be authorized to institute such proceedings. There shall be added to the amount of such delinquent assessment the costs of collection incurred by the Association, or such Owner, which shall specifically include, without limitation, reasonable attorneys' fees for trial and appeal.

Section 7.5 Subordination of Lien to Mortgages. The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any bona fide mortgage which is perfected by recording prior to the recording of the claim of lien for any such unpaid assessments. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the affected Lot by deed in lieu of foreclosure, pursuant to a decree of foreclosure or pursuant to any other proceeding in lieu of foreclosure of such mortgage. No sale or other transfer shall release any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments. A written statement of the Association that the lien is subordinate to a mortgage, shall be dispositive of any question of subordination.

Section 7.6 Developer's Assessments. Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) the Lots and other portions of the Property owned by the Developer shall not be subject to any annual or special assessments levied by the Association or to any lien for such assessments. During the Development Period, the Developer shall pay the balance of the actual operating expenses of the Association (excluding costs of major repairs, deferred maintenance, replacements and reserves) remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board of Directors pursuant to this Declaration. The Developer shall be obligated to fund such balance only as the expenses are actually incurred by the Association during the Development Period. In the event the Developer shall fund deficits resulting from the failure of one or more Owners to timely pay assessments, the Developer shall be entitled to reimbursement for such funding out of proceeds recovered by the Association from such Owners. Further, should the Association collect surplus funds for any annual period, such surplus funds may be used during subsequent annual periods to reduce the Developer's deficit funding obligation. The Development Period shall begin upon the conveyance of the first Lot in the Property to an Owner other than the Developer and shall continue until the Developer shall notify the Association that it will no longer pay for operating deficits of the Association. Upon termination of the Developer's agreement to pay operating deficits, the Developer shall become obligated to pay assessments on Lots owned by it within the Property on the same basis as other Owners. In no event shall the Developer be obligated to pay for operating deficits of the Association after the Developer no longer owns any Lots within the Property.

ARTICLE VIII EXTERIOR MAINTENANCE ASSESSMENT

Section 8.1 Exterior Maintenance. The Association may provide maintenance upon any Lot or Limited Common Area requiring same, when necessary in the opinion of the Association's Board of Directors to preserve the beauty, quality, or value of any or all portions of the Property. Such maintenance shall include but not be limited to painting, roof repair and replacement, repair of gutters, downspouts and exterior building surfaces and yard clean-up and yard maintenance. Each affected Owner shall have fifteen (15) days within which to perform the required maintenance after being notified in writing by the Association that such maintenance is necessary before the Association undertakes the maintenance.

Section 8.2 **Assessments of Costs.** The cost of any maintenance undertaken by the Association under the provisions of Section 8.1 shall be assessed against each Lot upon which such maintenance is performed or, in opinion of the Board, benefiting from same. Exterior maintenance assessments shall not be considered a part of the annual or special assessments imposed upon the Property pursuant to Article VII of this Declaration. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Lot and shall become due and payable in all respects, together with interest, attorneys fees, and costs of collection, as provided for in Section 7.4, and shall be subordinate to mortgage liens to the extent provided by Section 7.5.

Section 8.3 **Access.** For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after the notice to the Owner provided under Section 8.1, to enter upon any Lot at reasonable hours on any day except Sunday. In the case of emergency repairs, access will be permitted at any time with only such notice as under the circumstances is practically affordable.

ARTICLE IX UTILITY PROVISIONS

Section 9.1 **Water System.** The central water supply system provided for the service of the Property shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges of the supplier thereof and shall maintain and repair all portions of such water lines located within the boundaries of his Lot and which serve same. No individual potable water supply system or well for consumptive purposes shall be permitted on any Lot without the prior written consent of the Association.

Section 9.2 **Sewage System.** The central sewage system provided for the service of the Property shall be used as the sole sewage system for each Lot. Each Owner shall maintain and repair all portions of such sewer lines located within the boundaries of his Lot and which serve same and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal services made by the operator thereof. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within the Property.

Section 9.3 **Garbage Collection.** Garbage, trash and rubbish shall be removed from the Lots only by parties or companies approved by the Association, which approval shall not be unreasonably withheld. Each Owner shall pay when due the periodic charges or rate for such garbage collection service made by the party or company providing the same.

Section 9.4 **Utility Service.** It shall be the responsibility of the Owner or occupant of each Lot to make direct arrangements with the suppliers of electricity, water, sewer and any other utility services for service to such Lot.

ARTICLE X
USE RESTRICTIONS AND RIGHTS AND
EASEMENTS RESERVED BY DEVELOPER

Section 10.1 **Residential Use.** The Lots subject to this Declaration may be used for residential dwellings and for no other purpose except that one or more Lots may be used for model homes during the development and sale of Lots within the Property or other properties. No business or commercial building may be erected on any Lot. No business may be conducted on any Lot without prior written approval from the Association and provided such business operation shall not alter the residential character of the Property in any way. No Lot shall be divided, subdivided or reduced in size without the prior written consent of the Developer. Assessments for common expenses attributable to any Lot which may be subdivided pursuant to this Section 10.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer. No dwelling or other structure or improvement shall be erected, placed or permitted to remain on any building site which does not include at least one (1) full platted Lot according to recorded plats of the Property.

Section 10.2 This section 10.2 is intentionally omitted.

Section 10.3 **No Detached Buildings.** No garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the prior written consent of the Developer or the ARB, as applicable.

Section 10.4 **Minimum Lot Area and Setbacks.**

10.4.1. Single family lots shall have a frontage of no less than 90 feet at the front setback line and a minimum lot area of 10,800 square feet.

10.4.2. The minimum front yard setback shall be 25 feet except that it may be reduced to 15 feet where such reductions allow for the additional protection of hardwood trees 36" or larger. The minimum side yard is 10 feet but may be reduced to 5 feet to allow for additional protection of hardwood trees 36" or larger. Any such reduction shall be added to opposite side yard so that the combined side yard shall be 20 feet. The minimum rear setback is 15 feet. Any county approval variance may supercede the setback requirements outlined in this section 10.4.2.

10.4.3. **Measurement of Setbacks.** All setbacks shall be measured from the exterior wall of the dwelling to the applicable Lot or parcel boundary.

Section 10.5 **Motor Vehicles and Boats.** No boats, recreation vehicles or other motor vehicles, except four wheel passenger automobiles, shall be placed, parked or stored upon any Lot, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a building, or otherwise screened, so as to be buffered from public view. Commercial vehicles shall not be

parked within the Property within public view on a regular basis except that commercial vehicles driven by residents of the lots may be parked within the property within public view subject to approval of the Board. Construction trailers may be parked only with the prior written consent of the Developer and in an area designated by the Developer.

Section 10.6 Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party. 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. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Association's Board of Directors, whose decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of any portion of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with.

Section 10.7 Antenna. No aerial, antenna or satellite dish shall be placed or erected upon any Lot or affixed in any manner to the exterior of any building within the Property without the prior written approval of the ARB.

Section 10.8 Clotheslines. No clothes or laundry shall be hung or clotheslines erected in front yards, carports or side yards of corner Lots adjacent to a street. All clotheslines shall be screened from street view.

Section 10.9 Lakes. Only the Developer and the Association shall have the right to pump or otherwise remove any water from any lake adjacent to or near to the Subdivision for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Developer and the Association shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No gas or diesel driven boat shall be permitted to be operated on any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake ("lake parcels") shall be maintained so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Board. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Owner of any lake parcel pursuant to the requirements of Section 10.16 hereof. If the Owner of any lake parcel fails to maintain the embankment or shoreline vegetation as part of its landscape maintenance obligations in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel pursuant to the provisions of Article VIII of this Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments unless and until same shall have been approved by the Board. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Subdivision. The Association shall have the right to deny such use to any person who in the opinion of the Association may create or participate in the disturbance or nuisance

on any part of the surface waters of any such lake. The use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

WITH RESPECT TO WATER QUALITY, WATER LEVELS, WILDLIFE AND LAKE BANKS, SLOPES AND LAKE BOTTOMS, ALL PERSONS ARE REFERRED TO SECTION 12.10 HEREOF.

Section 10.10 Insurance and Casualty Damages.

(a) Each Owner shall be required to obtain and maintain in force and effect a policy of fire and other casualty insurance with coverage adequate to cover the full replacement cost of the dwelling and other improvements located on the Owner's Lot. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner shall commence reconstruction of the improvements within six (6) months from date of casualty and shall repair or rebuild such damaged or destroyed improvements in a good workmanlike manner, within a reasonable time not to exceed one year and in accordance with the provisions of this Declaration. The improvements shall be reconstructed in accordance with the original plans and specifications including color scheme, placement on Lot and materials. All debris must be removed immediately and the Lot shall be restored to an orderly condition within a reasonable time not to exceed sixty (60) days from the date of such damage or destruction.

(b) The Association shall carry casualty and general comprehensive liability insurance with respect to the Common Area in such amounts as the Board of Directors shall reasonably determine are adequate.

Section 10.11 Trees. No tree or shrub, the trunk of which exceeds eight (8) inches in diameter one (1) foot above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Developer or the ARB, as applicable.

Section 10.12 Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ARB.

Section 10.13 Signs. No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the ARB.

Section 10.14 Lighting. No exterior lighting shall be permitted which alters the residential character of the Subdivision, unless approved by the ARB.

Section 10.15 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. No more than three (3) uncaged domestic or household pets such as dogs, and cats, may be kept on any lot without approval of the ARB.

Section 10.16 Maintenance of Lots and Limited Common Areas. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Limited Common Area and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere within the Property. All Lots and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake edge maintenance, all in a manner with such frequency as is consistent with good property management. In order to implement effective control, the Association, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Board distracts from the overall beauty and safety of the property in accordance with the provisions of Article VIII hereof. During construction upon any Lot, any and all vehicles involved in the construction or delivery of materials and supplies to the site shall enter and exit the site only over the driveway or driveway subsurface and shall not park on any roadway or any Property other than the Lot on which construction is proceeding. During construction of the dwelling or other improvements, the 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.

Section 10.17 Fences. Except as approved by the Developer as part of Initial Construction or as subsequently approved by the ARB, no fence, wall or other barrier shall be constructed upon any Lot or any other portion of the Property.

Section 10.18 Maintenance of Driveways. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

Section 10.19 Common PUD. Due to the integrated nature of the Property and the lands described by the PUD, no Owner or any other person or entity shall construct any improvements upon any Lot or any other portion of the Property, nor take any other action, which in the sole opinion of the Developer, would result in a modification of the terms and provisions of the PUD, as the same may be amended from time to time, without the prior written consent of the Developer.

Section 10.20 Compliance with Laws. All Owners and other occupants of the Property shall at all times comply with the terms of the zoning, and all environmental, land use, marketing and consumer protection ordinances, statutes, regulations and permits applicable to the Property or to any improvements constructed thereon.

Section 10.21 Platting and Additional Restrictions. The Developer shall be entitled at any time, and from time to time, to plat or replat all or any part of the Property owned by it, and to file any covenants and restrictions or amendments to this Declaration, with respect to any undeveloped portion or portions of the Property owned by the Developer.

ARTICLE XI
RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

Section 11.1 **Easements for Ingress, Egress, Utilities and Drainage.** The Developer reserves for itself, its successors, assigns and designees, a right-of-way and perpetual, nonexclusive easement for ingress and egress and to erect, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, cable television and radio equipment or other public conveniences or utilities, on, in and over, (i) any portion of the Common Area, (ii) any area designated as an easement, private street or right-of-way area on any plat of all or any portion of the Property, and (iii) a strip of land within each Lot ten feet in width along the front, rear and sides of each Lot.

Section 11.2 **Drainage Flow.** Drainage flow shall not be obstructed or diverted from drainage easements. The Developer or the Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to be necessary to maintain reasonable aesthetic standards relative to the Property and surrounding properties. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other reasonable action necessary to install utilities and to maintain reasonable aesthetic standards, but shall not include the right to disturb any permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or reserved in this Declaration. Except as provided herein, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.

Section 11.3 **Future Easements.** Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any Lots within the Property owned by Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Area so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Area.

Section 11.4 **Cable Television or Radio.** Developer reserves for itself, and its successors and assigns, an exclusive easement for the installation, maintenance and supply of radio and television cables within the rights of way and easement areas depicted upon any plat of any portion of the Property or within any easement reserved by this Declaration.

Section 11.5 **Developer Rights Re: Temporary Structures, Etc.** Developer reserves the right for itself, its successors, assigns, nominees and grantees, to erect and maintain such temporary dwellings, model houses and/or other structures upon Lots owned by the Developer, which it may deem advisable for development purposes and to do all acts reasonably necessary in connection with the construction and sale of improvements located on the Lots within the Subdivision. Nothing contained in this Declaration shall be construed to restrict the foregoing rights of Developer.

ARTICLE XII
GENERAL PROVISIONS

Section 12.1 Remedies for Violations.

12.1.1. If any Owner or other person shall violate or attempt to violate any of the covenants or restrictions herein set forth, it shall be lawful for the Association, the Developer, or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant, or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys fees for pre-trial preparation, trial and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration or by law.

12.1.2. In addition to all other remedies and to the maximum extent allowed by law in the sole discretion of the Board, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, lessees, invitees or employees to comply with any covenant or restriction herein contained or rules of the Association, provided the following procedures are adhered to:

(a) For a first violation, the Association shall warn the Owner of the alleged infraction in writing.

(b) For a subsequent violation or failure to abide by the Association's warning with respect to a first violation, the Association shall provide the Owner with a notice of its intent to impose a fine. Included in the notice shall be the date and time of a meeting of the Board of Directors at which time the Owner shall present argument as to why a fine should not be imposed. At least six (6) days prior notice of such meeting shall be given.

(c) At the meeting, the alleged infractions shall be presented to the Board of Directors, after which the Board of Directors shall receive evidence and hear argument as to why a fine should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner not later than thirty (30) days after the Board of Directors meeting. At the meeting, the Owner shall have the right to be represented by counsel and to cross-examine witnesses.

(d) The Board of Directors may levy fines at its desecration as follows:
(i) Second non-compliance or violation or failure to abide by the Association's written warning with respect to a first violation: a fine not in excess of One Hundred and no/100 Dollars (\$100.00).

(ii) Third non-compliance or violation: a fine not in excess of Two Hundred Fifty and no/100 Dollars (\$250.00).

(iii) Fourth or subsequent non-compliance or violation, or those which are of a continuing nature after not less than two (2) prior written notices thereof have been delivered to the Owner: a fine not in excess of Five Hundred and no/100 Dollars (\$500.00).

(e) Fines shall be paid not later than five (5) days after notice of the imposition or assessment thereof.

(f) The payment of fines shall be secured by one or more liens encumbering the Lot or Lots owned by the offending Owner. Such fines and liens may be collected and enforced in the same manner as regular and special assessments are collected and enforced pursuant to Article VII hereof.

(g) All monies received from fines shall be allocated as directed by the Board of Directors.

(h) The imposition of fines shall not be construed to be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association or any Owner may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against any damages which may be otherwise recoverable from such Owner.

Section 12.2 **Severability.** Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 12.3 **Additional Restrictions.** No Owner, without the prior written consent of the Developer, may impose any additional covenants or restrictions on any part of the Property, but the Developer may include in any contract or deed hereafter made and covering all or any part of the Property, any additional covenants or restrictions applicable to the Property so covered which are not inconsistent with and which do not lower standards established by this Declaration.

Section 12.4 **Titles.** The addition of titles to the various sections of this Declaration are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 12.5 **Termination or Amendment.** The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association and their respective successors and assigns for a period of fifty (50) years and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Owners holding two-thirds (2/3) or more of the total votes of the Association may alter, amend or

terminate these covenants provided, however, that so long as the Developer owns any land within the Property or owns any property contiguous to the Property, no such termination or amendment shall be effective without the written consent and joinder of the Developer. Further, for so long as the Class B Membership shall exist, the Developer shall have the unilateral right to amend this Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot or other building parcel located within the Property. And further, any amendment to this Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Area, must have the prior approval of the St. Johns River Water Management District. Any such amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the public records of Nassau County, Florida.

Section 12.6 HUD/VA Approval. Notwithstanding any other provision of the Declaration to the contrary, as long as there is a Class B Membership, the following actions will require the prior approval of the Federal Department of Housing and Urban Development ("HUD") or the Veterans Administration ("VA"): Annexation of additional properties, dedication of Common Area and amendment of this Declaration.

Section 12.7 Conflict or Ambiguity in Documents. To the extent of any conflict, ambiguity or inconsistency between this Declaration, the Articles or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 12.8 Usage. Whenever used, the singular shall include the plural and the singular and the use of any gender shall include all genders.

Section 12.9 Effective Date. This Declaration shall become effective upon its recordation in the public records of Nassau County, Florida.

Section 12.10 Disclaimers as to Water Bodies. NEITHER THE DEVELOPER, THE ASSOCIATION NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY ADJACENT TO OR WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.