

1 **DECLARATION OF COVENANTS AND RESTRICTIONS**

2  
3 **OF**

4  
5 **LAKESIDE WOODS**

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8 THIS DECLARATION OF COVENANTS AND RESTRICTIONS OF LAKESIDE  
9 WOODS is made this 26th day of October, 1993, by LAKESIDE WOODS DEVELOPMENT,  
10 INC., a Florida Corporation ("DECLARANT").  
11

12 DECLARANT owns the property described herein, and intends to develop the property as  
13 a residential community. The purpose of this DECLARATION is to provide various use and  
14 maintenance requirements and restrictions in the best interest of the future owners of dwellings  
15 within the property, to protect and preserve the values of the property. This DECLARATION  
16 will also establish an association which will own, operate and/or maintain various portions of the  
17 property and improvements constructed within the property, will have the right to enforce the  
18 provisions of this DECLARATION, and will be given various other rights and responsibilities.  
19 The expenses of the association will be shared by the owners of the property, who will be  
20 members of the association.  
21

22 NOW, THEREFORE, DECLARANT hereby declares that the SUBJECT PROPERTY,  
23 as herein defined, and such additions as may hereafter be made pursuant to the terms of this  
24 DECLARATION, shall be held, sold, conveyed, leased, mortgaged, and otherwise dealt with  
25 subject to the easements, covenants, conditions, restrictions, reservations, liens, and charges set  
26 forth herein, all of which are created in the best interest of the owners and residents of the  
27 SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and shall be  
28 binding upon all persons having and/or acquiring any right, title or interest in the SUBJECT  
29 PROPERTY or any portion thereof, and shall inure to the benefit of each and every person, from  
30 time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.  
31

32 1. DEFINITION. The terms used in this DECLARATION, and in the ARTICLES  
33 and the BYLAWS, shall have the following meanings, unless the context otherwise requires.  
34  
35

36 1.01 ARTICLES means the Articles of Incorporation of the ASSOCIATION, as  
37 same may be amended from time to time.  
38

39 1.02 ASSESSMENT means the amount of money which may be assessed  
40 against an OWNER for the payment of the OWNER's share of COMMON EXPENSES, and/or  
41 any other funds which an OWNER may be required to pay to the ASSOCIATION as provided by  
42 this DECLARATION, the ARTICLES, or the BYLAWS.  
43

44 1.03 ASSOCIATION means the corporation established pursuant to the  
45 Articles of Incorporation attached hereto as an exhibit.  
46

47 1.04 BOARD means the Board of Directors of the ASSOCIATION.  
48

49 1.05 BYLAWS means the Bylaws of the ASSOCIATION, as same may be  
50 amended from time to time.  
51

52 1.06 COMMON AREAS means any property, whether improved or  
53 unimproved, or any easement or interest therein, now or hereafter owned by the ASSOCIATION  
54 or which is declared to be a COMMON AREA by this DECLARATION. COMMON AREAS  
55 may include, but are not limited to, parks, open areas, lakes, roads, entranceways, parking areas,  
56 and other similar properties, provided that the foregoing shall not be deemed a representation or  
57 warranty that any or all of the foregoing types of COMMON AREAS will be provided.  
58

59 1.07 COMMON EXPENSES means all expenses of any kind or nature  
60 whatsoever incurred by the ASSOCIATION, including, but not limited to, the following:  
61

1 1.07.01 Expenses incurred in connection with the ownership,  
2 maintenance, repair, improvement or operation of the COMMON AREAS, or other property to  
3 be maintained by the ASSOCIATION as provided in this DECLARATION, including, but not  
4 limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs,  
5 improvements, and alterations.

6  
7 1.07.02 Expenses of obtaining, repairing or replacing personal  
8 property in connection with any COMMON AREA or the performance of the ASSOCIATION's  
9 duties.

10  
11 1.07.03 Expenses incurred in connection with the administration  
12 and management of the ASSOCIATION.

13  
14 1.07.04 Expenses declared to be COMMON EXPENSES by the  
15 provisions of this DECLARATION, or by the ARTICLES, or BYLAWS.

16  
17 1.07.05 Any amounts payable by the ASSOCIATION to any other  
18 association or any governmental authority.

19  
20 1.08 COMMON SURPLUS means the excess of all receipts of the  
21 ASSOCIATION over the amount of the COMMON EXPENSES.

22  
23 1.09 DECLARANT means the PERSON executing this  
24 DECLARATION, or any PERSON who may be assigned the rights of DECLARANT pursuant to  
25 a written assignment executed by the then present DECLARANT recorded in the public records  
26 of the county in which the SUBJECT PROPERTY is located. In addition, in the event any  
27 PERSON who obtains title to all the SUBJECT PROPERTY then owned by DECLARANT as a  
28 result of the foreclosure of any mortgage or deed in lieu thereof, such PERSON may elect to  
29 become the DECLARANT by written election recorded in the public records of the county in  
30 which the SUBJECT PROPERTY is located, and regardless of the exercise of such election, such  
31 PERSON may appoint as DECLARANT any third party acquires title to all or any portion of the  
32 SUBJECT PROPERTY by written appointment recorded in the public records recorded in the  
33 county in which the SUBJECT PROPERTY is located. In any event, any subsequent  
34 DECLARANT shall not be liable for any defaults or obligations incurred by any prior  
35 DECLARANT, except as same may be expressly assumed by the subsequent DECLARANT.

36  
37 1.10 DECLARATION means this document as it may be amended from time to  
38 time.

39  
40 1.11 INSTITUTIONAL LENDER means the holder of a mortgage encumbering  
41 a LOT, which holder in the ordinary course of business makes, purchases, guarantees, or insures  
42 mortgage loans, and which is not owned or controlled by the OWNER of the LOT encumbered.  
43 An INSTITUTIONAL LENDER may include, but is not limited to, a bank, savings and loan  
44 association, insurance company, real estate or mortgage investment trust, pension or profit  
45 sharing plan, mortgage company, the Federal National Mortgage Association, the Federal Home  
46 Loan Mortgage Corporation, an agency of the United States or any other governmental authority,  
47 or any other similar type of lender generally recognized as and institutional-type lender. For  
48 definitional purposes only, an INSTITUTIONAL LENDER shall also mean the holder of any  
49 mortgage executed by or in favor of DECLARANT, or which encumbers any portion of the  
50 SUBJECT PROPERTY which is owned by DECLARANT, whether or not such holder would  
51 otherwise be considered an INSTITUTIONAL LENDER, and notwithstanding any thing  
52 contained herein to the contrary, the holder of any such mortgage shall be entitled to all rights  
53 and protections granted to first mortgagees hereunder, whether or not such mortgage is a first  
54 mortgage.

55  
56 1.12 LOT means any parcel of land located within the SUBJECT PROPERTY,  
57 which has been or is intended to be conveyed by DECLARANT to an OWNER and which  
58 contains or is intended to contain a UNIT, and shall include any UNIT constructed upon the  
59 LOT.

60  
61 1.13 OWNER means the record owner(s) of the fee title to a LOT.  
62

1           1.14 PERSON means an individual, corporation, partnership, trust, or any other  
2 legal entity.

3  
4           1.15 SUBJECT PROPERTY means all of the property subject to this  
5 DECLARATION from time to time, which initially is the property described in Exhibit "A"  
6 attached hereto, and includes any UNITS or improvements constructed thereon.

7  
8           1.16 UNIT means the residential dwelling constructed upon a LOT.

9  
10          1.17 MASTER ASSOCIATION shall mean Pinebrook South Homeowners'  
11 Association Inc.

12  
13          2. ASSOCIATION. In order to provide for the administration of the SUBJECT  
14 PROPERTY and this DECLARATION, the ASSOCIATION has been organized under the Laws  
15 of the State of Florida.

16  
17          2.01 ARTICLES. A copy of the ARTICLES is attached hereto as Exhibit "B".  
18 No amendment to the ARTICLES shall be deemed an amendment to this DECLARATION, and  
19 this DECLARATION shall not prohibit or restrict amendments to the ARTICLES, except as  
20 specifically provided herein.

21  
22          2.02 BYLAWS. A copy of the BYLAWS is attached as Exhibit "C". No  
23 amendment to the BYLAWS shall be deemed an amendment to this DECLARATION, and this  
24 DECLARATION shall not prohibit or restrict amendments to the BYLAWS, except as  
25 specifically provided herein.

26  
27          2.03 Powers of the ASSOCIATION. The ASSOCIATION shall have all of the  
28 powers indicated or incidental to those contained in its ARTICLES and BYLAWS. In addition,  
29 the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all of  
30 the powers granted to it by this DECLARATION. By this DECLARATION, the SUBJECT  
31 PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

32  
33          2.04 Approval or Disapproval of Matters. Whenever the decision of the  
34 OWNERS is required upon any matter, whether or not the subject of an ASSOCIATION  
35 meeting, such decision shall be expressed in accordance with the ARTICLES and the BYLAWS,  
36 except as otherwise provided herein.

37  
38          2.05 Acts of the ASSOCIATION. Unless the approval or action of the  
39 OWNERS and/or a certain specific percentage of the BOARD is specifically required by this  
40 DECLARATION, the ARTICLES or BYLAWS, or by applicable law, all approvals or actions  
41 required or permitted to be given or taken by the ASSOCIATION shall be given or taken by the  
42 BOARD, without the consent of the OWNERS, and the BOARD may so approve an act through  
43 the proper officers of the ASSOCIATION without a specific resolution. When an approval or  
44 action of the ASSOCIATION is permitted to be given or taken, such action or approval may be  
45 conditioned in any manner the ASSOCIATION deems appropriate, or the ASSOCIATION may  
46 refuse to take or give such action or approval without the necessity of establishing the  
47 reasonableness of such conditions or refusal, except as herein specifically provided to the  
48 contrary.

49  
50          2.06 Management and Service Contracts. The ASSOCIATION shall have the  
51 right to contract for professional management or services on such terms and conditions as the  
52 BOARD deems desirable in its sole discretion, provided, however, that any such contract shall  
53 not exceed (3) years and shall be terminable by either party without cause and without payment  
54 of a termination or penalty fee on ninety (90) days or less written notice.

55  
56          2.07 Membership. All LOT OWNERS shall be members of the  
57 ASSOCIATION. Membership shall be established, and transferred, as provided by the  
58 ARTICLES and BYLAWS.

59  
60          2.07.01 RESIDENT MEMBER. The OWNER of a LOT/UNIT has  
61 the right to appoint one person residing in his/her/their household as a RESIDENT-MEMBER of  
62 the ASSOCIATION by written notice to the ASSOCIATION Secretary. The RESIDENT-

1 MEMBER shall have the same rights and privileges (except for the power to appoint a  
2 RESIDENT-MEMBER) as the OWNER making the appointment. This appointment shall  
3 remain in effect until the OWNER making it rescinds it by written notice to the ASSOCIATION  
4 Secretary, or the person who made the appointment is no longer a member of the  
5 ASSOCIATION.

6  
7 Reference hereafter to MEMBERS in the Covenants and the BYLAWS also means  
8 RESIDENT-MEMBERS.

9  
10 2.08 OWNERS Voting Rights. The votes of the OWNERS shall be established  
11 and exercised as provided in the ARTICLES and BYLAWS.

12  
13 3. COMMON AREAS, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.

14  
15 3.01 Conveyance of COMMON AREAS to ASSOCIATION.

16  
17 3.01.01 By DECLARANT. DECLARANT shall have the right to  
18 convey title to any property owned by it, or any easement or interest therein, to the  
19 ASSOCIATION as COMMON AREA, and the ASSOCIATION shall be required to accept such  
20 conveyance. Any such conveyance shall be effective upon recording the deed or instrument of  
21 conveyance in the public records of the county where the SUBJECT PROPERTY is located.

22  
23 3.01.02 By Any Other PERSON. Any other PERSON may also  
24 convey title to any property owned by such PERSON, or any easement or interest therein, to the  
25 ASSOCIATION as a COMMON AREA, but the ASSOCIATION shall not be required to accept  
26 any such conveyance, and no such conveyance shall be effective to impose any obligation for the  
27 maintenance, operation or improvement of any such property upon the ASSOCIATION, unless  
28 the BOARD expressly accepts the conveyance by executing the deed or other instrument of  
29 conveyance or by recording a written acceptance of such conveyance in the public records of the  
30 county in which the SUBJECT PROPERTY is located.

31  
32 3.02 Use and Benefit. All COMMON AREAS shall be held by the  
33 ASSOCIATION for the use and benefit of the ASSOCIATION and the OWNERS, the residents  
34 of the SUBJECT PROPERTY, and their respective guests and invitees, the holders of any  
35 mortgage encumbering any PROPERTY from time to time, and any other persons authorized to  
36 use the COMMON AREAS or any portion thereof by DECLARANT or the ASSOCIATION, for  
37 all proper and reasonable purposes and uses for which the same are reasonably intended, subject  
38 to the terms of this DECLARATION, subject to the terms of any easement, restriction,  
39 reservation or limitation of record affecting the COMMON AREA or contained in the deed or  
40 instrument conveying the COMMON AREA to the ASSOCIATION, and subject to any rules and  
41 regulations adopted by the ASSOCIATION. An easement and right for such use is hereby  
42 created in favor of all OWNERS, appurtenant to the title to their PROPERTY.

43  
44 3.03 Grant and Modification of Easements. The ASSOCIATION shall have the  
45 right to grant, modify or terminate easements over, under, upon, and/or across any property  
46 owned by the ASSOCIATION, and shall have the further right to modify, relocate or terminate  
47 existing easements in favor of the ASSOCIATION.

48  
49 3.04 Additions, Alterations or Improvements. The ASSOCIATION shall have  
50 the right to make additions, alterations or improvements to the COMMON AREAS, and to  
51 purchase any personal property, as it deems necessary or desirable from time to time, provided,  
52 however, that the approval of two-thirds (2/3) of the votes of the OWNERS shall be required for  
53 any addition, alteration, or improvement or any purchase of personal property, exceeding a sum  
54 equal to one (1) month's total ASSESSMENTS for COMMON EXPENSES payable by all of the  
55 MEMBERS, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum  
56 equal to two (2) month's ASSESSMENTS for COMMON EXPENSES payable by all of the  
57 OWNERS. The foregoing approval shall in no event be required with respect to expenses  
58 incurred in connection with the maintenance, repair or replacement of existing COMMON  
59 AREAS, or any existing improvements or personal property associated therewith. The cost and  
60 expense of any such additions, alterations or improvements to the COMMON AREAS, or the  
61 purchase of any personal property, shall be a COMMON EXPENSE. In addition, so long as  
62 DECLARANT owns any portion of the SUBJECT PROPERTY, DECLARANT shall have the

1 right to make any additions, alterations or improvements to the COMMON AREAS as may be  
2 desired by DECLARANT in its sole discretion from time to time at DECLARANT's expense.  
3

4 3.05 Utilities. The ASSOCIATION shall pay for all utility services for the  
5 COMMON AREAS, or for any other property to be maintained by the ASSOCIATION, as a  
6 COMMON EXPENSE.  
7

8 3.06 Taxes. The ASSOCIATION shall pay all real and personal property taxes  
9 and assessments for any property owned by the ASSOCIATION, as a COMMON EXPENSE.  
10

11 3.07 Insurance. The ASSOCIATION shall purchase insurance as a COMMON  
12 EXPENSE as follows:  
13

14 3.07.01 Hazard Insurance protecting against loss or damage by fire  
15 and all other hazards that are normally covered by the standard extended coverage endorsement,  
16 and all other perils customarily covered for similar types of projects, including those covered by  
17 the standard all-risk endorsement, covering 100% of the current replacement cost of all  
18 COMMON AREAS and property owned by the ASSOCIATION, if commercially feasible. The  
19 ASSOCIATION shall not use hazard insurance proceeds for any purpose other than the repair,  
20 replacement or reconstruction of any damaged or destroyed property without the approval of at  
21 least two-thirds (2/3) of the votes of the OWNERS. Any hazard insurance purchased by the  
22 ASSOCIATION shall not include any UNIT, or any improvement constructed upon a LOT by  
23 any OWNER. It is each Lot owner(s) responsibility (by purchase of insurance or other means) to  
24 insure that in the event any improvement on his/her/their LOT is damaged or destroyed due to  
25 fire, flood, wind or other casualty, the damaged improvement will be restored, repaired or rebuilt  
26 to the condition the improvement was in immediately prior to such damage or destruction. At  
27 the discretion of the LOT owner(s), landscape bushes, plants and trees may be replaced with  
28 nursery-size stock rather than with bushes, plants and trees of the size immediately prior to such  
29 damage or destruction.  
30

31 3.07.02 Comprehensive General Liability Insurance protecting the  
32 ASSOCIATION from claims for bodily injury, death or property damage providing for coverage  
33 of at least \$1,000,000 for each single occurrence.  
34

35 3.07.03 Blanket Fidelity Bonds for anyone who handles or is  
36 responsible for funds held or administered by the ASSOCIATION or any managing agent, which  
37 coverage shall be at least equal to the sum of three (3) months assessments on all units plus  
38 reserve funds.  
39

40 3.07.04 Such other insurance as may be desired by the  
41 ASSOCIATION, such as flood insurance, errors and omissions insurance, workman's  
42 compensation insurance, or any other insurance.  
43

44 3.07.05 All insurance purchased by the ASSOCIATION must  
45 include a provision requiring at least ten (10) days written notice to the ASSOCIATION before  
46 the insurance can be canceled or the coverage reduced for any reason.  
47

48 3.07.06 Any deductible or exclusion under the policies shall be a  
49 COMMON EXPENSE and shall not exceed \$2,500 or such other sum as is approved by the  
50 OWNERS.  
51

52 3.07.07 Upon request, each INSTITUTIONAL LENDER shall have  
53 the right to receive a copy or certificate of the insurance purchased by the ASSOCIATION, and  
54 shall have the right to require at least ten (10) days written notice to the INSTITUTIONAL  
55 LENDER before any insurance can be canceled or the coverage reduced for any reason. Each  
56 INSTITUTIONAL LENDER shall have the right upon notice to the ASSOCIATION to review  
57 and approve, which approval shall not be unreasonably withheld, the form, content, issuer,  
58 coverage and deductibles of all insurance purchased by the ASSOCIATION, and to require the  
59 ASSOCIATION, to purchase insurance complying with the reasonable and customary  
60 requirements of the INSTITUTIONAL LENDER. In the event of a conflict between the  
61 INSTITUTIONAL LENDERS, the requirements of the INSTITUTIONAL LENDER holding  
62

1 mortgages encumbering UNITS which secure the largest aggregate indebtedness shall control.

2  
3 3.08 Default. Any OWNER or INSTITUTIONAL LENDER may pay for any  
4 utilities, taxes or assessments or insurance premiums which are not paid by the ASSOCIATION  
5 when due, or may secure new insurance upon the lapse of an insurance policy, and shall be owed  
6 immediate reimbursement therefor from the ASSOCIATION, plus interest and any cost of  
7 collection, including attorneys' fees.

8  
9 3.09 Damage or Destruction. In the event any improvement within any  
10 COMMON AREA is damaged or destroyed due to fire, flood, wind, or other casualty or reason,  
11 the ASSOCIATION shall restore, repair, replace or rebuild (hereinafter collectively referred to as  
12 a "repair") the damaged improvement to the condition the improvement was in immediately prior  
13 to such damage or destruction, unless otherwise approved by two-thirds (2/3) of the votes of the  
14 OWNERS. Any excess cost of repairing any improvement over insurance proceeds payable on  
15 account of any damage or destruction shall be a COMMON EXPENSE, and the ASSOCIATION  
16 shall have the right to make a special ASSESSMENT for any such expense.

17  
18 3.10 Maintenance of Property by the ASSOCIATION.

19  
20 3.10.01 COMMON AREAS. The ASSOCIATION shall maintain  
21 all COMMON AREAS and property owned by the ASSOCIATION, and all improvements  
22 thereon, in good condition at all times. If pursuant to any easement the ASSOCIATION is to  
23 maintain any improvement within any property, then the ASSOCIATION shall maintain such  
24 improvement in good condition at all times. The ASSOCIATION shall maintain and operate the  
25 surface water management system in compliance with all permit conditions of the Florida  
26 Administrative Code (Chapter 40D-4).

27  
28 3.10.02 Landscaping.

29  
30 3.10.02.01 COMMON AREAS. The ASSOCIATION shall  
31 maintain the grass areas of all the COMMON AREAS including but not limited to mowing,  
32 trimming, fertilizing, and insect and disease control. The ASSOCIATION shall maintain all  
33 bushes, shrubs, flowers, hedges and trees of all COMMON AREAS, including but not limited to  
34 trimming, fertilizing, and insect and disease control. In connection, therewith, the  
35 ASSOCIATION shall also maintain the sprinkler systems on the COMMON AREAS and be  
36 responsible for the metered sprinkler water costs thereof.

37  
38 3.10.02.02 UNIT OWNER LOTS. The ASSOCIATION shall  
39 be responsible for the mowing, trimming, fertilizing, mulching, and insect and disease control of  
40 all the grass areas of all LOTS. The ASSOCIATION shall also be responsible for the trimming,  
41 fertilizing, mulching, and insect and disease control of all bushes, shrubs, hedges, foundation  
42 plants and trees except flower beds and fruit trees which are the responsibility of the LOT  
43 OWNER(s). The ASSOCIATION shall be responsible for keeping the sprinkler systems for all  
44 LOTS in good operating condition. This shall include but not be limited to the repair, upkeep  
45 and replacement of the underground water pipes, control valves, the master control unit, sprinkler  
46 heads, relocation of sprinkler heads and the like required to maintain good water coverage. The  
47 LOT OWNER(s) is/are responsible for the metered sprinkler water cost on his/her/their LOT.

48  
49 3.10.03 UNIT Roofs and Exterior Painting. The ASSOCIATION  
50 shall perform periodic exterior wall painting and roof cleaning and maintenance of all UNITS.  
51 Such maintenance shall include regular periodic maintenance as is necessitated from time to time  
52 by ordinary wear and tear, and any special or extraordinary maintenance required due to the  
53 action of any OWNER, or the residents of any UNIT, or their guests or invitees. The OWNER of  
54 each UNIT shall be responsible for the cost of such maintenance to the UNIT and shall be  
55 assessed for such cost by the ASSOCIATION.

56  
57 3.10.04 Other Property. In addition to the foregoing, the  
58 ASSOCIATION shall have the right to assume the obligation to operate and/or maintain any  
59 property which is not owned by the ASSOCIATION if the BOARD, in its sole discretion,  
60 determines that the operation and/or maintenance of such property by the ASSOCIATION would  
61 be in the best interests of the residents of the SUBJECT PROPERTY. In such event, where  
62 applicable the ASSOCIATION shall so notify any OWNER otherwise responsible for such

1 operation or maintenance, and thereafter such property shall be operated and/or maintained by  
2 the ASSOCIATION and not by the OWNER, until the BOARD determines no longer to assume  
3 the obligation to operate and/or maintain such property and so notifies the appropriate OWNER  
4 in writing. Without limitation, the ASSOCIATION shall have the right to assume the obligation  
5 to operate and/or maintain any walls or fences on or near the boundaries of the SUBJECT  
6 PROPERTY, and any pavement, landscaping, sprinkler systems, sidewalks, paths, signs,  
7 entrance features, or other improvements, in or within 40 feet of any public road right-of-ways  
8 within or contiguous to the SUBJECT PROPERTY. To the extent the ASSOCIATION assumes  
9 the obligation to operate and/or maintain any PROPERTY which is not owned by the  
10 ASSOCIATION, the ASSOCIATION shall have an easement and right to enter upon such  
11 PROPERTY in connection with the operation in or maintenance of same, and no such entry shall  
12 be deemed a trespass. Such assumption by the ASSOCIATION of the obligation to operate  
13 and/or maintain any property which is not owned by the ASSOCIATION may be evidenced by a  
14 supplement to this DECLARATION, or by a written document recorded in the public records of  
15 the county in which the SUBJECT PROPERTY is located, and may be made in connection with  
16 an agreement with any OWNER, the DECLARANT, or any governmental authority otherwise  
17 responsible for such operation or maintenance, and pursuant to any such document the operation  
18 and/or maintenance of any property may be made a permanent obligation of the ASSOCIATION.  
19 The ASSOCIATION may also enter into agreements with any other PERSON, or any  
20 governmental authority, to share in the maintenance responsibility of any property if the  
21 BOARD, in its sole and absolute discretion, determines this would be in the best interest of the  
22 OWNER. Notwithstanding the foregoing, if any UNIT OWNER or any resident of any UNIT, or  
23 their guests or invitees, damages any COMMON AREA or any improvement thereon, the UNIT  
24 OWNER of such UNIT shall be liable to the ASSOCIATION for the cost of repair or restoration  
25 to the extent not covered by the Association's insurance.

26  
27 3.10.05 Common Expense. All maintenance performed by the  
28 ASSOCIATION as hereinabove provided shall be a COMMON EXPENSE, except as set forth in  
29 Section 3.10.03.  
30

31 3.11 Mortgage and Sale of COMMON AREAS. The ASSOCIATION shall not  
32 abandon, partition, subdivide, encumber, sell or transfer any COMMON AREA owned by the  
33 ASSOCIATION without the approval of at least 2/3 of the votes of the OWNERS, excluding  
34 DECLARANT. Notwithstanding the foregoing, as to any portion of any COMMON AREA that  
35 is unimproved and is to consist of landscaped open area around future UNITS not yet  
36 constructed, if DECLARANT changes the location of any future UNITS such that a portion of  
37 the COMMON AREA would be within a relocated LOT, then the ASSOCIATION shall have the  
38 right without the approval of the OWNERS to convey such area to DECLARANT, and in  
39 connection therewith, DECLARANT shall convey to the ASSOCIATION any area which was  
40 formerly intended to be a LOT which is, due to the relocation of any LOT, then intended to be a  
41 COMMON AREA. If ingress or egress to any PROPERTY is through any COMMON AREA,  
42 any conveyance or encumbrance of such COMMON AREA shall be subject to an appurtenant  
43 easement for ingress and egress in favor of the OWNER(s) of such PROPERTY, unless  
44 alternative ingress and egress is provided to the OWNER(s).  
45

46 4. EASEMENTS. Each of the following easements are hereby created, which shall  
47 run with the land and, notwithstanding any of the other provisions of this DECLARATION, may  
48 not be substantially amended or revoked in such a way as to unreasonably interfere with proper  
49 and intended use and purposes, and each shall survive the termination of this DECLARATION.  
50

51 4.01 Easements for Pedestrian and Vehicular Traffic. Easements for pedestrian  
52 traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to  
53 time exist upon the COMMON AREAS and be intended for such purpose; and for pedestrian and  
54 vehicular traffic and parking over, through, across and upon such portion of the COMMON  
55 AREAS as may from time to time be paved and intended for such purposes, same being for the  
56 use and benefit of the OWNERS and the residents of the SUBJECT PROPERTY, their  
57 mortgages, and their guests and invitees.  
58

59 4.02 Perpetual Nonexclusive Easement in COMMON AREAS. The  
60 COMMON AREAS shall be, and the same are hereby declared to be, subject to a perpetual  
61 nonexclusive appurtenant easement in favor of all OWNERS and residents of the SUBJECT

1 PROPERTY from time to time, and their guests and invitees, for all proper and normal purposes  
2 and for the furnishing of services and facilities for which the same are reasonably intended.  
3

4 4.03 Service and Utility Easements. Easements in favor of governmental and  
5 quasi-governmental authorities, utility companies, cable television companies, ambulance or  
6 emergency vehicle companies, and mail carrier companies, over and across all roads existing  
7 from time to time with the SUBJECT PROPERTY, and over, under, on and across the  
8 COMMON AREAS, as may be reasonably required to permit the foregoing, and their agents and  
9 employees, to provide their respective authorized services to and for the SUBJECT PROPERTY.  
10 Also, easements as may be required for the installation, maintenance, repair and providing of  
11 utility services, equipment and fixtures in order to adequately serve the SUBJECT PROPERTY,  
12 including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage,  
13 television antenna and cable television facilities, and electronic security. However, easements  
14 affecting any LOT which serve any other portion of the SUBJECT PROPERTY shall only be for  
15 utility services actually constructed, or reconstructed, and for the maintenance thereof, unless  
16 otherwise approved in writing by the OWNER of the LOT. An OWNER shall do nothing on his  
17 LOT which interferes with or impairs the utility services using these easements. The BOARD or  
18 its designee shall have a right of access to each LOT and UNIT to inspect, maintain, repair or  
19 replace the utility service facilities contained under the LOT and to remove any improvements  
20 interfering with or impairing the utility services or easement herein reserved; provided such right  
21 of access shall not unreasonably interfere with the OWNER's permitted use of the LOT and,  
22 except in the event of an emergency, entry into any UNIT shall be made with reasonable notice to  
23 the OWNER.  
24

25 4.04 Service and Maintenance Easement. If any UNIT is located within 4 feet  
26 of the boundary line of any LOT, the OWNER of such LOT shall have an easement into the  
27 contiguous LOT or COMMON AREA, as the case may be, which easement shall be 4 feet from  
28 the UNIT, for the purpose of servicing and maintaining the UNIT. The OWNER of such UNIT  
29 shall not be liable for any damage or destruction to any landscaping or improvements within any  
30 such easement area which is caused in connection with the reasonable maintenance and servicing  
31 of his UNIT. In addition, the ASSOCIATION shall have an easement upon all LOTS, as may be  
32 reasonably required to perform the maintenance and other obligations of the ASSOCIATION as  
33 provided in this DECLARATION.  
34

35 4.05 Encroachments. If any portion of the COMMON AREAS encroaches  
36 upon any LOT; if any UNIT or other improvement encroaches upon any LOT or upon any  
37 portion of the COMMON AREAS; or if any encroachment shall hereafter occur as a result of (i)  
38 construction or reconstruction of any improvements; (ii) settling or shifting of any  
39 improvements; (iii) any addition, alteration or repair to the COMMON AREAS made by or with  
40 the consent of the ASSOCIATION, (iv) any repair or restoration of any improvements (or any  
41 portion thereof) or any UNIT after damage by fire or other casualty or any taking by  
42 condemnation or eminent domain proceedings of all or any portion of any UNIT or the  
43 COMMON AREAS; or (v) any non-purposeful or non-negligent act of an OWNER except as  
44 may be authorized by the BOARD, then, in any such event, a valid easement shall exist for such  
45 encroachment and for the maintenance of the same so long as the improvements shall stand.  
46

47 4.06 Easements for overhanging troughs or gutters, downspouts and the  
48 discharge therefrom of rainwater and the subsequent flow thereof over the LOTS and the  
49 COMMON AREAS.  
50

51 4.07 Additional Easements. DECLARANT (so long as it owns any LOT) and  
52 the ASSOCIATION, on their behalf and on behalf of all OWNERS, each shall have the right to  
53 (i) grant and declare additional easements over, upon, under and/or across the COMMON  
54 AREAS in favor of DECLARANT or any person, entity, public or quasi-public authority or  
55 utility company, or (ii) modify, relocate, abandon or terminate existing easements benefiting or  
56 affecting the SUBJECT PROPERTY. In connection with the grant, modification, relocation,  
57 abandonment or termination of any easement, DECLARANT reserves the right to relocate roads,  
58 parking areas, utility lines, and other improvements upon or serving the SUBJECT PROPERTY.  
59 So long as the foregoing will not unreasonably and adversely interfere with the use of LOTS for  
60 dwelling purposes, no consent of any OWNER or any mortgagee of any LOT shall be required  
61 or, if same would unreasonably and adversely interfere with the use of any LOT for dwelling  
62 purposes, only the consent of the OWNERS and INSTITUTIONAL LENDERS of LOTS so

1 affected shall be required. To the extent required, all OWNERS hereby irrevocably appoint  
2 DECLARANT and/or the ASSOCIATION as their attorney-in-fact for the foregoing purposes.  
3

4 4.08 Sale and Development Easement. DECLARANT reserves and shall have  
5 an easement over, upon, across and under the SUBJECT PROPERTY as may be reasonably  
6 required in connection with the development, construction, sale and promotion, or leasing, or any  
7 LOT or UNIT within the SUBJECT PROPERTY or within any other property owned by  
8 DECLARANT.  
9

10 5. USE RESTRICTIONS.  
11

12 5.01 One UNIT Per LOT. Only one UNIT shall be constructed on any LOT,  
13 which shall comply with the following minimum standards.  
14

15 5.01.01 Minimum Size. All UNITS shall have a minimum of 1,200  
16 square feet of living area, exclusive of garage, patios or porches.  
17

18 5.01.02 Maximum Height. The maximum height of any UNIT shall  
19 be 30 feet above the front street elevation. The finish floor elevations are to be a minimum of 16  
20 inches above the crown of the road.  
21

22 5.01.03 Minimum Set-Back. Any UNIT shall be set-back a  
23 minimum of 15 feet from the front lot line, and 5 feet from the side and 10 feet from the rear of  
24 the LOT, unless otherwise approved by the ASSOCIATION or DECLARANT.  
25

26 5.01.04 Garages. All garages shall be for 2 cars and equipped with  
27 automatic garage door openers. Driveways and side walks shall be constructed of concrete.  
28

29 5.01.05 Roofs. All roofs shall be of cement tile.  
30

31 5.02 OCCUPANCY. No UNIT shall be permanently occupied by more than  
32 two (2) persons for each bedroom in the UNIT. In addition, temporary guests are permitted so  
33 long as they do not create an unreasonable source of noise or annoyance to the other residents of  
34 the SUBJECT PROPERTY.  
35

36 5.03 No Trade or Business. No trade, business, profession, or commercial  
37 activity, or any other nonresidential use, shall be conducted upon any portion of the SUBJECT  
38 PROPERTY or within any LOT or UNIT. The foregoing shall not prohibit any OWNER from  
39 leasing his UNIT.  
40

41 5.04 Sales and Leases. All leases of a UNIT must be in writing and specifically  
42 be subject to this DECLARATION, the ARTICLES and the BYLAWS, and copies delivered to  
43 the ASSOCIATION prior to occupancy by the Tenant(s). No Lease shall be for a period of less  
44 than one month.  
45

46 5.05 Outside Storage of Personal Property. The personal property of any  
47 resident of the SUBJECT PROPERTY shall be kept inside the resident's UNIT, and no personal  
48 property may be stored on the exterior of any UNIT.  
49

50 5.06 Portable Buildings/Fences. No portable, storage, temporary or accessory  
51 buildings or structures, or tents, shall be erected, constructed or located upon any LOT for  
52 storage or otherwise. No fences are allowed on any LOT.  
53

54 5.07 Garbage and Trash. Each OWNER shall regularly pick up all garbage,  
55 trash, refuse or rubbish on the OWNER's LOT. Garbage, trash, refuse, or rubbish that is  
56 required to be placed at the front of the LOT in order to be collected may be placed and kept at  
57 the front of the LOT after 5:00 p.m. on the day before the scheduled day of collection, and any  
58 trash facilities must be removed on the collection day. All garbage, trash, refuse or rubbish must  
59 be placed in appropriate trash facilities or bags. All containers, dumpsters or garbage facilities  
60 shall be stored inside a UNIT or fenced-in area and screened from view and kept in a clean and  
61 sanitary condition. No noxious or offensive odors shall be permitted.  
62

1           5.08 Vehicles. Only automobiles, vans, small pickup trucks, and other vehicles  
2 manufactured and used as private passenger vehicles, may be parked with the SUBJECT  
3 PROPERTY overnight without the prior written consent of the ASSOCIATION, unless kept  
4 within an enclosed garage. In particular and without limitation, no vehicle shall be parked  
5 outside a UNIT overnight without the prior written consent of the ASSOCIATION if  
6 commercial lettering or signs are painted to or affixed to the vehicle, or if commercial equipment  
7 is placed upon the vehicle, or if the vehicle is a truck, recreational vehicle, camper, trailer, or  
8 other than a private passenger vehicle as specified above. Notwithstanding the foregoing,  
9 automobiles owned by governmental law enforcement agencies are expressly permitted. The  
10 foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial  
11 vehicles while making delivery to or from, or while used in connection with providing services to  
12 the SUBJECT PROPERTY. All vehicles parked with the SUBJECT PROPERTY must be in  
13 good condition, and no vehicle which is unlicensed or which cannot operate on its own power  
14 shall remain within the SUBJECT PROPERTY for more than 24 hours, and no major repair of  
15 any vehicle shall be made on the SUBJECT PROPERTY, and parking shall only be permitted  
16 upon driveways or within garages. Motorcycles are not permitted except with the prior written  
17 consent of the ASSOCIATION which may be withdrawn at any time, and any permitted  
18 motorcycle must be equipped with appropriate noise muffling equipment so that the operation of  
19 same does not create an unreasonable annoyance to the residents of the SUBJECT PROPERTY.  
20

21           5.09 Pets. No animals, livestock or poultry of any kind shall be permitted  
22 within the SUBJECT PROPERTY except for common household domestic pets. Any pet must  
23 be carried or kept on a leash when outside of a UNIT. No pet shall be kept outside of a UNIT, or  
24 in any screened porch or patio, unless someone is present in the UNIT. Any pet must not be an  
25 unreasonable nuisance or annoyance to other residents of the SUBJECT PROPERTY. No  
26 commercial breeding of pets is permitted within the SUBJECT PROPERTY. The  
27 ASSOCIATION may require any pet to be immediately and permanently removed from the  
28 SUBJECT PROPERTY due to a violation of this paragraph.  
29

30           5.10 Landscaping. On each LOT the ASSOCIATION shall be responsible for  
31 mowing, trimming, fertilizing, mulching, and insect and disease control of all grass areas, and  
32 trimming, fertilizing, mulching, and insect and disease control of all bushes, shrubs, hedges,  
33 foundation plants and trees, except for flower beds and fruit trees (the latter not to be planted in  
34 front yards), and on any contiguous property between each LOT and the pavement edge of any  
35 abutting road or the waterline of any abutting lake or canal, all in accordance with landscaping  
36 plans approved by the ASSOCIATION. All landscaped areas shall be primarily sodded with  
37 grass, and shall not be paved or covered with gravel or any artificial surface.  
38

39 On each LOT the ASSOCIATION shall promptly remove and replace all dead or diseased sod,  
40 bushes, shrubs, hedges and foundation plants. At the sole discretion of the ASSOCIATION, the  
41 replacement in grass areas may be with sod or plugs and the replacement of bushes, shrubs,  
42 hedges, and foundation plants may be with nursery-size stock (consistent in size with that  
43 originally planted during construction) rather than with bushes, shrubs, hedges and foundation  
44 plants of the size as those removed.  
45

46 Trees on LOTS are included in the ASSOCIATION's responsibility for trimming, fertilizing,  
47 mulching, and insect and disease control. However, the removal and replacement of trees for any  
48 reason on LOTS and all costs associated therewith are the responsibility of the LOT OWNER(s).  
49 At the sole discretion of the LOT OWNER(s), the replacement tree may be nursery-size or larger.  
50 These above actions are subject to Article 5.23.01 of this DECLARATION.  
51

52 The ASSOCIATION shall promptly remove all excessive weeds, underbrush or unsightly  
53 growth. No artificial grass, plants, or other artificial vegetation shall be placed or maintained  
54 upon the exterior of any LOT. No OWNER shall install or maintain any landscaping on any  
55 portion of the LOT maintained by the ASSOCIATION pursuant to Article 3.10 of this  
56 DECLARATION without the prior written consent of the BOARD of DIRECTORS. Not  
57 notwithstanding the foregoing, an OWNER may plant flower beds and fruit trees. No fruit trees are  
58 permitted closer to the front lot line than the rear of the home situated upon the LOT.  
59 OWNER(s) are solely responsible for the maintenance, repair and replacement of all flower beds  
60 and fruit trees planted pursuant to this section, all of which shall be maintained in a neat,  
61 attractive and first-class appearance.  
62

1           5.11 Maintenance. Each OWNER shall maintain his UNIT and all  
2 improvements upon his LOT in first class condition at all times, except any portions thereof to be  
3 maintained by the ASSOCIATION as provided in Paragraph 3.10 of this DECLARATION. The  
4 exterior of all UNITS including but not limited to roofs, walls, windows, patio areas, pools,  
5 screenings, and awnings shall be maintained in first class condition and repair and in a neat and  
6 attractive manner. All exterior painted areas shall be painted as reasonably necessary with colors  
7 which match the color scheme and which are harmonious with other UNITS, and no excessive  
8 rust deposits on the exterior of any UNIT, peeling of paint or discoloration of same shall be  
9 permitted. No OWNER shall change the exterior color of his UNIT without the consent of the  
10 ASSOCIATION. All sidewalks, driveways and parking areas within the OWNER's LOT or  
11 serving the OWNER's UNIT shall be cleaned and kept free of debris; damaged and/or eroding  
12 areas of same shall be repaired, replaced and/or resurfaced as necessary.

13  
14           5.12 Air Conditioning Units. Only central air conditioning units are permitted,  
15 and no window, wall, or portable air conditioning units are permitted.

16  
17           5.13 Clotheslines and Outside Clothes Drying. No clotheslines or clothes poles  
18 shall be erected, and no outside clothes-drying is permitted, except where such activity is advised  
19 or mandated by governmental authorities for energy conservation purposes, in which event the  
20 ASSOCIATION shall have the right to approve the portions of any LOT used for outdoor  
21 clothes-drying purposes and the types of devices to be employed in this regard, which approval  
22 must be in writing.

23  
24           5.14 Nuisances. No nuisances shall be permitted within the SUBJECT  
25 PROPERTY, and no use or practice which is an unreasonably source of annoyance to the  
26 residents within the SUBJECT PROPERTY or which shall interfere with the peaceful possession  
27 and proper use of the SUBJECT PROPERTY by its residents shall be permitted. No  
28 unreasonably offensive or unlawful action shall be permitted, and all laws, zoning ordinances and  
29 regulations of all controlling governmental authorities shall be complied with at all times by the  
30 OWNERS.

31  
32           5.15 Outside antennas. No outside signal receiving or sending antennas, dishes  
33 or devices are permitted. The foregoing shall not prohibit any antenna or signal receiving dish  
34 owned by the ASSOCIATION which services the entire SUBJECT PROPERTY.

35  
36           5.16 Post Light, Identification Signs and House Numbers. Post lights  
37 controlled by a photocell are required on all LOTS in locations approved by the ASSOCIATION.  
38 In order to provide uniformity through the property, the DECLARANT may promulgate design  
39 standards and specifications to be used for all post lights, identification signs, and house  
40 numbers.

41  
42           5.17 Further Subdivision. No LOTS shall be further subdivided without the  
43 prior written consent of the ASSOCIATION if same would result in the creation of more LOTS  
44 than before such resubdivision. Notwithstanding the foregoing, portions of a LOT may be  
45 conveyed to the OWNER(s) of contiguous LOT(s), in order to increase the size of the contiguous  
46 LOT(s), so long as any remaining portion of the divided LOT not so conveyed is independently  
47 useful for the construction of a UNIT that complies with the requirements of this  
48 DECLARATION.

49  
50           5.18 Garbage Containers, Water Softeners, Gas Tanks, Air Conditioners. All  
51 garbage and refuse containers, air conditioning units, water softeners and all permanently affixed  
52 swimming pool equipment and housing shall be screened or walled so that they shall be  
53 substantially concealed or hidden from any eye-level view from any street or adjacent property.  
54 Propane gas tanks shall be installed underground.

55  
56           5.19 Signs. No signs shall be placed upon any LOT, and no signs shall be  
57 placed in or upon any UNIT which are visible from the exterior of the UNIT, without the prior  
58 written consent of the ASSOCIATIONS. However, DECLARANT may maintain signs of any  
59 type and size for any purpose during the period construction on any portion of the SUBJECT  
60 PROPERTY. Signs required by the City of Venice or traffic signs shall be allowed.

1           5.20 Window Treatments. Window treatments shall consist of drapery, blinds,  
2 decorative panels, or other tasteful window coverings, and no newspaper, aluminum foil, sheets  
3 or other temporary window treatments are permitted, except for periods not exceeding one (1)  
4 week after an OWNER of tenant first moves into a UNIT or when permanent window treatments  
5 are being cleaned or repaired.

6  
7           5.21 Boats. No boats shall be kept or stored outside of any UNIT.

8  
9           5.22 Surface Water Management. No OWNER or any other PERSON shall do  
10 anything to adversely affect the surface water management and drainage of SUBJECT  
11 PROPERTY without the prior written approval of the ASSOCIATION and any controlling  
12 governmental authority, including but not limited to the excavation or filling in of any lake or  
13 any portion of the SUBJECT PROPERTY, provided the foregoing shall not be deemed to  
14 prohibit or restrict the initial construction of improvements upon the SUBJECT PROPERTY by  
15 DECLARANT or by the developer of any portion of the SUBJECT PROPERTY in accordance  
16 with permits issued by controlling governmental authorities.

17  
18           5.23 Architectural Control for Exterior Changes.

19  
20                   5.23.01 OWNER to Obtain Approval. COMMON AREAS: No  
21 OWNER shall make, install, place, or remove any building, fence, wall, patio area, pool, spa,  
22 landscaping, or any other alteration, addition, improvement, or change of any kind or nature to, in  
23 or upon any portion of the COMMON AREAS unless the OWNER first obtains the written  
24 approval of the ASSOCIATION to the same.

25  
26 OWNER's LOT and UNIT: No OWNER shall make, install, place, or remove any building,  
27 fence, wall, patio area, pool, spa, landscaping except for flower beds and fruit trees, or any other  
28 alteration, addition, improvement, or change of any kind or nature to the OWNER's LOT, or the  
29 exterior of the OWNER's UNIT, unless the OWNER first obtains the written approval of the  
30 ASSOCIATION to the same, except that such approval shall not be required for replacements in  
31 pre-existing landscape beds or any maintenance or repair which does not result in a material  
32 change in any improvement including the color of same.

33  
34                   5.23.02 ASSOCIATION's Consent. Any request by an OWNER  
35 for approval by the ASSOCIATION to any addition, alteration, improvement, or change shall be  
36 in writing and shall be accompanied by plans and specifications or other details as the  
37 ASSOCIATION may deem reasonably necessary in connection with its determination as to  
38 whether or not it will approve same. The ASSOCIATION shall have the right to charge a  
39 reasonable fee in connection with the approval of any request to pay for the cost of any architect  
40 or engineer hired by the ASSOCIATION to review any plans or specifications. Approval of any  
41 request shall not be withheld in a discriminatory manner or in a manner which unreasonably  
42 prohibits the reasonable improvement of any LOT or UNIT, but may be withheld due to aesthetic  
43 considerations. The ASSOCIATION shall notify the OWNER of its approval or disapproval by  
44 written notice within 30 days after request for such consent is made in writing to the  
45 ASSOCIATION, and in the event the ASSOCIATION fails to disapprove any request within  
46 such 30 day period, the consent shall be deemed approved and upon request the ASSOCIATION  
47 shall give written notice of such approval. In consenting to any plans or specification, the  
48 ASSOCIATION may condition such consent upon changes being made. If the ASSOCIATION  
49 consents to any plans and specifications, the OWNER may proceed to make the alteration,  
50 addition, improvement, or change in strict conformance with the plans and specifications  
51 approved by the ASSOCIATION, and subject to any conditions of the ASSOCIATION's  
52 approval.

53  
54                   5.23.03 No Liability. The ASSOCIATION shall not be liable to  
55 any OWNER in connection with the exercise or non-exercise of architectural control hereunder,  
56 or the approval or disapproval of any alteration, addition, improvement, or change. Furthermore,  
57 any approval of any plans or specifications by the ASSOCIATION shall not be deemed to be a  
58 determination that such plans or specifications are complete or do not contain defects, or in fact  
59 meet any standards, guidelines and/or criteria of the ASSOCIATION, or are in fact  
60 architecturally or aesthetically appropriate, or comply with any applicable governmental  
61 requirements, and the ASSOCIATION shall not be liable for any deficiency, or any injury  
62 resulting from any deficiency, in such plans and specifications.

1  
2                   5.23.04       Remedy for Violations. In the event this section is violated  
3 in that any alteration, addition, improvement, or change is made without first obtaining the  
4 approval of the ASSOCIATION, or is not made in strict conformance with any approval granted  
5 by the ASSOCIATION, the ASSOCIATION shall specifically have the right to injunctive relief  
6 to require the OWNER to stop, remove and/or alter any alteration, addition, improvement, or  
7 change in a manner which complies with the requirements of the ASSOCIATION, or the  
8 ASSOCIATION may pursue any other remedy available to it. In connection therewith, the  
9 ASSOCIATION shall have the right to enter onto any LOT and make any inspection necessary to  
10 determine that the provisions of this paragraph have been complied with. Any action to enforce  
11 this Section must be commenced within one year after the date of the violation. The foregoing  
12 shall be in addition to any other remedy set forth herein for violations of this DECLARATION.  
13 Notwithstanding anything contained within this DECLARATION to the contrary, the  
14 ASSOCIATION shall have the exclusive authority to enforce the provisions of this paragraph.  
15

16                   5.23.05       Compliance with Governmental Requirements. In addition  
17 to the foregoing requirements, any alterations, addition, improvements, or changes made by an  
18 OWNER must be in compliance with the requirements of all controlling governmental  
19 authorities, and the OWNER shall be required to obtain an appropriate building permit from the  
20 applicable governmental authority when required by controlling governmental requirements.  
21 Any consent or approval by the ASSOCIATION to any addition, alteration, improvement, or  
22 change may be made conditioned upon the OWNER obtaining a building permit for same, or  
23 providing the ASSOCIATION written evidence from the controlling governmental authority that  
24 such permit will not be required, and in that event the OWNER shall not proceed with any  
25 addition, alteration, improvement, or change until such building permit or evidence that a  
26 building permit is not required is submitted to the ASSOCIATION. The retention pond and  
27 drainage swales to the pond shall require periodic inspection.  
28

29                   5.23.06       Architectural Control Vested in DECLARANT.  
30 Notwithstanding the foregoing, so long as DECLARANT owns any LOT, architectural control  
31 shall be vested in DECLARANT and not the ASSOCIATION, and during such period all  
32 references contained in this subparagraph to the ASSOCIATION shall be deemed to refer to  
33 DECLARANT, provided, however, that at any time DECLARANT may assign its rights of  
34 architectural control to the ASSOCIATION by a written statement.  
35

36                   5.24   Rules and Regulations. The ASSOCIATION may adopt additional  
37 reasonable rules and regulations relating to the use and maintenance of the SUBJECT  
38 PROPERTY. Copies of such rules and regulations and amendments shall be furnished by the  
39 ASSOCIATION to any OWNER upon request.  
40

41                   5.25   Waiver. The ASSOCIATION shall have the right to waive the application  
42 of one or more of these restrictions, or to permit a deviation from these restrictions, as to any  
43 LOT where, in the discretion of the BOARD, circumstances exist which justify such waiver or  
44 deviation. In the event of any such waiver or permitted deviation, or in the event any party fails  
45 to enforce any violation of these restrictions, such actions or inactions shall not be deemed to  
46 prohibit or restrict the right of the ASSOCIATION, or any other person having the right to  
47 enforce these restrictions, from insisting upon strict compliance with respect to all other LOTS,  
48 nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same  
49 may be applied in the future. Notwithstanding the foregoing, so long as DECLARANT owns any  
50 LOT, if any waiver or deviation of any restriction requires the consent of the ASSOCIATION,  
51 such consent shall be obtained from DECLARANT, and not from the ASSOCIATION, unless  
52 DECLARANT voluntarily relinquishes this right at an earlier date.  
53

54                   5.26   Exceptions. The foregoing use and maintenance restrictions shall not  
55 apply to DECLARANT, or to any portion of the SUBJECT PROPERTY while owned by  
56 DECLARANT, or to any undeveloped PROPERTY. and shall not be applied in a manner which  
57 would prohibit or restrict the development of any portion of the SUBJECT PROPERTY and the  
58 construction of any UNITS, BUILDINGS and other improvements thereon, or any activity  
59 associated with the sale or leasing of any UNITS, by DECLARANT or by the developer of any  
60 portion of the SUBJECT PROPERTY. Specifically, and without limitation, DECLARANT and  
61 any developer(s) of any portion of the SUBJECT PROPERTY shall have the right to: (i)  
62 construct any buildings or improvements within the SUBJECT PROPERTY, and make any

1 additions, alterations, improvements, or changes thereto, (ii) maintain customary and usual sales,  
2 leasing, general office and construction operations on any PROPERTY; (iii) place, erect or  
3 construct portable, temporary or accessory buildings or structures upon any PROPERTY for  
4 sales, leasing construction, storage or other purposes; (iv) temporarily deposit, dump or  
5 accumulate materials, trash, refuse and rubbish in connection with the development or  
6 construction of any PROPERTY; (v) post, display, inscribe or affix to the exterior of a UNIT or  
7 upon any PROPERTY, signs and other materials used in developing, constructing, selling or  
8 promoting any PROPERTY; (vi) excavate fill from any lakes within and/or contiguous to the  
9 SUBJECT PROPERTY by dredge or drag line, store fill on the SUBJECT PROPERTY; and (vii)  
10 grow plants and trees upon the SUBJECT PROPERTY for later use and sell excess plants and  
11 trees.

12  
13 5.27 Relationship with Master Association. All of the provisions of this  
14 instrument are in addition to and not in limitation of the terms of the Master Association. Where  
15 the terms hereof are more restrictive than but consistent with the Master Association covenants,  
16 all provisions hereof shall be binding. In the event of impossibility of compliance with both  
17 documents the terms of LAKESIDE WOODS shall control.

18  
19 6. ASSESSMENT FOR COMMON EXPENSES.

20  
21 6.01 Each OWNER of a LOT shall be responsible for the payment to the  
22 ASSOCIATION of ASSESSMENTS for COMMON EXPENSES for each LOT owned by the  
23 OWNER, which amount shall be assessed to the OWNER as described below. In addition, each  
24 OWNER shall be responsible for the payment to the Association of any ASSESSMENTS owed  
25 by the prior OWNER, except for any ASSESSMENTS owed by DECLARANT, and except as  
26 provided in Paragraph 7.01.06 of this DECLARATION.

27  
28 6.02 Prior to the beginning of each fiscal year, the BOARD shall adopt a budget  
29 for such fiscal year which shall estimate all of the COMMON EXPENSES to be incurred by the  
30 ASSOCIATION during the fiscal year. The BOARD shall then establish the ASSESSMENT for  
31 COMMON EXPENSES for each LOT, and shall notify each OWNER in writing of the amount,  
32 frequency, and the due dates of the ASSESSMENT for COMMON EXPENSES. From time to  
33 time during the fiscal year, the BOARD may modify the budget, and pursuant to the revised  
34 budget or otherwise, the BOARD may, upon written notice to the OWNERS, change the amount,  
35 frequency, and/or due dates of the ASSESSMENT for COMMON EXPENSES. If the  
36 expenditure of funds for COMMON EXPENSES is required in addition to funds produced by the  
37 ASSESSMENTS for COMMON EXPENSES, the BOARD may make special ASSESSMENTS  
38 for COMMON EXPENSES, which shall be levied in the same manner as hereinbefore provided  
39 for regular ASSESSMENTS, and shall be payable in the manner determined by the BOARD, as  
40 stated in the notice of any special ASSESSMENTS for COMMON EXPENSES. In the event  
41 any ASSESSMENTS for COMMON EXPENSES are made payable in equal periodic payments,  
42 as provided in the notice from the ASSOCIATION, such periodic payments shall automatically  
43 continue to be due and payable in the same amount and frequency unless and until (i) the notice  
44 specifically provides that the periodic payments will terminate or change upon the occurrence of  
45 a specified event or date or the payment of the specified amount, or (ii) the ASSOCIATION  
46 notifies the OWNER in writing of a change in the amount and/or frequency of the periodic  
47 payments. In no event shall any ASSESSMENTS for COMMON EXPENSES be due less than  
48 ten (10) days from the date of notification of such ASSESSMENTS.

49  
50 6.03 ASSESSMENTS for COMMON EXPENSES as to any LOT not  
51 containing a UNIT, and except for the foregoing the ASSESSMENTS for COMMON  
52 EXPENSES assessed against each LOT shall be equal. The full ASSESSMENT for COMMON  
53 EXPENSES as to each LOT upon which a UNIT is constructed shall commence on the first day  
54 of the full calendar month after a certificate of occupancy for the UNIT is issued, or upon the  
55 conveyance of the LOT by DECLARANT, or upon the first occupancy of the UNIT, whichever  
56 occurs first.

57  
58 6.04 In addition to ASSESSMENTS for COMMON EXPENSES, the first  
59 OWNER acquiring title from DECLARANT to a UNIT shall pay to the ASSOCIATION a  
60 contribution to a working capital fund of the ASSOCIATION in an amount equal to two (2)  
61 months' ASSESSMENTS for COMMON EXPENSES, which shall be in addition to the  
62 OWNER's responsibility for ASSESSMENTS for COMMON EXPENSES. The working capital

1 fund shall be used by the ASSOCIATION for startup expenses or otherwise as the  
2 ASSOCIATION shall determine from time to time and need not be restricted or accumulated.

3  
4 6.05 In addition to ASSESSMENTS for COMMON EXPENSES each  
5 OWNER of a LOT shall be responsible for the payment of an annual fee to the MASTER  
6 ASSOCIATION. The MASTER ASSOCIATION maintains the clubhouse, pool, boat dock,  
7 shuffleboard courts, and COMMON AREAS that are available to all residents of LAKESIDE  
8 WOODS and PINEBROOK SOUTH.

9  
10 6.06 Notwithstanding the foregoing, until such time as DECLARANT no  
11 longer owns any LOT, or until DECLARANT notifies the ASSOCIATION in writing that  
12 DECLARANT elects to pay ASSESSMENTS for COMMON EXPENSES as in the case of any  
13 other OWNER, DECLARANT shall not be liable for ASSESSMENTS for COMMON  
14 EXPENSES for any UNITS owned by DECLARANT, but in lieu thereof, DECLARANT shall  
15 be responsible for all COMMON EXPENSES in excess of the ASSESSMENTS for COMMON  
16 EXPENSES receivable from the other OWNERS (including working capital contributions), and  
17 other income received by the ASSOCIATION. During such period when DECLARANT is not  
18 liable for ASSESSMENTS for COMMON EXPENSES for UNITS owned by DECLARANT,  
19 the ASSESSMENTS for COMMON EXPENSES shall be established by DECLARANT based  
20 upon DECLARANT's estimate of what the expenses of the ASSOCIATION would be if all  
21 UNITS and IMPROVEMENTS contemplated within the SUBJECT PROPERTY were  
22 completed, so that ASSESSMENTS for COMMON EXPENSES during such period will be  
23 approximately what said ASSESSMENTS would be if the development of the SUBJECT  
24 PROPERTY as contemplated by DECLARANT was complete. In any event, DECLARANT  
25 shall not be required to fund reserves allocated to any unbuilt UNITS or any UNITS owned by  
26 DECLARANT. Notwithstanding the foregoing, in the event the ASSOCIATION incurs any  
27 expense not ordinarily anticipated in the day-to-day management and operation of the SUBJECT  
28 PROPERTY, including but not limited to expenses incurred in connection with lawsuits against  
29 the ASSOCIATION, or incurred in connection with damage to property, or injury or death to any  
30 person, which are not covered by insurance proceeds, the liability of DECLARANT for such  
31 COMMON EXPENSE shall not exceed the amount that DECLARANT would be required to pay  
32 if it was liable for ASSESSMENTS for COMMON EXPENSES as any other OWNER, and any  
33 excess amounts payable by the ASSOCIATION shall be assessed to the other OWNERS.

34  
35 7. DEFAULT.

36  
37 7.01 Monetary Defaults and Collection of Assessments.

38  
39 7.01.01 Late Fees and Interest. If any ASSESSMENT is not paid  
40 within ten (10) days after the due date, the ASSOCIATION shall have the right to charge the  
41 defaulting OWNER a late fee of ten (10%) percent of the amount of the ASSESSMENT, or TEN  
42 (\$10.00) Dollars, whichever is greater, plus interest at the then highest rate of interest allowable  
43 by law from the due date until paid. If there is no due date applicable to any particular  
44 ASSESSMENT, then the ASSESSMENT shall be due ten (10) days after written demand by the  
45 ASSOCIATION.

46  
47 7.01.02 Acceleration of ASSESSMENTS. If any OWNER is in  
48 default in the payment of any ASSESSMENT owed to the ASSOCIATION for more than thirty  
49 (30) days after written demand by the ASSOCIATION, the ASSOCIATION upon written notice  
50 to the defaulting OWNER shall have the right to accelerate and require such defaulting OWNER  
51 to pay to the ASSOCIATION ASSESSMENTS for COMMON EXPENSES for the next twelve  
52 (12) month period, based upon the then existing amount and frequency of ASSESSMENTS for  
53 COMMON EXPENSES. In the event of such acceleration, the defaulting OWNER shall  
54 continue to be liable for any increases in the regular ASSESSMENTS for COMMON  
55 EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and/or for all other  
56 ASSESSMENTS payable to the ASSOCIATION.

57  
58 7.01.03 Lien for ASSESSMENTS. The ASSOCIATION has a lien  
59 on each LOT for unpaid ASSESSMENTS owed to the ASSOCIATION by the OWNER of such  
60 LOT, and for late fees and interest, and for reasonable attorneys' fees incurred by the  
61 ASSOCIATION incident to the collection of the ASSESSMENT or enforcement of the lien, and  
62 all sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior

1 mortgages, liens or encumbrances in order to preserve and protect the ASSOCIATION's lien.  
2 The lien is effective from and after recording a claim of lien in the public records in the county in  
3 which the LOT is located, stating the description of the LOT, the name of the record OWNER,  
4 and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure  
5 all sums set forth in the claim of lien, together with all ASSESSMENTS or other moneys owed  
6 to the ASSOCIATION by the OWNER until the lien is satisfied. The lien is in effect until all  
7 sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must  
8 be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full  
9 of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the  
10 lien.  
11

12 7.01.04 Collection and Foreclosure. The ASSOCIATION may  
13 bring an action in its name to foreclose a lien for ASSESSMENTS in the manner a mortgage of  
14 real property is foreclosed and may also bring an action to recover a money judgment for the  
15 unpaid ASSESSMENTS without waiving any claim of lien, and the applicable OWNER shall be  
16 liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION in  
17 connection with the collection of any unpaid ASSESSMENTS, and in filing, enforcement, and/or  
18 foreclosure of the ASSOCIATION's lien, including reasonable attorneys' fees, and all sums paid  
19 by the ASSOCIATION for taxes and on account of any other mortgage, lien, or encumbrance in  
20 order to preserve and protect the ASSOCIATION's lien. The BOARD is authorized to settle and  
21 compromise the ASSOCIATION's lien if the BOARD deems a settlement or compromise to be  
22 in the best interest of the ASSOCIATION.  
23

24 7.01.05 Rental and Receiver. If an OWNER remains in possession  
25 of his UNIT and the claim of lien of the ASSOCIATION against his UNIT is foreclosed, the  
26 court, in its discretion, may require the OWNER to pay a reasonable rental for the UNIT, and the  
27 ASSOCIATION is entitled to the appointment of a receiver to collect the rent.  
28

29 7.01.06 Subordination of Lien. Where any person obtains title to a  
30 LOT pursuant to the foreclosure of a first mortgage of record, or where the holder of a first  
31 mortgage accepts a deed to a LOT in lieu of foreclosure of the first mortgage of record of such  
32 lender, such acquirer of title, its successors and assigns, shall not be liable for any  
33 ASSESSMENTS or for other moneys owed to the ASSOCIATION which are chargeable to the  
34 former OWNER of the LOT and which became due prior to acquisition of title as a result of such  
35 funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying  
36 mortgage. The unpaid ASSESSMENTS or other moneys are COMMON EXPENSES  
37 collectable from all of the OWNERS, including such acquirer and his successors and assigns.  
38 The new OWNER, from and after the time of acquiring such title, shall be liable for payment of  
39 all future ASSESSMENTS for COMMON EXPENSES and such other expenses as may be  
40 assessed to the OWNER's LOT. Any person who acquires a LOT, except through foreclosure of  
41 a first mortgage of record or deed in lieu thereof, including, without limitation, persons acquiring  
42 title by sale, gift, devise, operation of law or by purchase at a judicial or tax sale, shall be liable  
43 for all unpaid ASSESSMENTS and other moneys due and owing by the former OWNER to the  
44 ASSOCIATION, and shall not be entitled to occupancy of the UNIT or enjoyment of the  
45 COMMON AREAS, or of the recreational facilities as the same may exist from time to time,  
46 until such time as all unpaid ASSESSMENTS and other moneys have been paid in full.  
47

48 7.01.07 Assignment of Claim and Lien Rights. The  
49 ASSOCIATION acting through its BOARD, shall have the right to assign its claim and lien  
50 rights for the recovery of any unpaid ASSESSMENTS and any other moneys owed to the  
51 ASSOCIATION, to any third party.  
52

53 7.01.08 Unpaid ASSESSMENTS Certificate. Within 15 days after  
54 written request by any OWNER or any INSTITUTIONAL LENDER holding or making a  
55 mortgage encumbering any LOT, the ASSOCIATION shall provide the OWNER or  
56 INSTITUTIONAL LENDER a written certificate as to whether or not the OWNER of the LOT is  
57 in default with respect to the payment of ASSESSMENTS or with respect to compliance with  
58 the terms and provisions of this DECLARATION, and any person or entity who relies on such  
59 certificate in purchasing or in making a mortgage loan encumbering any LOT shall be protected  
60 thereby.  
61

1                   7.01.09       Application of Payments. Any payments made to the  
2 ASSOCIATION by any OWNER shall first be applied towards any sums advanced and paid by  
3 the ASSOCIATION for taxes and payment on account of superior mortgages, liens or  
4 encumbrances which may have been advanced by the ASSOCIATION in order to preserve and  
5 protect its lien, next toward reasonable attorneys' fees incurred by the ASSOCIATION incidental  
6 to the collection of ASSESSMENTS and other moneys owed to the ASSOCIATION by the  
7 OWNER and/or for the enforcement of its lien; next towards interest on any ASSESSMENTS or  
8 other moneys due to the ASSOCIATION, as provided herein, and next towards any unpaid  
9 ASSESSMENTS owed to the ASSOCIATION, in the inverse order that such ASSESSMENTS  
10 were due.  
11

12                   7.02   Non-Monetary Defaults. In the event of a violation by any OWNER or  
13 tenant of an OWNER, or any person residing with them, or their guests or invitees, (other than  
14 the nonpayment of any ASSESSMENT or other moneys) of any of the provisions of this  
15 DECLARATION, the ARTICLES, the BYLAWS or the Rules and Regulations of the  
16 ASSOCIATION, the ASSOCIATION shall notify the OWNER and any tenant of the OWNER  
17 of the violation, by written notice. If such violation is not cured as soon as practicable and in any  
18 event within seven (7) days after such written notice, or if the violation is not capable of being  
19 cured within such seven (7) day period, if the OWNER or tenant fails to commence and  
20 diligently proceed to completely cure such violation as soon as practicable within seven (7) days  
21 after written notice by the ASSOCIATION, or if any similar violation is thereafter repeated, the  
22 ASSOCIATION may, at its option:  
23

24                   7.02.01       Impose a fine against the OWNER or tenant as provided in  
25 Paragraph 7.03; and/or  
26

27                   7.02.02       Commence an action to enforce the performance on the part  
28 of the OWNER or tenant, or for such equitable relief as may be necessary under the  
29 circumstances, including injunctive relief; and/or  
30

31                   7.02.03       Commence an action to recover damages; and/or  
32

33                   7.02.04       Take any and all actions reasonably necessary to correct  
34 such failure, which action may include, where applicable, but is not limited to, removing any,  
35 addition, alteration, improvement or change which has not been approved by the  
36 ASSOCIATION, or performing any maintenance required to be performed by this  
37 DECLARATION.  
38

39                   All expenses incurred by the ASSOCIATION in connection with the correction of any  
40 failure, plus a service charge of ten (10%) percent of such expenses, and all expenses incurred by  
41 the ASSOCIATION in connection with any legal proceedings to enforce this DECLARATION,  
42 including reasonable attorneys' fees, shall be assessed against the applicable OWNER, and shall  
43 be due upon written demand by the ASSOCIATION. The ASSOCIATION shall have a lien for  
44 any such ASSESSMENT and any interest, costs or expenses associated therewith including  
45 attorneys' fees incurred in connection with such ASSESSMENT, and may take such action to  
46 collect such ASSESSMENT or foreclose said lien as in the case and in the manner of any other  
47 ASSESSMENT as provided above. Any such lien shall only be effective from and after the  
48 recording of a claim of lien in the public records of the county in which the SUBJECT  
49 PROPERTY is located.  
50

51                   7.03   Fines. The amount of any fine shall be determined by the BOARD, and  
52 shall not exceed the greater of \$25.00 or 1/3 of one month's ASSESSMENT for COMMON  
53 EXPENSES for the first offense, \$50.00 or 2/3 of one month's ASSESSMENT for COMMON  
54 EXPENSES for a second similar offense, and \$100.00 or one month's ASSESSMENT for  
55 COMMON EXPENSES for a third or subsequent similar offense. Prior to imposing any fine, the  
56 OWNER or tenant shall be afforded an opportunity for a hearing after reasonable notice to the  
57 OWNER or tenant of not less than 14 days, which notice shall include (i) a statement of the date,  
58 time and place of the hearing, (ii) a statement of the provisions of the DECLARATION,  
59 BYLAWS or Rules and Regulations which have allegedly been violated, and (iii) a short and  
60 plain statement of the matters asserted by the ASSOCIATION. The OWNER or tenant shall  
61 have an opportunity to respond, to present evidence, and to provide written and oral argument on  
62 all issues involved and shall have an opportunity at the hearing to review, challenge and respond

1 to any material considered by the ASSOCIATION. At the hearing, the BOARD shall conduct a  
2 reasonable inquiry to determine whether the alleged violation in fact occurred, and if the  
3 BOARD so determines, it may impose such fine as it deems appropriate by written notice to the  
4 OWNER or tenant. If the OWNER or tenant fails to attend the hearing as set by the BOARD, the  
5 OWNER or tenant shall be deemed to have admitted the allegations contained in the notice to the  
6 OWNER or tenant. Any fine imposed by the BOARD shall be due and payable within ten (10)  
7 days after written notice of the imposition of the fine, or if a hearing is timely requested within  
8 ten (10) days after written notice of the BOARD's decision at the hearing. Any fine levied  
9 against an OWNER shall be deemed an ASSESSMENT, and if not paid when due all of the  
10 provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be  
11 applicable. If any fine is levied against a tenant and is not paid within ten (10) days after same is  
12 due, the ASSOCIATION shall have the right to evict the tenant as hereinafter provided.  
13

14 7.04 Negligence. An OWNER shall be liable and may be assessed by the  
15 ASSOCIATION for the expense of any maintenance, repair or replacement rendered necessary  
16 by his act, neglect or carelessness, to the extent otherwise provided by law and to the extent that  
17 such expense is not met by the proceeds of insurance carried by the ASSOCIATION. Such  
18 liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy  
19 or abandonment of a LOT or UNIT, or the COMMON AREAS.  
20

21 7.05 Responsibility of an OWNER for Occupants, Tenants, Guest and Invitees.  
22 Each OWNER shall be responsible for the acts and omissions, whether negligent or willful, of  
23 any person residing in his UNIT, and for all guests and invitees of the OWNER or any such  
24 resident, and in the event the acts or omissions of any of the foregoing shall result in any damage  
25 to the COMMON AREAS, or any liability to the ASSOCIATION, the OWNER shall be assessed  
26 for same as in the case of any other ASSESSMENT, limited where applicable to the extent that  
27 the expense or liability is not met by the proceeds of insurance carried by the ASSOCIATION.  
28 Furthermore, any violation of any of the provisions of this DECLARATION, of the ARTICLES,  
29 or the BYLAWS, by any resident of a UNIT, shall also be deemed a violation by the OWNER,  
30 and shall subject the OWNER to the same liability as if such violation was that of the OWNER.  
31

32 7.06 Right of ASSOCIATION to Evict Tenants, Occupants, Guests and  
33 Invitees. With respect to any tenant or any person present in any UNIT or any portion of the  
34 SUBJECT PROPERTY, other than an OWNER and the members of his immediate family  
35 permanently residing with him in the UNIT, if such person shall materially violate any provision  
36 of this DECLARATION, the ARTICLES, or the BYLAWS, or shall create a nuisance or an  
37 unreasonable and continuous source of annoyance to the residents of the SUBJECT PROPERTY,  
38 or shall willfully damage or destroy any COMMON AREAS or personal property of the  
39 ASSOCIATION, then upon written notice by the ASSOCIATION such person shall be required  
40 to immediately leave the SUBJECT PROPERTY and if such person does not do so, the  
41 ASSOCIATION is authorized to commence an action to evict such tenant or compel the person  
42 to leave the SUBJECT PROPERTY and, where necessary, to enjoin such person from returning.  
43 The expense of any such action, including attorneys' fees, may be assessed against the applicable  
44 OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as  
45 elsewhere provided. The foregoing shall be in addition to any other remedy of the  
46 ASSOCIATION.  
47

48 7.07 No Waiver. The failure of the ASSOCIATION to enforce any right,  
49 provision, covenant, or condition which may be granted by this DECLARATION, the  
50 ARTICLES or the BYLAWS, shall not constitute a waiver of the right of the ASSOCIATION to  
51 enforce such right, provision, covenant, or condition in the future.  
52

53 7.08 Rights Cumulative. All rights, remedies and privileges granted to the  
54 ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this  
55 DECLARATION, the ARTICLES or BYLAWS, shall be deemed to be cumulative, and the  
56 exercise of any one or more shall neither be deemed to constitute an election of remedies, rights  
57 or privileges as may be granted or as it might have by law.  
58

59 7.09 Enforcement by or Against Other Persons. In addition to the foregoing,  
60 this DECLARATION may be enforced by DECLARANT (so long as DECLARANT is an  
61 OWNER), or the ASSOCIATION, by any procedure at law or in equity against any person  
62 violating or attempting to violate any provision herein, to restrain such violation, to require

1 compliance with the provisions contained herein, to recover damages, or to enforce any lien  
2 created herein. The expense of any litigation to enforce this DECLARATION, including  
3 attorneys' fees, shall be borne by the person against whom enforcement is sought, provided such  
4 proceedings results in a finding that such person was in violation of this DECLARATION. In  
5 addition to the foregoing, any OWNER shall have the right to bring an action to enforce this  
6 DECLARATION against any person violating or attempting to violate any provision herein, to  
7 restrain such violation or to require compliance with the provisions contained herein, but no  
8 OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a  
9 violation or failure to comply with the provisions contained herein by any person, and the  
10 prevailing party in such action shall be entitled to recover its reasonable attorneys' fees.  
11

12 8. Term of DECLARATION. All of the foregoing covenants, conditions,  
13 reservations, and restrictions shall run with the land and continue and remain in full force and  
14 effect at all times as against all OWNERS, their successors, heirs or assigns, regardless of how  
15 the OWNERS acquire title, for a period of fifty (50) years from the date of this  
16 DECLARATION, unless within such time, one hundred (100%) percent of the OWNERS  
17 execute a written instrument declaring a termination of this DECLARATION (as it may have  
18 been amended from time to time). After such fifty (50) year period, unless sooner terminated as  
19 provided above, these covenants, conditions, reservation and restrictions shall be automatically  
20 extended for successive periods of ten (10) years each, until a majority of the votes of the entire  
21 membership of the ASSOCIATION execute a written instrument declaring a termination of this  
22 DECLARATION (as it may have been amended from time to time). Any termination of this  
23 DECLARATION shall be effective on the date the instrument of termination is recorded in the  
24 public records of the county in which the SUBJECT PROPERTY is located, provided, however,  
25 that any such instrument, in order to be effective, must be approved in writing and signed by the  
26 DECLARANT so long as the DECLARANT owns any LOT, or holds any mortgage  
27 encumbering any LOT.  
28

29 9. AMENDMENT.  
30

31 9.01 This DECLARATION may be amended upon the approval of not less than  
32 2/3 of the OWNERS. In addition, so long as DECLARANT owns any portion of SUBJECT  
33 PROPERTY, this DECLARATION may amended from time to time, by DECLARANT and  
34 without the consent of the ASSOCIATION or any OWNER, and no amendment may be made by  
35 OWNERS without written joinder of DECLARANT. Such right of DECLARANT to amend this  
36 DECLARATION shall specifically include, but shall not be limited to, (i) amendments adding  
37 any property to the SUBJECT PROPERTY which is contiguous and which will be developed in  
38 a similar manner as the SUBJECT PROPERTY, or deleting any property from the SUBJECT  
39 PROPERTY which will be developed differently than the SUBJECT PROPERTY (provided that  
40 any such amendment shall require the joinder of the owners of such property or any portion  
41 thereof if different than DECLARANT, and further provided that DECLARANT shall not have  
42 the obligation to add any property to or delete any property from the SUBJECT PROPERTY),  
43 and (ii) amendments required by any INSTITUTIONAL LENDER or governmental authority in  
44 order to comply with the requirements of same. In order to be effective, any amendment to this  
45 DECLARATION must first be recorded in the public records of the county in which the  
46 SUBJECT PROPERTY is located and in the case of an amendment made by the OWNERS, such  
47 amendment shall contain a certification by the President and Secretary of the ASSOCIATION  
48 that the amendment was duly adopted.  
49

50 9.02 No amendment shall discriminate against any OWNER or class or group  
51 of OWNERS, unless the OWNERS so affected join in the execution of the amendment. No  
52 amendment shall change the number of votes of any OWNER or increase any OWNER's  
53 proportionate share of the COMMON EXPENSES, unless the OWNERS affected by such  
54 amendment join in the execution of the amendment. No amendment may prejudice or impair the  
55 priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL  
56 LENDERS join in the execution of the amendment. No amendment shall make any changes  
57 which would in any way affect any of the rights, privileges, powers or options herein provided in  
58 favor of, or reserved to, DECLARANT, unless DECLARANT joins in the execution of the  
59 amendment.  
60

61 10. SPECIAL PROVISIONS REGARDING INSTITUTIONAL LENDERS.  
62

1           10.01 Notice of Action. Upon written request to the ASSOCIATION by an  
2 INSTITUTIONAL LENDER holding, insuring or guaranteeing a first mortgage encumbering any  
3 LOT, identifying the name and address of the holder, insurer or guarantor and the LOT number  
4 or address, any such holder, insurer or guarantor will be entitled to timely written notice of:  
5

6                   10.01.01       Any condemnation or casualty loss which affects a material  
7 portion of the SUBJECT PROPERTY or the LOT;  
8

9                   10.01.02       Any sixty (60) day default in the payment of  
10 ASSESSMENTS or charges owed to the ASSOCIATION or in the performance of any  
11 obligation hereunder by the OWNER of the LOT;  
12

13                   10.01.03       Any lapse, cancellation or material modification of any  
14 insurance policy or fidelity bond maintained by the ASSOCIATION;  
15

16                   10.01.04       Any proposed action which would require the consent of a  
17 specified percentage of INSTITUTIONAL LENDERS.  
18

19           10.02 Consent of INSTITUTIONAL LENDERS. Whenever the consent or  
20 approval of any, all or a specified percentage or portion of the holder(s) of any mortgage(s)  
21 encumbering any LOTS is required by this DECLARATION, the ARTICLES, the BYLAWS, or  
22 any applicable statute or law, to any amendment of the DECLARATION, the ARTICLES, or the  
23 BYLAWS, or to any action of the ASSOCIATION, or to any other matter relating to the  
24 SUBJECT PROPERTY, the ASSOCIATION may request such consent or approval of such  
25 holder(s) by written request sent certified mail, return receipt requested (or equivalent delivery  
26 evidencing such request was delivered to and received by such holders). Any holder receiving  
27 such request shall be required to consent to or disapprove the matter for which the consent of  
28 approval is requested, in writing, by certified mail, return receipt requested (or equivalent  
29 delivery evidencing such request was delivered to and received by the ASSOCIATION). which  
30 response must be received by the ASSOCIATION within thirty (30) days after the holder  
31 receives such request, and if such response is not timely received by the ASSOCIATION, the  
32 holder shall be deemed to have consented to and approved the matter for which such approval or  
33 consent was requested. Such consent or approval given or deemed to have been given, where  
34 required, may be evidenced by an affidavit signed by all of the directors of the ASSOCIATION,  
35 which affidavit, where necessary may be recorded in the public records of the county where the  
36 SUBJECT PROPERTY is located, and which affidavit shall be conclusive evidence that the  
37 applicable consent or approval was given as to the matters therein contained. The foregoing shall  
38 not apply where an INSTITUTIONAL LENDER is otherwise require to specifically join in an  
39 amendment to this DECLARATION.  
40

41           10.03 Payment of Taxes and Insurance. Any INSTITUTIONAL LENDER may  
42 pay any taxes or assessments which are in default, or any overdue insurance premiums, or may  
43 secure new insurance upon the lapse of a policy, and shall be owed immediate reimbursement  
44 therefor from the ASSOCIATION plus interest at the highest rate permitted by law and any costs  
45 of collection, including attorneys' fees.  
46

## 47           11.    MISCELLANEOUS. 48

49           11.01 Conflict with ARTICLES or BYLAWS. In the event of any conflict  
50 between the ARTICLES and the BYLAWS and this DECLARATION, the DECLARATION, the  
51 ARTICLES, and the BYLAWS, in that order, shall control.  
52

53           11.02 Authority of ASSOCIATION and Delegation. Nothing contained in this  
54 DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its  
55 members, or to any officer, or to any committee or any other person, any power or right granted  
56 to the BOARD by this DECLARATION including, but not limited to, the right to exercise  
57 architectural control and to approve any deviation from any use restriction, and the BOARD is  
58 expressly authorized to so delegate any power or right granted by this DECLARATION.  
59

60           11.03 Severability. The invalidation in whole or in part of any of these  
61 covenants, conditions, reservations and restrictions, or any section, subsection, sentence, clause,

1 phrase, word or other provision of this DECLARATION shall not affect the validity of the  
2 remaining portions which shall remain in full force and effect.  
3

4 11.04 Validity. In the event any court shall hereafter determine that any  
5 provisions as originally drafted herein violate the rule against perpetuities, the period specified in  
6 this DECLARATION shall not thereby become invalid, but instead shall be reduced to the  
7 maximum period allowed under such rules of law.  
8

9 11.05 Assignment of DECLARANT's Rights. Any or all of the rights,  
10 privileges, or options provided to or reserved by DECLARANT in this DECLARATION, the  
11 ARTICLES, or the BYLAWS, may be assigned by DECLARANT, in whole or in part, as to all  
12 or any portion of the SUBJECT PROPERTY, to any person or entity pursuant to an assignment  
13 recorded in the public records of the county in which the SUBJECT PROPERTY is located. Any  
14 partial assignee of any of the rights of DECLARANT shall not be deemed the DECLARANT,  
15 and shall have no other rights, privileges or options other than as are specifically assigned. No  
16 assignee of DECLARANT shall have any liability for any acts of DECLARANT or any prior  
17 DECLARANT unless such assignee is assigned and agrees to assume such liability.  
18

19 11.06 Performance of ASSOCIATION's Duties by DECLARANT.

20  
21 DECLARANT shall have the right from time to time at its sole discretion, to perform at  
22 DECLARANT's expense the duties and obligations required hereunder to be performed by the  
23 ASSOCIATION, and in connection therewith to reduce the budget of the ASSOCIATION and  
24 the ASSESSMENTS for COMMON EXPENSES payable by the OWNER, provided however  
25 that any such performance on the part of DECLARANT may be discontinued by DECLARANT  
26 at any time, and any such performance shall not be deemed to constitute a continuing obligation  
27 on the part of DECLARANT.  
28

29 11.07 Inapplicability of Condominium Act. It is acknowledged that the  
30 ASSOCIATION is not intended to be a condominium association, and is not intended to and  
31 shall not be governed by the provisions of Florida Statutes, Chapter 718.  
32

33 11.08 Actions Against DECLARANT. The ASSOCIATION shall not institute  
34 any legal proceedings against DECLARANT, or spend or commit to spend any ASSOCIATION  
35 funds in connection with any legal proceedings against DECLARANT, or make a special  
36 ASSESSMENT for funds to pay for costs or attorneys' fees in connection with any legal  
37 proceedings against DECLARANT, without the consent of 75% of the votes of all of the  
38 OWNERS obtained at a meeting of the OWNERS called expressly for the purpose of approving  
39 such action.  
40

41 IN WITNESS WHEREOF, DECLARANT has executed this DECLARATION  
42 this \_\_\_\_ day of October, 1993.  
43  
44  
45  
46