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BOB INZER, CLERK OF COURTS

**RESTATED AND AMENDED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SWIFT CREEK WOODS**

THIS RESTATMENT AND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SWIFT CREEK WOODS ("Declaration"), such Declaration being made by BYRON BLOCK as Managing Trustee under Deed and Conveyance in Trust recorded in Deed Book 260, Page 535, Public Records of Leon County, Florida and as per Agreement to Further Amend Trust and Naming Managing Trustee dated October 30, 1991 and recorded in Official Records Volume 1528 at Page 1743, Public Records of Leon County, Florida, and such Declaration being dated October 30, 2000, and recorded in Official Records Book 2429 at Page 565 of the Public Records of Leon County, Florida, is made and entered into this 9th date of July, 2001, by BYRON BLOCK, as Managing Trustee ("Declarant"), and joined by the Swift Creek Woods Homeowner's Association, Inc., a Florida not-for-profit corporation ("Association").

**WITNESSETH**

WHEREAS, Declarant, together with MARCIA DEEB THORNBERRY as Trustees, are the legal owners of certain property located in Leon County, Florida, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof, and

WHEREAS, the Trustees have heretofore designated the Declarant as Managing Trustee, and

WHEREAS, the Trustees have determined through a Florida general partnership with third parties to develop said parcel of real estate into single family residential lots in a subdivision known as "SWIFT CREEK WOODS", and

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

**ARTICLE I  
DEFINITIONS**

Section 1. "Annexation Notice" shall mean and refer to the notice by which additional lands are subjected to the provisions of this Declaration as more particularly described in Article XXX.

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Section 2. "Architectural Committee" shall mean the Architectural Control Committee established pursuant to Article X hereof and initially consisting of Byron B. Block and Cathy Mayfield.

Section 3. "Articles" shall mean and refer to the Articles of Incorporation of the Association filed with the Florida Secretary of State attached hereto as Exhibit "B".

Section 4. "Assessments" shall mean and refer to any assessments made in accordance with this Declaration.

Section 5. "Association" shall mean and refer to Swift Creek Woods Homeowner's Association, Inc., a Florida non-profit corporation, its successors and assigns.

Section 6. "Board" shall mean and refer to the Board of Directors of the Association.

Section 7. "By-Laws" shall mean and refer to the By-Laws of the Association attached hereto as Exhibit "C".

Section 8. "Common Area" shall mean and refer to all real property and/or easement rights (and interests therein and improvements thereon) and personal property within the Properties, as they exist from time to time, and all additions thereto, which is, or is to be, designated as Common Area by Declarant and, provided for, owned or leased by, or dedicated to, the common use and enjoyment of the Owners which may include, without limitation, open space areas, irrigation pumps and lines, sidewalks, streets, service roads, site walls, commonly used utility facilities, project signage, commonly used parking areas and easements, commonly used lighting, entranceways and features. The Common Area shall also include all portions of the Properties which are designated as such by Declarant or on any plan or map prepared by Declarant. The Common Area does not include any Lots.

Section 9. "Community" shall mean and refer to the Community known as Swift Creek Woods Subdivision in which the Properties are located. The Declarant may, when amending or modifying the description of Properties subject to the operation of this Declaration, also amend or modify the definition of the Community.

Section 10. "Community Completion Date" shall mean and refer to the date upon which all Lots in the Community, as ultimately planned and as fully developed, have been conveyed by Declarant to Owners.

Section 11. "Community Standards" shall mean and refer to such standards of conduct, maintenance or other activity, if any, established by Declarant, the Association, the Architectural Committee, the Board or any committee thereof relating to, amongst other things, activities described in Article X hereof.

Section 12. "Declarant" shall mean and refer to Byron Block, the Managing Trustee, his specific designees, successors and assigns, as well as any Co-Trustee referred to hereinabove, their successors and assigns, if such successors or assigns should acquire more than one

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unimproved lot from any Declarant for the purpose of development and such successor or assign has received a written assignment of such Declarant's rights hereunder. "Declarant" shall include the singular and the plural as the context may require.

Section 13. "Declaration" shall mean and refer to this Restated and Amended Declaration of Covenants, Conditions and Restrictions for Swift Creek Woods as amended from time to time.

Section 14. "Exclusive Common Area" shall mean and refer to those portions of the Common Area which have been restricted to use by less than all Owners.

Section 15. "Home" shall mean and refer to a residential dwelling and appurtenances thereto constructed or placed on a Lot within the Properties.

Section 16. "Lender" shall mean and refer to the holder, insurer or guarantor of a first mortgage encumbering a Lot.

Section 17. "Lot" shall mean and refer to a parcel of real property upon which a Home has, or will, be constructed or located. Once improved, the term Lot shall include the Home and all improvements thereon and appurtenances thereto. The term Lot, as used herein, may, or may not, reflect the same division of property as exists on the underlying Plat affecting the Properties.

Section 18. "Management Firm" shall mean and refer to the firm designated by the Declarant and/or Association as the Manager of those portions of the Properties which they are, respectively, obligated to operate and/or manage hereunder, if any.

Section 19. "Master Plan" shall mean and refer to the proposed Master Plan for the development of the Community, as it exists as of the date of recording this Declaration. The Master Plan is subject to change as set forth herein. References to the Master Plan are for the purpose of identifying the various Lots and Common Areas which may be subjected by Declarant to the provisions hereof and shall not be deemed to obligate the Declarant to do so, or, be deemed to be a representation by Declarant as to the development of the Community or its amenities.

Section 20. "Operating Costs" shall mean and refer to all costs of ownership, operation and administration of the Association and Common Area to be paid by the Association hereunder, including, but not necessarily limited to, funds expended by Declarant prior to conveyance and/or dedication of the Common Area, utilities, taxes, insurance, bonds, salaries, management fees, professional fees, administrative costs, service costs, supplies, maintenance, repairs, replacements and refurbishments and any and all costs relating to the discharge of the obligations hereunder or as determined to be part of the Operating Costs by the Association as provided herein.

Section 21. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is part of the Properties, including contract sellers. The term "Owner" shall not include Declarant, or those persons or entities

designated by Declarant, or a Lender or those having an interest in a Lot or a portion of the Properties merely as security for the performance of an obligation.

Section 22. "Plat" shall mean and refer to the plat of the Properties of Swift Creek Woods, as filed in the Public Records of Leon County, Florida, as the same may be amended by Declarant, from time to time.

Section 23. "Properties" shall mean and refer to that certain real property described in Exhibit "A" affixed hereto and made a part hereof, subject to additions thereto or deletions therefrom as may hereafter be brought within, or deleted from, the provisions and applicability of this Declaration.

Section 24. "Public Records" shall mean and refer to the Public Records of Leon County, Florida.

Section 25. "Rules and Regulations" shall mean and refer to the Rules and Regulations affecting the Properties as adopted from time to time.

Section 26. "Special Assessments" shall mean and refer to those Assessments more particularly described as Special Assessments in Article XXII hereof.

Section 27. "Withdrawal Notice" shall mean and refer to the notice by which portions of the Properties are withdrawn from the provisions of this Declaration as more particularly described in Article XXX hereof.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in the Properties, shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Area which it is entitled to use for their intended purpose, subject to the following provisions:

(a) The right of Declarant to restrict the use of certain portions of the Common Area to the Owners of certain Lots as Exclusive Common Area.

(b) Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

(c) The right to suspend the voting right and right to use all (except ingress and egress and necessary utilities) or a portion of the Common Area by an Owner, its immediate family, etc. for any period during which any assessment against that Owner remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of Rules and Regulations governing the use of the Common Area.

(d) The right of Declarant and/or Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Declarant.

(e) The right of Declarant and/or Association to modify the Common Area as set forth in this Declaration.

(f) The rights of Declarant and/or Association regarding the Properties, as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

(g) Rules and Regulations adopted governing use and enjoyment of the Common Area.

Section 2. Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Area to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. A copy of the lease or occupancy agreement shall be provided to the Association. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

### ARTICLE III BINDING AGREEMENT, MEMBERSHIP AND VOTING RIGHTS

Section 1. Agreement. Each Owner by acceptance of title to a Lot and any person claiming by, through or under such Owner, agrees to be subject to this Declaration and the provisions hereof. The provisions of this Declaration are equitable servitudes and run with the land.

Section 2. Transfer. Each Owner shall be prohibited from transferring title to a Lot for a period of two (2) years from the date on which the Owner acquired fee title to the Lot, except that this prohibition shall not apply to any builder who has acquired title to a Lot for the purpose of the construction and sale of a Home thereon. The transfer of the fee title to a Lot, whether voluntary or by operation of law, terminating the Owner's title to that Lot shall terminate the Owner's rights to the use and enjoyment of the Common Area as it pertains to that Lot. An Owner's rights and privileges under this Declaration are not separately assignable. The Owner of each Lot is entitled to the benefits of, and is burdened with the duties and responsibilities according to, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Lot shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration.

Section 3. Membership. Upon acceptance of title to a Lot and as more fully provided in the Articles and By-Laws, each Owner becomes a Class A member of the Association. In addition to those rights granted herein, Membership rights are also governed by the provisions of

the Articles and By-Laws. Membership shall be an appurtenance to, and may not be separated from, the ownership of a Lot.

The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Declarant is the Class B member of the Association. Class B members shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon any of the events specified in Article XXVIII, Section 13.

Section 4. Voting Rights. Voting rights in the Association are governed by the provisions of the Articles and By-Laws.

Section 5. Restrictions. Neither the Association nor any Owner, nor group of Owners, may record any legal documents which, in any way, affect or restrict the rights of Declarant or conflict with the provisions of this Declaration without the prior written consent of Declarant.

#### ARTICLE IV OPERATION OF COMMON AREA/COMMUNITY DEVELOPMENT FACILITIES

Section 1. Prior to Conveyance. Prior to the conveyance or dedication of portions of the Property to the Association that portion of the Property shall be owned, operated and administered by the Declarant, at the sole cost of the Association, for all purposes and uses reasonably intended, as Declarant in his sole discretion, deems appropriate. During such period, the Declarant shall own, operate and administer such Property without interference from any Owner or Lender or any other person or entity whatsoever. Upon conveyance and/or dedication such Property shall become Common Area.

Section 2. Operation after Conveyance. After the conveyance or dedication of all or a portion of the Common Area to the Association, the portion of the Common Area so dedicated shall be owned, operated and administered by the Association for use and benefit of the owners of all property interests in the Properties, including, but not limited to, Association, Declarant, Owners and Lenders. Once conveyed or dedicated to the Association title to the Common Area may not, subject to the Association's right to grant easements, etc., be conveyed, abandoned, alienated, encumbered or transferred, without: (i) if prior to the Community Completion Date, the prior written consent of Declarant being first had and obtained; and (ii) thereafter, the prior written consent being obtained from the Board and Owners in the manner provided in Article XXX, Section 10, hereof; and (iii) the prior written consent of the Declarant being first had and obtained.

Section 3. Construction of Facilities. Declarant may construct, at his sole cost and expense, certain improvements as part of the Common Area together with personalty contained

therein, and such other improvements and personalty as Declarant determines, in its sole discretion. Declarant shall be the sole judge of the composition of such improvements. Prior to the Community Completion Date, Declarant reserves the absolute right to, from time to time, in its sole discretion, construct additional Common Area improvements within the Community and to remove, add to, modify and change the boundaries, facilities and improvements now or then part of the Common Area. Declarant is not obligated to, nor has it represented that it would, modify or add to the facilities, improvements or Common Area as they are contemplated as of the date hereof.

Declarant, is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size and contents of the improvements or Common Area or changes or modifications thereto.

Section 4. Delegation. Once conveyed or dedicated to the Association the Common Area and improvements located thereon, shall, subject to the provisions of this Declaration, at all times be under the complete supervision, operation, control and management of the Association. The Association may delegate all or a portion of such supervision, operation, control and management to such parties or entities as it deems appropriate.

Section 5. Use. The Common Area shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of the Association) entitled to use those portions of the Common Area. Prior to the Community Completion Date, the Declarant, and thereafter, the Association, has the right, at any and all times, and from time to time, to further additionally provide and make the Common Area available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

Section 6. Rules. Prior to the Community Completion Date, the Declarant, and thereafter the Association, shall have the right to adopt rules and regulations governing the use of the Common Area. The Rules and Regulations attached hereto are adopted as the initial rules and regulations governing, amongst other things, the use of the Common Area.

Section 7. Exceptions. The Rules and Regulations shall not apply to Declarant, or its designees, or to any property owned by Declarant or its designees, and shall not be applied in a manner which would prohibit or restrict the development of the Community, Properties and the development, construction and sale of any Lot by Declarant or its designees. Specifically, subject to the provisions of Article XXVII, and without limitation, Declarant, and/or its assigns, shall have the right to: (i) develop the Properties and construct improvements on any Lot and related improvements within the Properties, and make any additions, alterations, improvements, or changes thereto; (ii) maintain customary and usual sales, general and administrative office and construction operations on the Properties; (iii) place, erect or construct portable, temporary or accessory buildings or structures upon the Properties for sales, construction, storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any of the Properties, Lots or Homes; (v)

post, display, inscribe or affix to the exterior of a Lot, Home, or upon the Properties, signs and other materials used in developing, constructing, selling or promoting the sale of the Properties, Lots and Homes; (vi) excavate fill from any waterways within and/or contiguous to the Properties by dredge or dragline, store fill on the Properties and remove and/or sell excess fill; and (vii) grow or store plants and trees within, or contiguous to, the Properties and use and/or sell excess plants and trees; and (viii) undertake all activities which, in the sole and unrestricted discretion of Declarant are necessary for the development and sale of the Properties or any lands or improvements therein, Lots and Homes.

Section 8. Default. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Properties and/or Common Area, or any other act of omission by any of them, shall be construed or considered: (a) as a breach by Declarant, or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) as an actual, implied or constructive dispossession of another Owner from the Common Area; or (c) as an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

Section 9. Over-all Systems. This Declaration allows for the providing of Common Area maintenance, and other matters relating to the Community as a whole. Each Owner shall, if requested by the Declarant and/or Association, enter into agreements relating to any of the same.

Section 10. Water Mains. In the event a utility company must remove, or requires the Association and/or any Owner to remove, any portion of a driveway which is constructed of concrete and on the Common Area, then the Association will be responsible to replace or repair the driveway at the Association's expense.

Section 11. Conveyance. Within sixty (60) days after the Community Completion Date, or earlier as determined by Declarant in its sole discretion, all or portions of the Common Area may be dedicated or conveyed by Plat, or by written instrument recorded in the Public Records, or by Quit Claim Deed from Declarant to the Association. The dedication or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. The Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership, operation, maintenance and administration of the dedicated or conveyed portions of Common Area and other obligations relating to the Common Area imposed herein. The Association shall, and does hereby, indemnify and hold Declarant harmless on account thereof. The Association shall be obligated to accept such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Area, personal property and any equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREA BEING CONVEYED. The Association shall pay all costs associated with the dedication or conveyance(s).



Section 12. Designation of Operating Entity. The Declarant shall have the right, but not the obligation, in its sole discretion, to: (i) designate the Association to operate, at the expense of the Association, portions of the Properties prior to, or in the absence of, dedication or conveyance; and (ii) relinquish and/or assign to the Association some or all of the rights reserved to Declarant herein. The Association shall be obligated to accept such designation and assignments and fulfill the obligations relating thereto.

Section 13. Disputes as to Use. If there is any dispute as to whether the use of any portion of the Properties complies with this Declaration, or the allocation of Operating Costs relating thereto, such dispute shall, prior to the Community Completion Date, be decided by Declarant, and thereafter by the Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

Section 14. Other Property. The Declarant and/or Association may enter into easement agreements or other use or possessory agreements whereby the Owners and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. The Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, replacement or maintenance of such property, the expenses of which shall be Operating Costs. Any such agreement by the Association prior to the Community Completion Date, shall require the prior written consent of Declarant.

Section 15. Indemnification. The Association and Owners each covenants and agrees, jointly and severally, to indemnify, defend and hold harmless Declarant and any related persons or corporations, and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Area, or other property serving the Association or Owners, and improvements thereon, or resulting from or arising out of activities or operations of the Association or Owners, and from and against all costs, expenses, court costs, counsel fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by the Association.

## ARTICLE V MAINTENANCE OBLIGATIONS

Section 1. Common Area. Except as otherwise specifically provided in this Declaration to the contrary, the Association shall at all times maintain, repair, replace and insure the Common Area, including all improvements placed thereon.

Section 2. Lots. Except as otherwise provided in this Declaration, each Lot and all improvements thereon and appurtenances thereto, shall be maintained in first class condition by

the Owner thereof, in accordance with the requirements of the Declaration, Community Standards, and the Rules and Regulations promulgated from time to time.

Section 3. Lawn Maintenance and Irrigation. The Association shall cut and trim the front, side and back lawns of each Lot. Owners may not use the Common Area irrigation system to irrigate lawns or plantings on a Lot.

Section 4. Negligence. Notwithstanding anything to the contrary contained in this Declaration, the expense of any maintenance, repair or construction of any portion of the Common Area necessitated by the negligent or willful acts of an Owner, or persons utilizing the Common Area by, through or under Owner, shall be borne solely by such Owner and the Lot owned by that Owner shall be subject to a Special Assessment for that expense.

Section 5. Right of Entry. The Declarant and Association are granted a perpetual and irrevocable easement over the Properties for the purposes herein expressed, including the right to inspect (including inspection to ascertain compliance with the provisions of this Declaration) or to perform any maintenance, alteration or repair which it is entitled to perform.

Section 6. Additional Maintenance. The Association shall, if designated by Declarant by notice to the Association, maintain vegetation, landscaping, sprinkler system, community identification or features and/or other elements designated by Declarant upon areas which are not within the Properties but abut, or are proximate to, same and are owned by, or dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, so as to enhance the appearance of the Properties or Community. These areas may include (for example and not limitation) swale areas or median areas within the right of way of public streets, lawns, roads, drainage areas, community identification or features, community signage or other identification and/or areas within canal rights of ways or other abutting waterways.

Section 7. Restrictions. The Properties may be subject to governmental restrictions or requirements. There may be various rights granted to and responsibilities imposed upon the Association and/or Owners arising from those governmental restrictions or requirements arising out of restrictions, reservations, easements and limitations of record otherwise affecting the Properties. The Association and Owners shall comply with same, and discharge their respective duties relating thereto.

## ARTICLE VI USE RESTRICTIONS

(a) Each Owner and its tenants and the members of their respective families, invitees, servants, occupants and guests and other persons or entities shall observe, and comply with, all Rules and Regulations which now or may hereafter be promulgated, from time to time, for the use, care, safety and cleanliness of the Properties, for the preservation of good order therein, and for the comfort, quiet and convenience of all users of the Properties. The Rules and Regulations as promulgated, from time to time, shall be effective from the date of adoption. Neither the Declarant nor Association shall be bound by the Rules and Regulations or liable to any Owner due to any violation of the Rules and Regulations as promulgated, from time to time. The Rules

and Regulations promulgated from time to time shall be specifically enforceable by injunction or otherwise, and shall have the effect of covenants as if set forth herein verbatim. The Association may impose a fine against the Owner for failure to comply with the Rules and Regulations.

(b) Subject to the terms of this Declaration, the Articles and By-Laws, the Association shall have the authority to make any additional capital improvements upon the Common Area necessary to provide facilities or services specifically designed to meet the requirements of the Fair Housing Amendments Act of 1988.

## ARTICLE VII INSURANCE

The Association shall maintain, unless it is reasonably determined that such insurance is unavailable or cost prohibitive, the following insurance coverages:

Section 1. Flood Insurance. If the Common Area is located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), coverage, in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Area located within a designated flood hazard area.

Section 2. Liability Insurance. Commercial general liability insurance coverage, providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to the Declarant (until the Community Completion Date), Declarant and the Association.

Section 3. Other Insurance. Such other insurance coverages as appropriate from time to time. All coverages obtained by the Association shall cover all activities of the Association and all properties maintained by the Association, whether or not the Association owns title thereto.

Section 4. Homes. Each Owner shall maintain adequate insurance to provide sufficient proceeds to rebuild its Home and related improvements in the event of casualty. The Home shall be rebuilt promptly after casualty. Proof of such insurance shall be provided to the Association upon request.

Section 5. Fidelity Bonds. If available, a blanket fidelity bond for all officers, directors, trustees and employees of the Association, and all other persons handling or responsible for funds of, or administered by, the Association. In the event the Association delegates some or all of the responsibility for the handling of the funds to a Management Firm, such bonds are required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of the Association. The amount and terms of the fidelity bond shall be based upon reasonable business judgment.

Section 6. Association as Agent. The Association is irrevocably appointed agent for each Owner relating to the Common Area to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

Section 7. Responsibility. In the event of damage to the Common Area, or any portion thereof, the Association shall be responsible for reconstruction after casualty. In the event of damage to a Lot, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

Section 8. Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, (subject to modification to conform with the then current governmental regulations) and, prior to the Community Completion Date, as deemed appropriate by Declarant, in its sole discretion.

Section 9. Additional Insured. The Declarant, and its lender(s) shall be named as additional insured on all policies obtained by the Association, as their interests may appear.

Section 10. Cost of Payment of Premiums. The costs of all insurance maintained by the Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs.

## ARTICLE VIII COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Subject to the provision of Section 11 of this Article hereinafter, the Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges; (2) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (3) Special Assessments against individual Owners under Article XXII of this Declaration. The annual and Special Assessments, together with interest, late fees, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties, and for the improvement and maintenance of the Common Area, and for the exterior maintenance under Article XXII of this Declaration.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance by Declarant of the first Lot to an Owner, the maximum annual assessment shall be Seventy-Five and no/100 Dollars (\$75.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than twenty-five percent (25%) above the assessment for the previous year without a vote of the membership.

(b) From and after January of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above twenty-five percent (25%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The Board may increase the annual assessment at any time to an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or proxies entitled to cast a majority of all the votes of members shall constitute a quorum.

Section 6. Uniform Rate of Assessment and Collection. Both annual and Special Assessments, other than assessments under Article XXII of this Declaration, shall be fixed at a uniform rate for all Lots except as is provided by Section 11 hereinafter. Assessments may be collected on an installment basis at the discretion of the Board.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the substantial completion of landscape improvements on the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date of the annual assessment shall be January 1 of each year. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Collection of Assessments; Effect of Nonpayment of Assessments; Remedies of the Association. If any Assessment is not paid within fifteen (15) days after the due date, a

