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AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR FOX HILL ESTATES OF BOCA RATON
WHICH SHALL HEREAFTER BE REFERRED TO AS THE
AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE OAKS AT BOCA RATON

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EXHIBITS

Exhibit "A"	-	Articles of Incorporation of The Oaks at Boca Raton Property Owners' Association, Inc.
Exhibit "B"	-	By-Laws of The Oaks at Boca Raton Property Owners' Association, Inc.
Exhibit "C"	-	Legal Description
Exhibit "D"	-	Rules and Regulations

**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE OAKS AT BOCA RATON
(FORMERLY FOX HILL ESTATES OF BOCA RATON)**

WHEREAS, FOX HILL, LTD., a Florida limited partnership (the "Prior Declarant"), formerly owned the Original Land (as defined below) and recorded that certain Declaration of Covenants, Conditions, Easements and Restrictions for Fox Hill Estates of Boca Raton recorded on January 10, 2000 in Official Records Book 11553, Page 557 of the Public Records of Palm Beach County, Florida (the "Original Declaration");

AND WHEREAS, the Prior Declarant has sold and conveyed all of its right, title and interest in the Original Land to the Declarant (as defined below);

AND WHEREAS, Article XII of the Original Declaration provides that the Prior Declarant, its successors and assigns currently have the unconditional right to alter or modify the restrictive covenants therein;

AND WHEREAS, pursuant to that certain Covenant recorded May 24, 2001 in Official Records Book 12585, Page 724 of the Public Records of Palm Beach County, Florida (the "Covenant"), all of those parties with an interest in the Original Land, including the Prior Declarant and the Initial Builders (as defined below), agreed that the Declarant may unilaterally amend the Original Declaration;

AND WHEREAS, pursuant to that certain Assignment of Declarant's Rights recorded May 24, 2001 in Official Records Book 12585, Page 712 of the Public Records of Palm Beach County, Florida, Prior Declarant assigned to Declarant all of its right, title and interest as "Declarant" under the Original Declaration;

AND WHEREAS, the Declarant has elected to change the name of the subject project from Fox Hill Estates of Boca Raton to The Oaks at Boca Raton and to amend and restate the Original Declaration as set forth herein;

NOW, THEREFORE THIS AMENDED AND RESTATED DECLARATION is made as of the 2nd day of August, 2004, by the Declarant, as successor in interest to the Former Declarant, which declares hereby that The Oaks at Boca Raton (f/k/a Fox Hill Estates of Boca Raton) is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth. The terms and conditions of this Amended and Restated Declaration shall amend and supercede in all respects the terms and conditions of the Original Declaration in its entirety.

**ARTICLE 1.
DEFINITIONS AND INTERPRETATION**

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- 1.1. "ACC" shall mean the Architectural Control Committee selected from time to time by the Board of Directors to approve all buildings, structures or improvements on any Lot as more fully described in accordance with Section 7.13 hereof.
- 1.2. "Articles" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of Florida, a true copy of which is set forth as Exhibit "A" hereto, and incorporated herein by this reference, as such Articles may be amended from time to time
- 1.3. "Assessments" shall collectively mean all assessments payable to the Association pursuant to this Declaration or otherwise with respect to any Lot, including without limitation the regular annual assessments, specific special assessments, general special assessments, capital improvement assessments and neighborhood assessments all as more fully described in Article 5 hereof.
- 1.4. "Association" shall mean and refer to THE OAKS AT BOCA RATON PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not for profit, f/k/a Fox Hill Estates Association, Inc.
- 1.5. "Board of Directors" shall mean the Board of Directors of the Association
- 1.6. "Builder" shall mean and refer to a party acquiring one or more Lots from Declarant for the purpose of constructing thereon a single family home for "retail" sale and designated by Declarant as a "Builder" and shall include the Initial Builders. In the event of any doubt or conflict as to whether any party is a Builder hereunder, a written statement from Declarant regarding same shall be binding and conclusive.
- 1.7. "By Laws" shall mean the By Laws of the Association, which have been adopted by the Board of Directors, a true copy of which is set forth as Exhibit "B" attached hereto and incorporated herein by this reference, as such By Laws may be amended from time to time.
- 1.8. "Common Properties" shall mean and refer to all property including any fixtures or improvements thereon owned, leased or the use of which has been designated, assigned or granted to the Association by Declarant in writing, herein or otherwise, as well as all property designated as Common Properties in any future recorded supplemental declaration or any portion of a plat or replat of The Oaks dedicated to or reserved for the Association; together with the landscaping and any and all improvements thereon, including, without limitation, all private roadways and pedestrian walkway areas, structures, surface water management systems, recreational facilities, open space, green areas, conservation easements and areas, walkways, sprinkler systems and street lights, perimeter privacy wall, gatehouses, entry gates, if any, entry features, but excluding any public utility installations thereon not owned by the Association, and any other property of Declarant used in connection with the construction, development and marketing

of The Oaks (i.e., sales office, furnishings, equipment, and construction vehicles and supplies). Each Lot Owner shall be deemed to accept title to the Lot, subject to the easements reserved in the Plat, any other plat affecting title to The Oaks and herein reserved over the Common Properties. Declarant may, from time to time by supplemental declaration, for as long as it owns any property within The Oaks, add or withdraw Common Properties from the jurisdiction of this Declaration pursuant to Sections 2.2 and 2.3 below, whereupon such property shall become part of the Common Properties or shall no longer constitute a portion of the Common Properties (as the case may be). In the event that the Association accepts an easement, use rights, maintenance rights or obligation or a similar grant over, under or through any portion of The Oaks or any property adjacent thereto or in the vicinity thereof, including, without limitation, public road medians, the area subject to such easement shall be deemed Common Properties for the purposes of, but only for the purposes of, the Association performing whatever duties or obligations are stated in, or implied by law with respect to such easement or other grant (but including but not limited to any maintenance rights or obligations). The Common Properties do not include any portion of a Home.

- 1.9. "Community Standards" shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 7.14 hereof.
- 1.10. "Community Systems" shall mean and refer to any and all natural gas supply system, cable/television, alarm/monitoring or other lines, conduits, wires, amplifiers, towers, antennae, equipment, materials, Telecommunications Services, installation and fixtures (including those based on, containing or serving future technological advances not now known) installed by Declarant or pursuant to any grant of easement or authority by Declarant within The Oaks and serving more than one Lot.
- 1.11. "County" shall mean and refer to Palm Beach County, Florida.
- 1.12. "Declarant" shall mean and refer to The Oaks at Boca Raton Venture, L.P., a Florida limited partnership, its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned in writing. Declarant may assign all or a portion of its rights hereunder. In the event of any assignment hereunder, unless specifically stated otherwise in the assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of Declarant specifically assigned to it upon the assignee assuming in writing the rights assigned. Any assignment may be made on a nonexclusive basis.
- 1.13. "Home" shall mean and refer to the individual residential structure and related improvements and appurtenances thereto constructed on a Lot or Lots. A Home shall include, without limitation, a coach home, villa, townhouse unit, single family home and zero lot line home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such

Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Lot Owner to pay Assessments with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

- 1.14. "Initial Builders" shall mean and refer to those Builders who are designated as the "Owners" in the Covenant; to wit, the Prior Declarant, DFP Associates, Inc., a Florida corporation, Watermark Group, Inc., a Florida corporation, and Qualk Homes, Inc., a Florida corporation.
- 1.15. "Lot" shall mean and refer to any lot on a Plat of land within The Oaks, which Plat is designated by Declarant hereby or by a Supplement or any other recorded instrument executed by Declarant to be subject to these covenants and restrictions, any lot shown upon any resubdivision of any such Plat, and any other property hereafter declared in writing as a Lot by the Declarant and thereby made subject to this Declaration, together with all structures and/or improvements thereon including, but not limited to, a Home.
- 1.16. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title, or an undivided interest therein, to any Lot situated within The Oaks, including but not limited to, Builders and the Declarant.
- 1.17. "Member" shall mean and refer to all those Lot Owners who are Members of the Association as provided in Article 3 hereof, including Builders and the Declarant and shall include "Founder Members" as provided in Article 3.1 hereof.
- 1.18. "Member's Permittee" shall mean and refer to a person described in Section 7.29 hereof.
- 1.19. "Mortgage Lender" shall mean and refer to a bank, savings and loan association, mortgage banker or company, pension fund, agency of the United States Government, Real Estate Investment Trust, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Declarant, or any other lender (or any successor or assign thereof) holding a first mortgage lien on a Lot(s) which is subject (i.e., subordinate) only to tax liens and secures an indebtedness which is amortized in monthly or quarter-annual payments over a period of not less than ten (10) years.
- 1.20. "Multichannel Video Programming Service" shall mean any method of delivering video programming to Homes including, without limitation, interactive video programming. By way of example, and not of limitation, the term "Multichannel Video Programming Service" may include cable television, satellite master antenna television, multipoint distribution systems, video dial tone, open video system or any combination thereof.

- 1.21. "Neighborhood" shall mean and refer to a group of Lots receiving additional services provided by the Association, at the Neighborhood's expense, which are not provided to other Lots (e.g., additional landscape maintenance, special lighting, entry features and signage, etc.). There may be more than one Neighborhood. Until Class B membership ceases, Neighborhoods may be designated solely by the Declarant. After Class B membership ceases, additional Neighborhoods may be designated by the Association. All groups of zero lot line Lots, as more particularly described in Section 4.11(b) below, shall be treated collectively as a Neighborhood under this Declaration.
- 1.22. "The Oaks or The Oaks at Boca Raton" shall mean and refer to the Total Land (as same may be increased or decreased pursuant to Article 2 hereby). The Association shall maintain those areas lying outside of The Oaks which it is obligated to maintain pursuant to agreements between or with governmental entities and the Declarant and the Association or as Declarant has determined in its sole discretion.
- 1.23. "Original Land" shall include all the property described in the Original Declaration (legal description attached hereto as Exhibit "C-1").
- 1.24. "Plat" shall mean and refer to any plats of all or a portion of the land lying within the Total Land (including, but not limited to, any land added to the Total Land in accordance with the provisions of Article 2 hereof) and any replats thereof (or of portions thereof), including, without limitation, the Plat of Fox Hill Estates of Boca Raton, recorded at Plat Book 87, Page 4 of the Public Records of the County.
- 1.25. "Premium Channels" shall mean any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax, and the Movie Channel.
- 1.26. "Special Use Fees" shall have the meaning set forth in Section 5.14 hereof.
- 1.27. "Supplement" shall mean any recorded supplemental declaration executed by Declarant, which shall be recorded in the public records of the County, as more fully set forth in Section 2.2 and Section 2.3 herein.
- 1.28. "Telecommunications Provider" shall mean any party contracting with Association to (i) provide Lot Owners with one or more Telecommunications Services or (ii) to own, maintain and repair Telecommunications Systems allowing Telecommunications Services to be provided to The Oaks. Declarant may be a Telecommunications provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Multichannel Video Programming Service, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Multichannel Video Programming Service.

- 1.29. "Telecommunications Services" shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intercalate, and interrelate voice telephony and data transmission service, Multichannel Video Programming Service, and Monitoring System. Without limiting the foregoing, such Telecommunications Services may include the provision of the following services: Toll Calls, Data Transmission Services, Basic Service and Premium Channels.
- 1.30. "Telecommunications Systems" shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to The Oaks. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, wireless cell sites, computers, modems, satellite antennae site(s), transmission facilities, amplifiers, junction boxes, trunk distribution, drop cables, electrical apparatus, converters, connections, head-end antennae, earth station(s), appurtenant devices, network facilities necessary and appropriate to support provisions of local exchange services and/or any other term appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all of a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).
- 1.31. "Title Documents" shall have the meaning set forth in Section 6.9 hereof.
- 1.32. "Total Land" shall mean and refer to the property legally described in Exhibit "C" attached hereto and made a part hereof. The Total Land includes all the property described in the Original Declaration (legal description attached hereto as Exhibit "C-1") (defined herein as the "Original Land") and additional property described in Exhibit "C-2" attached hereto and made a part hereof. Property may be added to the Total Land and/or withdrawn therefrom from time to time by Declarant as more fully set forth herein in Article 2.

ARTICLE 2.
PROPERTY SUBJECT TO THIS DECLARATION;
ADDITIONS AND WITHDRAWALS

- 2.1. Property Subject to Declaration. The real property which, initially, is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is the Total Land, which land and improvements thereon (and all additions and improvements thereto and less any withdrawals therefrom) is herein referred to collectively as "The Oaks".
- 2.2. Supplements. Declarant may, (in Declarant's sole and absolute discretion) from time to time add additional land to the Total Land or The Oaks, whether contiguous to the Total Land or not, by recording a Supplement (such Supplement shall not require the consent of any other party, including, without limitation, the then existing Lot Owners, the Association, or any mortgagee other than that of the

land intended to be added thereto). If such Supplement requires the approval of the County Attorney or Board of County Commissioners, such consent shall be obtained. Nothing herein, however, shall obligate the Declarant to add to the initial portion of The Oaks or to the Total Land, to develop any such future portions, nor to prohibit Declarant from changing plans with respect to such future portions. All Lot Owners shall be deemed to consent to any such change, addition or deletion thereafter made by the Declarant and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general automatic effect of this provision).

- 2.3. Withdrawal. Declarant reserves the right to amend this Declaration at any time by recording a Supplement (such Supplement shall not require the consent of any other party, including, without limitation, the then existing Lot Owners, the Association, or any mortgagee other than that of the land intended to be added thereto) without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Oaks then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any changes in the plans for The Oaks desired to be effected by the Declarant; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for The Oaks. If such Supplement requires the approval of the County Attorney or Board of County Commissioners, such consent shall be obtained. Any withdrawal of land not owned by Declarant shall require the written consent or joinder of the then-owner(s) and mortgagee(s) of such land, which consent shall not be withheld.

Declarant also reserves the right to Supplement this Declaration at any time, without prior notice and without consent of any person or entity, for the purpose of removing land from the Total Land. However, no Supplement that withdraws land from the Total Land shall be recorded unless approved by the County Attorney or Board of County Commissioners.

- 2.4. Plan of Development. The planning process for The Oaks is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Declarant. Subject to the Title Documents, Declarant may wish and has the right to develop The Oaks and adjacent property into (i) Lots; (ii) residences, comprised of homes, villas, coach homes, duplex, town homes, zero lot line homes, patio homes, single-family homes, estate homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings and/or (iii) commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guaranty or promise that such items will remain or form part of The Oaks finally developed. The Declarant may elect (in Declarant's sole and absolute discretion) to pursue the potential development of a single family

residential project on an adjacent parcel of real property that may be of substantial or unsubstantial size (the "Additional Land"), which project, if developed, may be incorporated as part of The Oaks. In the event the Declarant elects to proceed with the development of the Additional Land, then: (i) the Additional Land may be added to the Oaks ; (ii) the Declaration may be modified to incorporate the Additional Land and the homes, common areas and other improvements constructed thereon; (iii) the recreational facilities, Membership Amenities (if any) and Common Properties governed by this Declaration may be enlarged and/or modified and the homes in the Additional Land may share use rights pursuant to the Declaration; and (iv) the entrance on Clint Moore Road may be relocated.

ARTICLE 3.

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1. Membership. Every Lot Owner shall be a Member of the Association, including but not limited to Declarant and Builder. There may also be up to eight (8) Founder Memberships designated by Declarant as described in Section 3.1.1 below. Additionally, a grantor of a trust (as defined in Florida Statutes § 733.707(3)) or a beneficiary (as defined in Florida Statutes § 737.303(4)(b)) of a trust which has a record ownership interest in any Lot or Lots (but not merely as a security interest) shall be deemed a Member of the Association, provided said beneficiary occupies the Lot or Lots. Notwithstanding anything else to the contrary set forth in this Section 3.1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

3.1.1. Founder Membership. Notwithstanding anything contained herein, Declarant reserves the right, but not the obligation, to designate up to eight (8) Founder Memberships to its designees as it so determines (which may or may not be Lot Owners), which Founder Memberships shall entitle the Founder Member (including family and guests) to all of the rights of a Member including, but not limited to, the same rights of access to and use of the Common Properties, including, without limitation, to any roads and recreational facilities, and the Membership Amenities (if any). Assessments to these Founder Members shall be at the same rate of the then current regular annual assessments payable by a Lot Owner, as described in Section 5.4(a) herein and shall be subject to no other assessments. Once granted, such Founder Memberships shall continue just as any other membership, including prior to or after the existence of Class B membership. A Founding Member may terminate its Founder Membership at any time with no further assessment obligation. Such Founder Memberships may be assigned by the owner of such Founder Membership to a person or entity that may or may not be a Lot Owner. The Association shall not be permitted to amend or modify the rights or

obligations of Founder Memberships without the consent of each Founder Member.

3.2 Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all those Lot Owners as defined in Section 3.1 with the exception of the Declarant (as long as the Class B membership shall exist, and thereafter the Declarant shall be a Class A Member to the extent it would otherwise qualify). Except as provided below, Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 3.1. When more than one (1) person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but, subject only as provided in the following paragraph, in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B membership shall cease and terminate three (3) months after ninety percent (90%) of the Lots in all phases of the Total Land (as same may be increased hereunder) has been sold and conveyed by the Declarant (or its affiliates) to a Lot Owner other than Declarant or a Builder, contractor or other who purchases the Lot for the purpose of constructing improvements thereon for resale, or sooner at the sole and absolute discretion and election of the Declarant, whereupon the Class A Members shall be obligated to elect the Board of Directors and assume control of the Association.

3.3. General Matters. When reference is made herein, or in the Articles, By Laws, rules and regulations of the Association, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members themselves.

3.4. Notification. Notwithstanding anything contained herein, every person or entity who is a Member of the Association shall notify the Association in writing at the time they become a record owner of a fee interest in any Lot and shall accompany such notice with a copy of the deed or other instrument conveying such fee interest. A Lot Owner shall not be entitled to vote until the Lot Owner gives such notification to the Association, but the Lot Owner shall be liable for Assessments notwithstanding said notice requirement.

3.5. Dissolution. Any Lot Owner may petition the Circuit Court of the County for the appointment of a Receiver to manage the affairs of the Association in the event of the dissolution of the Association.

- 3.6. Applicability of Declaration after Dissolution. In the event of dissolution of Association, The Oaks and each Home therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Lot Owner shall continue to be personally obligated to the successors or assigns of Association, as the case may be, for Assessments to the extent that Assessments are required to enable the successors or assigns of the Association to properly maintain, operate and preserve the Common Properties. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of The Oaks which had been Common Properties and continue to be so used for the common use and enjoyment of the Lot Owner.
- 3.7. Litigation. No judicial proceeding shall be commenced or prosecuted by the Association unless approved by a vote of the Members representing seventy-five percent (75%) of the total votes in the Association (i.e. not just the Members present in person or by proxy at the meeting of the Association at which such vote is taken). This Section does not apply to (i) actions brought by the Association against parties other than the Declarant to enforce the provisions of the Declaration, (ii) the imposition and collection of Assessments, (iii) proceedings involving challenges to ad valorem taxation or (iv) counterclaims brought by the Association in proceedings instituted against it. Furthermore, in the event the Association brings suit against the Declarant, the Association must specially assess all Lot Owners for the cost thereof as the funds from Assessments, reserves and/or capital contributions shall not be used in connection therewith. This paragraph may not be amended without the Declarant's prior written consent (which may be withheld in Declarant's sole and absolute discretion) and approved by a vote of the Members representing seventy-five percent (75%) of the total votes in the Association (i.e. not just the Members present in person or by proxy at the meeting of the Association at which such vote is taken).

Once the requirements of the above paragraph of Section 3.7 have been met by the Association, the Association must provide written notice of the claim against the Declarant to the Declarant no later than sixty (60) days prior to the commencement of any judicial proceeding. In that sixty (60) day time period, Declarant shall have the option, in its sole discretion, to elect binding arbitration rather than litigation.

If Declarant opts to pursue binding arbitration, then any and all claims or controversies (including whether the claim is arbitrable) shall be submitted to and resolved by binding arbitration, according to the following procedure:

- a. The rules of the American Arbitration Association ("AAA") shall apply. The arbitration shall be conducted with a written opinion and sufficient finding of facts from the arbitrators so as to permit an appeal, which opinion shall be final and binding upon both parties, except either party may appeal to a court of competent jurisdiction pursuant to the Federal Arbitration Act.

- b. The arbitration shall be submitted to a panel of three arbitrators selected in accordance with AAA rules. The members of the panel shall be selected from the Miami Construction Panel if the dispute relates to construction issues and from the Miami Panel if the dispute relates to issues other than construction.
- c. Each party shall pay for its own attorneys and professionals, but the party initiating the claim shall pay any filing fees and thereafter the arbitration fees and panel costs shall be shared equally.

ARTICLE 4.

THE COMMON PROPERTIES AND EASEMENTS

- 4.1. Members Easements. Each Lot Owner, and each Member, Member's Permittee, guests and licensees shall have a nonexclusive permanent and perpetual easement over and upon the Common Properties for the intended use and enjoyment thereof in common with all other such Members and their Member's Permittees, guests and licensees, in such manner as may be regulated by the Association.

Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

- (a) The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining the Common Properties and facilities in compliance with the provisions of this Declaration and with the restrictions on the Plat.
- (b) The right of the Declarant to permit such persons, as Declarant shall designate, to use the Common Properties and all recreational facilities thereon (if any).
- (c) The right of the Association, by a two-thirds (2/3) affirmative vote of the entire membership and the Board of Directors, to dedicate or convey portions of the Common Properties to any public or quasi-public agency, community development district or similar entity under such terms as the Association deems appropriate and to create or contract with community development and other special taxing districts for lighting, roads, recreational services, security, transportation or communications and other similar purposes deemed appropriate by the Association (to which such dedication or contract all Lot Owners, shall be deemed to have consented, no consent of any other party, except the Declarant, being necessary). Notwithstanding the foregoing or anything in this Declaration to the contrary, so long as Class B membership exists, Declarant shall have the exclusive right, but not the obligation, to unilaterally cause the Association to undertake any of the actions contemplated in this Section 4.1(c), or to change any provision of this Declaration, the By Laws or Articles of

Incorporation (except where such change would be in violation of any statute or ordinance).

- (d) The use restrictions set forth herein and the right of the Association to adopt at any time, and from time to time, and to enforce rules and regulations governing, among other things, the use of the Common Properties and all facilities at any time situated thereon, including the right to fine Members as hereinafter provided. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.
- (e) The right of Declarant and the Association to grant permits, licenses and both general ("blanket") and specific easements over, under and through the Common Properties. Additionally, the Declarant so long as it has any ownership interest in any portion of The Oaks or so long as the Class B membership exists, whichever is later, the Association shall each have the right to grant such additional electric, sewer, water, telephone, gas, sprinkler, irrigation, cable television, maintenance or other easements, and to relocate any existing easement in any portion of The Oaks and to grant access easements and to relocate any existing access easements in any portion of The Oaks as the Declarant or the Association shall deem necessary or desirable, for the proper operation and maintenance of The Oaks, or any portion thereof, or for the general health or welfare of the Lot Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Lots for dwelling purposes.
- (f) The right of Declarant to add, modify or withdraw certain property from The Oaks as is otherwise permitted herein.
- (g) Without limiting any of the rights of Declarant hereunder, the right of Declarant from time to time to enter upon the Common Properties during periods of construction upon adjacent properties for the purpose of construction of any facilities that Declarant elects to build.
- (h) The right of the Association to conduct such activities as may be required by the Association.
- (i) The right of Declarant to utilize the Common Properties for marketing, sales and other activities as more particularly set forth in Section 4.7 and Section 14.4 herein and to grant such further easements as Declarant deems necessary.

WITH RESPECT TO THE USE OF THE COMMON PROPERTIES AND THE OAKS GENERALLY, ALL PERSONS ARE REFERRED TO ARTICLE 13, SECTIONS 13.11, 13.12, 13.13, 13.14, 13.15, 13.16, 13.17, 13.18, 13.19 and 13.20.

- 4.2. Easements Appurtenant. The easements provided in Section 4.1 shall be appurtenant to and shall pass with the title to each Lot, but shall not be deemed to grant or convey any ownership interest in the Common Properties subject thereto.
- 4.3. Common Properties Maintenance. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Properties and, to the extent not otherwise provided for, the paving, drainage structures, surface water management systems, conservation easements and areas, littoral zones, landscaping, irrigation, street lighting fixtures and appurtenances, entrance features, roads, gatehouses and gates, wing walls, aluminum or other type of fencing, improvements and other structures and improvements (except public utilities to the extent maintained by the applicable utility provider) situated on the Common Properties, if any, as ordered by the Board of Directors and any and all costs relating to the discharge of the obligations hereunder. Without limiting the generality of the foregoing, the Association shall assume all of Declarant's and its affiliates' responsibility to the County of any kind with respect to the Common Properties and shall indemnify and hold the Declarant and its affiliates harmless with respect thereto.

Association shall, if designated by Declarant in writing (or by Association after Class B membership ceases), maintain vegetation, landscaping, sprinkler system, community identification features and/or other additional areas or elements designated by Declarant (or by Association after Class B membership ceases) upon areas which are within or outside of The Oaks. Such areas may abut, or be proximate to, The Oaks, and may be owned by, or dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity. These areas may include (for example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways.

The Association shall maintain all littoral zone planting surrounding or located within any Lakes (as defined in Section 7.22 hereof) on The Oaks (whether or not same are located within the Common Properties), planted in accordance with the requirements of the County and shall monitor and shall replace (if necessary) and maintain same, all in accordance with the requirements of any county, state, federal or municipal agency with jurisdiction over The Oaks.

No Lot Owner may escape liability for Assessments by non-use (whether voluntary or involuntary) of the Common Properties, abandonment of the right to use the Common Properties, waiver of its right to use the same, or for any other reason.

Lot Owners shall be responsible for the maintenance and irrigation of all Lake Maintenance Easement Areas as more particularly described in Section 4.10 hereof.

- 4.4. Expenses. All work done by or through the Association pursuant to this Declaration, the Articles, or the By Laws, including, but not limited to, Section 4.3 above, and all costs and expenses incurred by the Association pursuant to this Declaration, the aforementioned documents or otherwise or in connection therewith shall be paid for by the Association through Assessments imposed in accordance herewith. A Lot Owner shall remain responsible for Assessments regardless of such Lot Owner's voluntary or involuntary nonuse of the Common Properties, abandonment of the right to use the Common Properties, waiver of its right to use the same, or for any other reason.
- 4.5. Utility Easements, Community Systems, Common Properties and Lots/Homes. The use of the Common Properties and Lots for utilities and Community Systems, as well as the use of the other utility easements as shown on any Plat or recorded easement, shall be in accordance with the applicable provisions of this Declaration and any Plat or recorded easement. The Declarant and its affiliates and its and their designees shall have a perpetual easement over, upon and under the Common Properties and each Lot for the installation, operation, repair, replacement, alteration, expansion and maintenance of utilities and Community Systems (including, without limitation, Telecommunications Services as provided in Sections 4.16 and 4.17 below) and other communication lines, equipment and materials and other similar underground television, radio and security cables for service to the Lots and other portions of The Oaks. In the event that any utility lines, equipment, cables, pipes, conduits, meters or fixtures ("Utilities") or Community Systems are now or hereafter installed on or under a Home or underground on a Lot, then a nonexclusive easement therefor, and for the initial installation (if applicable), maintenance, repair and replacement thereof, shall exist in favor of whichever of the applicable governmental authority, utility company, Telecommunications Provider, the Declarant or the Association has the responsibility for the installation, maintenance, repair, replacement and movement of the Utilities or Community Systems. The Lot Owner(s) and the Members' Permittees of such Lot Owner(s) shall not do anything in, on or about the Lot or Home which interferes with the operation of any Utilities or Community Systems on, under or through such Lot or Home or the installation, maintenance, repair, replacement and movement thereof. Any user of the easement herein created shall, promptly after the completion of any applicable work thereon, restore the Lot and/or Home to the condition in which it existed immediately prior to the commencement of such use.
- 4.6. Drainage Easements. Easements are reserved over each Lot and the Common Properties in order to permit drainage and run-off from one Lot (and its improvements) to another or to the Common Properties or from the Common Properties to any Lot or Lots. Additionally, a non-exclusive easement shall exist in favor of Declarant, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over The Oaks, across and upon The Oaks for drainage, irrigation and water management purposes. All easement or ingress, egress and access shall

exist for such parties to enter upon and over any portion of The Oaks (including Parcels and Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, irrigation systems and facilities thereon and appurtenances thereto.

- 4.7. Ownership of Common Properties. The Common Properties are hereby dedicated nonexclusively to the joint and several use, in common, of the Declarant and the Lot Owners of all Lots that may from time to time constitute part of The Oaks and all Member's Permittees and the Declarant's tenants, guests and invitees, all as provided and regulated herein or otherwise by the Association. The Common Properties (to the extent not located within any Lot or not already owned by the Association) shall, upon the later of completion of the improvements thereon or within ninety (90) days following the date when the last Lot within The Oaks has been conveyed to a purchaser (or at any time and from time to time sooner at the sole and absolute election of the Declarant), be conveyed by quit claim deed to the Association, which shall automatically be deemed to have accepted such conveyance. THE ASSOCIATION SHALL ACCEPT THE COMMON PROPERTIES "WHERE IS, AS IS" UPON THE CONVEYANCE OF THE COMMON PROPERTIES WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS AND REPAIRS TO BE COMPLETED AFTER THE CONVEYANCE, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OR COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS WHICH HAS BEEN OR WILL BE USED IN SUCH PROPERTY OR REPAIRS, EXCEPT AS SET FORTH HEREIN. Upon such conveyance of the Common Properties, the Association releases Declarant from any claims and warrants that no claim shall be made by the Association relating to the condition, or completeness of the Common Properties or for incidental or consequential damages arising therefrom. The Association shall be responsible for the maintenance, insurance and administration of such Common Properties (whether or not then conveyed to the Association), all of which is to be performed in a continuous and satisfactory manner without cost to the general taxpayers of the County. It is intended that all real estate taxes assessed against that portion of the Common Properties owned or to be owned by the Association shall be (or have been, because the purchase prices of the Lots and Homes have already taken into account their rights in and to the Common Properties) proportionately assessed against and payable as part of the taxes of the applicable Lots within The Oaks. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Properties, the Association shall be responsible for the payment of same

(subject to protest or appeal before or after payment), including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date this Declaration is recorded, and such taxes shall be prorated between Declarant and the Association as of the date of such recordation. Declarant and its affiliates shall have the right, but not the obligation, from time to time to enter upon the Common Properties, Lots and other portions of The Oaks for the purpose of the installation, construction, reconstruction, repair, maintenance, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Properties that Declarant and its affiliates elect to effect, and to use the Common Properties, including but not limited to any community building, and other portions of The Oaks for sales, displays and signs or for any other purpose during the period of construction and sale of any portion of The Oaks. Without limiting the generality of the foregoing, the Declarant and its affiliates shall have the specific right (but not the obligation) to maintain upon any portion of The Oaks, sales, administrative, construction and/or other offices without charge, and appropriate easements of access and use are expressly reserved unto the Declarant and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose.

Without limiting the generality of the foregoing, should the Declarant elect to construct a community building, clubhouse or other Membership Amenities, same may be utilized by the Declarant for property sales, administration, property management, a property resale business, construction and/or related real estate activities. Nothing in this Section 4.7 or this Declaration shall obligate Declarant to construct such a community building, clubhouse or other Membership Amenities, to utilize same for any of the foregoing purposes, or to restrict the use of same. The rights conferred in this paragraph will continue after Class B membership ceases in the Association, and after the Declarant has resigned from the Board of Directors, which is consistent with Section 14.4 herein.

- 4.8. Community Systems. Declarant shall have the right, but not the obligation, to charge user fees for the use of the Community Systems and to convey, transfer, sell or assign all or any portion of the Community Systems located within The Oaks, or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other person or entity (including any Lot Owner, as to any portion of a Community System located on their Lot or Lots). Without limiting the generality hereof, if and when any of the aforesaid entities receives such a conveyance, sale, transfer or assign, such entity shall automatically be deemed vested with such rights of Declarant with regard thereto as are assigned by Declarant in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Systems or portions thereof shall be deemed Common Properties hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Common Properties unless otherwise provided by Declarant. Any conveyance, transfer, sale or assignment made by Declarant pursuant to this Section (i) may be made with or without consideration, (ii) shall not require the consent or approval

of the Association or any Lot Owner, and (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed). Further, Declarant shall have the right to receive compensation from the provider(s) of Community Systems ("Community Systems Provider") or public or private utilities for permitting same to be located in and used at The Oaks, including, but not limited to, by the Lot Owners, and such compensation shall be continued to be paid to Declarant by such provider subsequent to any transfer to the Association, Class B Membership ceases, the sale of all the Lots, or for any other event.

In recognition of the intended increased effectiveness and potentially decreased installation and maintenance costs and user fees arising from the connection of all Lots in The Oaks to the applicable Community Systems, each Lot Owner and occupant of a Lot shall be deemed to have consented to and ratified any and all agreements to which the Association or Declarant is a party which is based upon (in terms of pricing structure or otherwise) a requirement that all Lots be so connected. The foregoing shall not, however, prohibit the Association or Community Systems Provider from making exceptions to any such 100% use requirement in its reasonable discretion.

4.9. Easement for Encroachments

- (a) Common Properties. There is hereby declared an easement in favor of each Lot for any portion of the improvements on the Lot or any Community Systems which extend into Common Properties in a manner which does not unreasonably interfere with the use and maintenance thereof. Additionally, the Declarant (while Class B membership exists) or the Board of Directors on behalf of the Association may grant additional easements for improvements extending from Lots or Community Systems into Common Properties to an extent which, in the opinion of the Board of Directors, is beyond the scope of the foregoing sentence; providing, however, that any such easements may be conditioned upon the Lot Owner of the Lot agreeing to indemnify the Association for any loss or damage arising from the existence of the improvements on the Common Properties.
- (b) Adjacent Lots. There is hereby declared an easement in favor of each Lot for any portion of the improvements on the Lot which encroach onto an adjacent Lot where such encroachment is immaterial as determined by the Declarant in its sole discretion while Class B membership exists, and as determined by the Association in its sole discretion when Class B membership ceases.

4.10. Lake Maintenance Area and Lake Access Tract Easement. Lake Maintenance Area Easements and Lake Access Tract Easements are dedicated and reserved in favor of the Association and the Declarant over that portion of certain Lots as

shown on the Plat and are for use of and access to the platted lake tracts for lake maintenance purposes. Each Lot Owner whose Lot lies along or adjacent to a Lake Maintenance Area or Lake Access Tract as shown on the Plat shall be responsible for the maintenance and upkeep, including but not limited to, the sodding, irrigation, and mowing of the Lake Maintenance Area or Lake Access Tract. This maintenance and upkeep is also extended to include the green space between the edge of the Lake Maintenance Easement and the water's edge.

4.11 Special Easements For Certain Homes

- (a) Party Walls. Each wall and fence, if any, built as part of the original construction of the Homes or Lots and placed on the dividing line between two Lots and acting as a commonly shared wall or fence shall constitute a party wall ("Party Wall"), and each Lot Owner shall own that portion of the wall and fence which stands on their own Lot, with a cross-easement of support in the other portion of the Party Wall. If a wall or fence separating two (2) Homes or Lots, and extensions of such wall or fence, shall lie entirely within the boundaries of one Lot, such wall or fence, together with its extensions, shall also be a Party Wall and the Lot Owner of the adjacent Lot shall have a perpetual easement to maintain the encroachment.

Easements are reserved in favor in all Lots over all other Lots and the Common Properties for overhangs or other encroachments resulting from original construction and reconstruction.

Anything to the contrary herein notwithstanding, where adjacent Homes share only a portion of a wall (e.g., where a one-story Home abuts a two-story Home), only that portion of the wall actually shared by both Homes shall be deemed a Party Wall. That portion of the wall lying above the one-story Home and used exclusively as a wall for the second floor of the abutting two-story Home shall not be deemed a Party Wall, but shall be maintained and repaired exclusively by the Lot Owner of the two-story Home even if lying in whole or in part on the abutting Lot on which the one-story Home is constructed and over the roof and other portions of such abutting one-story Home an easement shall exist to permit the upper portion of the wall of the two-story Home to be maintained and repaired by the Lot Owners of the Lot on which such two-story Home is constructed.

The costs of reasonable repair and maintenance of a Party Wall shall be shared equally by the Lot Owners who make use of the Party Wall.

If a Party Wall is destroyed or damaged by fire or other casualty, any Lot Owner who has used the wall may restore same, but shall not construct or extend same to any greater dimension than that existing prior to such fire or other casualty, without the prior written consent of the adjacent Lot

Owner. The extension of a Party Wall used by only a two-story Home abutting a one-story Home shall be promptly and diligently repaired and/or replaced by the Lot Owner of the two-story Home at their sole cost and expense, even if lying in whole or in part on the abutting Lot. No part of any addition to the dimensions of a Party Wall or of any extension thereof originally built that may be made by any of said Lot Owners, or by those claiming under any of them, respectively, shall be placed upon the Lot of the other Lot Owner, without the written consent of the latter first obtained, except in the case of the aforesaid wall of a two-story Home. If the other Lot Owner thereafter makes use of the Party Wall, he shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Lot Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

In the event of the failure of a Lot Owner to maintain, repair or replace a Party Wall in accordance with the standards set by ACC or otherwise under this Declaration, the Association shall have an easement over, upon and through a portion of such Lot (as reasonably necessary to perform the maintenance, repairs or replacement), and the Association shall be entitled to perform such work and charge such Lot Owner in accordance with Sections 6.5 and 6.6 herein.

Notwithstanding any other provision of this Section, should any Lot Owner, by their negligent or willful act, causes that part of the Party Wall not previously exposed to be exposed to the elements or otherwise causes the Party Wall or other Home to be damaged, such Lot Owner shall bear the whole cost of furnishing the necessary protection against such elements and any other damage.

The right of any Lot Owner to contribution from any other Lot Owner under this Article shall be appurtenant to the land and shall pass to such Lot Owner's successors in title. Upon a conveyance or other transfer of title, the liability hereunder of the prior Lot Owner shall cease.

In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. If a panel cannot be designated pursuant hereto, the matter shall be arbitrated pursuant to the rules of the American Arbitration Association, or its successors in functions, then obtaining. Any decision made pursuant to this Section shall be conclusive and may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code.

(b) Zero Lot Line. When any Lot (the "Servient Lot") abuts another Lot (the "Dominant Lot") on which the exterior wall of a Home has been or can be constructed against or immediately contiguous to the interior property (perimeter) dividing line (the "Zero Lot Line") shared by the Dominant Lot and the Servient Lot, then the Lot Owner of the Dominant Lot shall have an easement over the Servient Lot, which easement shall be five (5') feet in width contiguous to the interior property dividing line (which is the Zero Lot Line) running from the front of the rear property line of the Servient Lot for the following purposes:

- (1) For installation, maintenance, repair, replacement and the provision of utility services, equipment and fixtures to serve the Dominant Lot, including but not limited to, electricity, telephones, sewer, water, swimming pool, fence, screen enclosure, landscape material, lighting, irrigation, drainage and Community Systems.
- (2) Of support in and to all structural members, footings and foundations of the Home or other improvements which are necessary for support of the Home or other improvements on the Dominant Lot. Nothing in this Declaration shall be construed to require the Owner of the Servient Lot to erect, or permit the erection of, additional columns, bearing walls or other structures on its Lot for the support of the Dominant Lot.
- (3) For overhanging troughs or gutters, down-spouts and the discharge therefrom of rainwater and the subsequent flow thereof over the easement area and the Common Properties.

A Lot Owner of a Servient Lot shall do nothing on their Lot which interferes with or impairs the use of this easement, including, without limitation, constructing improvements which would interfere with such use; however, the Lot Owner of a Servient Lot shall be permitted to construct a fence within the easement provided the portion of the fence within the easement area has gate access for the Lot Owner of the Dominant Lot. No Lot Owner shall cut a window or any opening in a wall lying on a Zero Lot Line, nor shall any Lot Owner make any structural changes in such a wall including, but not limited to, change of paint color, without the express written consent of the ACC, Declarant or otherwise under this Declaration. If a zero lot line wall is damaged by the owner of an adjacent Home, the Lot Owner of the adjacent Home shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Lot Owner causing the damage. In the event that a Lot Owner shall fail to make the repairs as required herein, or if the Association has the reasonable belief that such repairs will not be made in a timely manner, then the Association shall have the right at

reasonable times to enter the adjacent Home to effect such repair, and the cost thereof shall be charged to the adjacent Lot Owner as an Assessment against that individual Lot Owner. If there is any question about whether a Home is a zero lot line residence, or which portion of a Home lies on a lot line, the Association's determination shall be final.

If any other building or improvement shall encroach upon any portion of the Common Areas or a Lot or upon an easement by reason of original construction or by the non-purposeful or non-negligent act of Declarant or any other owner of such building or improvement, then an easement for such encroachment shall exist so long as the encroachment exists.

- 4.12. Membership Amenities. Declarant reserves the right to construct additional recreational facilities, including, but not limited to, a club house, swimming pools, basketball courts and/or cabanas (the "Membership Amenities") in The Oaks on and/or as part of the Common Properties; however, Declarant shall have no obligation to construct any Membership Amenities. The Membership Amenities may be a private club (which may open only to members that pay a Special Use Fee despite being constructed on the Common Properties). The Membership Amenities may be located on Common Properties but shall not be deemed Common Properties (unless designated as so by Declarant) and although maintained by the Association, it shall be at the sole cost and expense of its Members unless designated as Common Properties by Declarant.

- 4.12.1. Assessments and Reservation to Charge Use Fee. The Membership Amenities and the fulfillment of the Association's underlying obligations shall be maintained, in part or in full, through Assessments and/or Special Use Fees to be levied by the Association. Such Assessments and/or Special Use Fees will have the same effect, and the Association shall have the same right of enforcement, as those other Assessments levied pursuant to Article 5 below. Such Assessments and/or Special Use Fees shall be solely for the Membership Amenities and shall be in addition to other Assessments.

- 4.13. Outside Members. Whether before or after Class B membership exists, as long as the Declarant, its nominees or its Builders own property within The Oaks, the Declarant may elect to allow persons who are not Lot Owners or Member's or Member's Permittees ("Outside Members") to use the recreational facilities located on the Common Properties or the Membership Amenities (if any) on such terms and conditions as the Declarant determines in its discretion, including without limitation, charging such Outside Members for the use of the recreational facilities located on the Common Properties or the Membership Amenities. Notwithstanding anything herein to the contrary, the Outside Members are hereby reserved an easement of ingress and egress over, upon and through the Common Properties for access to and use of the recreational facilities located on the Common Properties or the Membership Amenities (as applicable).

- 4.14. Neighborhoods. It is intended that different types of Neighborhoods may be constructed. A Neighborhood may be provided with certain services, improvements and amenities that are exclusive to each Neighborhood in addition to services, improvements or amenities provided to The Oaks as a whole. The provisions shall not obligate Declarant to construct the foregoing Neighborhoods as provided above, nor to provide any certain number of Neighborhoods. The location of and services provided to each Neighborhood shall be in the sole discretion of the Declarant and after Class B Membership ceases, the Association. Each Neighborhood shall be subject to and shall pay Neighborhood Assessments as provided in Article 5, below.
- 4.15. Paramount Right of Declarant. Notwithstanding anything to the contrary herein, while Class B membership exists, Declarant shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of The Oaks for various public purposes or for the provision of Community Systems including, without limitation, Telecommunications Systems, or to make any portions of The Oaks part of the Common Properties, or to create and implement a special taxing district which may include all or any portion of The Oaks. In addition, the Common Properties of The Oaks may include decorative improvements, berms, waterfalls, and waterbodies. SALE BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON PROPERTIES. DECLARANT SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE BOUNDARIES, LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON PROPERTIES WITHOUT NOTICE AT ITS SOLE DISCRETION.
- 4.16. Public Facilities. The Oaks may or may not include one or more facilities which may be open and available for the use of the general public. By way of example (but without creating an obligation to procure, construct or staff the same), there may be a public park, fire station, police station, or other facility within the boundaries of The Oaks.
- 4.17. Right to Contract for Community Systems. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Community Systems for all or any part of The Oaks. Prior to the expiration of Class B Membership, all contracts between a Community Systems Provider including, without limitation, a Telecommunications Provider and Association shall be subject to the prior written approval of Declarant. Declarant and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Community Systems Provider for one or more Community Systems, subject only to the requirements of all applicable laws, statutes, and regulations. In addition, Declarant shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Community Systems within The Oaks as agreed, from time to time, between

the Community Systems Provider and Declarant, provided, however, that no such fees may be imposed on a Community Systems Provider except as provided in any written agreement between such Community Systems Provider and Declarant and/or Association.

- 4.18. Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Community Systems or any part thereof, each Community Systems Provider shall restore the relevant portion of the Common Properties and/or any Lot to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Community Systems Provider to commence such restoration within twenty (20) days after receiving written notice from Association of such failure or the Community Systems Provider's failure to complete such restoration within ninety (90) days of commencement shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Properties, Lot and/or Home disturbed by such work, all at such Community Systems Provider's sole cost and expense, except for an emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Properties, Lot and/or Home immediately. In the event that Association exercises the right of self-help, each Community Systems Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Community Systems Provider within twenty (20) days of completion of restoration and delivery to Community Systems Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (I) the publicly announced prime rate (or similar successor reference rate) as published in the Wall Street Journal on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as may be provided in an agreement between Community Systems Provider and Association.

ARTICLE 5.

COVENANT FOR ASSESSMENTS

- 5.1. Creation of the Lien and Personal Obligation of the Assessments. Each Lot Owner covenants and agrees to pay to the Association the charges and expenses for the operation of the Association charged for property or services or the like serving or benefiting The Oaks, and for the maintenance, management, operation, staffing, repair, replacement and insurance of the Common Properties and the Association as provided elsewhere herein, including, but not limited to, such reasonable reserves as the Association may deem necessary, assessments for maintenance, security (if any), monitoring systems (if any), data/internet transmission (if any), natural gas lines, bulk cable and/or satellite television or communications charges or charges for other Community Systems and all other

charges and assessments herein referred to or lawfully imposed by the Association shall be referred to herein as regular annual assessments. Except as provided herein with respect to Lots owned by the Declarant as provided in Section 5.11 below, all regular annual assessments imposed by the Association shall be imposed against all Lots equally. The foregoing sentence shall not be amended without the prior written consent of any Lot Owner adversely affected by such amendment. In addition, special assessments may be levied as set forth in Section 5.5. Furthermore, capital improvement assessments may be levied as are necessary for the addition of capital improvements as set forth in Section 5.6 and neighborhood assessments may be levied against Lot Owners in a particular Neighborhood as set forth in Section 5.7. All such Assessments are to be fixed, established and collected from time to time as herein provided.

5.2. Purpose of Regular Annual Assessments. The regular annual assessments levied by the Association shall be used exclusively for the purposes expressed in Section 5.1 above, including, without limitation, for any and all costs associated with maintaining, operating, repairing, altering, landscaping and improving any structure, park, tennis court, basketball court or other recreational facilities and/or gatehouses located on the Common Properties, any costs and/or expenses for staffing any such gatehouses or recreational facility (without creating any obligation to staff same), any and all costs attributable to the provision of street lighting, at the discretion of the Declarant (or after the sale by Declarant of the last Lot, then by the Board of Directors) and all costs and expenses related to the ownership and maintenance of the Common Properties and operation of the Association and The Oaks.

5.3. Lien. All Assessments, together with interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot or Lots against which each such Assessment is made. Each Assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who is the Lot Owner of such property at the time when the Assessment fell due and all subsequent Lot Owners until paid, subject to the subordination provision set forth in Section 5.10 below. Reference herein to Assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

5.4. Payment of Regular Annual Assessments; Due Dates.

- (a) The regular annual assessments provided for in this Article are imposed for the year beginning January 1 and ending December 31, or a portion thereof during the first (1st) year of operation of the Association. The regular annual assessments shall be payable in advance, in monthly installments, or in annual, semi-annual or quarterly installments if so determined by the Board of Directors (absent which determination they shall be quarterly, such payments coming due on the first (1st) day of the first (1st) month of each quarter). The regular annual assessment amount

(and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other regular annual assessment that is in the future adopted. The original regular annual assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, every six (6) months), but the amount of any revised regular annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

- (b) The due date of any special assessment, capital improvement assessment or neighborhood assessment shall be fixed in the Board of Directors resolution authorizing such Assessment.

5.5. Special Assessments. The Association (through the Board of Directors) shall have the right to levy special assessments against a Lot Owner(s) as follows:

- (a) Specific Special Assessments: A specific special assessment may be levied against a Lot Owner or group of Lot Owners to the exclusion of other Lot Owners for: (i) the repair or replacement of damage to any portion of the Common Properties (including, without limitation, improvements and landscaping thereon) caused by the misuse, negligence or other action or inaction of a Lot Owner or such Lot Owner's Members' Permittee(s); or (ii) the costs of work performed by the Association in accordance with Article 4 and/or Article 6 of this Declaration. Any such specific special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest.
- (b) General Special Assessments: A general special assessment may be levied against all Lot Owners to obtain funds which are not otherwise provided for in the operating budget.

Any special assessment levied hereunder shall be due within the time specified by the Association in the action imposing such assessment.

5.6. Capital Improvement Assessments: Funds which, in the aggregate, exceed twenty percent (20%) of the total amount of the current operating budget of the Association in any one fiscal year, and are necessary for the addition of capital improvements (as distinguished from repairs and maintenance, and regardless of whether as a result of wear and tear or casualty loss) relating to the Common Properties and which have not previously been collected as reserves or are not otherwise available to the Association (other than by borrowing), shall be levied by the Association as general special assessments only upon approval of a majority of the Board of Directors and upon approval by two-thirds (2/3) favorable vote of the Members of the Association voting at a meeting or by ballot as may be provided in the By Laws of the Association. Notwithstanding the foregoing or anything to the contrary in this Declaration, so long as Class B

membership exists and Declarant is still a member of the Board of Directors, Declarant may cause the Association to levy a capital improvement assessment otherwise in accordance with this Section 5.6.

5.7. Neighborhood Assessments. Without limiting the foregoing, the Association shall have the exclusive right to levy Assessments against those Lot Owners located in a Neighborhood for those amenities and services that are exclusively provided to such Neighborhood which are in addition to those services and amenities provided generally to The Oaks (e.g., additional landscape maintenance, special lighting, entry features, signage and the like) in the same manner, with the same effect and obligation imposed on such Lot Owners (but not the Declarant or its affiliates), and the same right of enforcement to be held by the Association, as those other Assessments otherwise levied as provided in this Article 5. By way of example only, and not limitation, if a group of Lots are gated and are served by a private street which does not serve any other portion of The Oaks, the Lot Owners of those Lots may be required by the Association to pay Assessments in excess of those paid by other Lot Owners to cover the costs of maintaining such gate and private street. No Lot Owner shall have the right to object to any additional assessments that the Association may require such Lot Owner to pay pursuant to this Section 5.7. Neighborhood assessments will be in excess of Assessments paid by other Lot Owners not so served. Without limiting any other provision of this Article 5, the Assessments provided herein shall be lien on the subject Lot Owner's property and shall be enforceable in the manner set forth in Section 5.9 hereof.

5.8. Duties of the Board of Directors. The Board of Directors has fixed the date of commencement and the amount of the Assessment against each Lot subject to the Association's jurisdiction for each Assessment period, to the extent practicable, at least fifteen (15) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Lot Owner. Written notice of the Assessment shall thereupon be sent to every Lot Owner subject thereto fifteen (15) days prior to payment of the first installment thereof, except as to special assessments. In the event no such notice of a change in the Assessments for a new Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein. Subject to other provisions hereof, the Association shall furnish to any Lot Owner liable for an Assessment a certificate in writing signed by an officer of the Association, setting forth whether such Assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Declarant) for management services. The Association shall have all other powers provided in the Articles of Incorporation and By Laws.

- 5.9. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association. If any Assessments (or installments) provided for herein are not paid when due, then such Assessments (or installments) shall become past due and delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such property in the hands of the then Lot Owner, their heirs, personal representatives, successors and assigns. Except as provided in Section 5.10 below to the contrary, the personal obligation of the then Lot Owner to pay such Assessment shall pass to their successors in title and recourse may be had against either or both. If any installment of an Assessment is not paid within fifteen (15) days after the due date, at the option of the Association, a late charge not greater than the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges, provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid), or the next twelve (12) months' worth of installments of regular annual assessments, and all installments, if any, of other Assessments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the highest lawful rate and the Association may bring an action at law against the Lot Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against any Lot on which the Assessments and late charges are unpaid, may foreclose the lien against the Lot on which the Assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' and paralegals' fees and costs actually incurred preparing and filing the claim of lien and the complaint, if any, and prosecuting same, in such action (and any appeals therefrom) shall be added to the amount of such Assessments, late charges and interest, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' and paralegals' fees actually incurred together with the costs of the action, through all applicable appellate levels. In the case of an acceleration of the installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Lot Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and special assessments against such Lot shall be levied by the Association for such purpose. In addition to the rights of collection of Assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the Assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Properties until such time as all unpaid and delinquent Assessments due and owing from the selling Lot Owner have been fully paid; provided, however, that

the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 5.10 below. It shall be the legal duty and responsibility of the Association to enforce payment of the Assessments hereunder. Failure of the Association to send or deliver bills shall not, however, relieve Lot Owners from their obligations hereunder. All Assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association. Lot Owners shall be obligated to deliver the documents originally received from the Declarant, containing this and other declarations and documents, to any grantee of such Lot Owner.

5.10. Subordination of the Lien. The lien of the Assessments provided for in this Article shall be subordinate to real property tax liens and to the lien of any first mortgage held by a Mortgage Lender recorded prior to recordation by the Association of a claim of lien and which is now or hereafter placed upon any property subject to Assessment; provided, however, that any such Mortgage Lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such Mortgage Lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or Mortgage Lender, shall hold title subject to the liability and lien of any Assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid Assessment which constitutes a lien against any Lot or Lots, but which is subordinate to real property tax liens and/or first mortgages by reason of the provisions of this Section shall be deemed to be an Assessment divided equally among and payable by all Lot Owners whose Lots are subject to Assessment by the Association, and a lien against all Lots subject to Assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

5.11. Effect on Declarant. Notwithstanding any provision of the Declaration to the contrary contained in this Declaration, for as long as Declarant (or any of its affiliates) is the Lot Owner of any Lot, Declarant shall have the option, in its sole discretion, to (a) pay Assessments on the Lots owned by it in like manner as paid by other Lot Owners; (b) pay Assessments only on certain designated Lots (e.g., those under construction or those containing a Home for which a certificate of occupancy has been issued), or (c) not pay Assessments on Lots owned by Declarant, and in lieu thereof, fund any resulting deficit in the Association's operating expenses (exclusive of any capital costs, capital contributions as provided in Section 5.12 below, reserves and/or contingencies, capital improvement expenses and assessments, special expenses and assessments and neighborhood expenses and assessments) not produced by Assessments receivable from Lot Owners other than Declarant, Builders, Initial Builders (as provided in Section 5.11.1 below) and any other income receivable by the Association. The deficit to be paid under option 5.11(c) above shall be the difference between (i) actual operating expenses of the Association (exclusive of capital improvement costs, capital contributions as provided in Section 5.12 below, reserves and/or

contingencies) and (ii) the sum of all monies receivable by the Association (including, without limitation, all Assessments, including but not limited to IBAs (as defined below) and interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). Declarant may, in its sole and absolute discretion, from time to time change the option stated above under which Declarant is making payments to the Association by written notice to such effect to the Association. If Declarant at any time elects option 5.11(b) above, Declarant shall not be deemed to have necessarily elected option 5.11(a) or 5.11(c) as to the Lots which are not designated under option 5.11(b). Regardless of which of the foregoing options is chosen by Declarant in any particular year, Declarant may, in its sole and absolute discretion at any time prior to the accrual of such deficit, estimate the amount of the deficit for such year (the "Projected Deficit"). When all Lots within The Oaks are sold and conveyed to Lot Owners or Builders, neither the Declarant, nor its affiliates, shall have further liability of any kind to the Association for the payment of Assessments, or any deficits or contributions.

5.11.1. Assessments Against Initial Builder. Each Lot owned by an Initial Builder at the time that the Covenant was recorded which was May 24, 2001 (the "IB Lot") is subject to payment of a proportionate share of the Projected Deficit (the "IBA") or on its assessment amount for so long as such IB Lot is owned by such Initial Builder, which such assessment is to be determined as follows: the Projected Deficit shall be multiplied by a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of platted Lots in The Oaks at the time that the IBA for the respective year becomes due. IBAs are payable on a quarterly basis (or on such other basis as determined by the Board of Directors) to the Association in the same manner as other Assessments and are collectible in the same manner as other Assessments, including, without limitation, the Association's right to enforce the payment of IBAs in the same manner and with the same remedies as any other Assessments under this Declaration. When an IB Lot is conveyed such lot shall no longer be deemed an IB Lot, but shall be deemed a Lot fully subject to all Assessments and other payments as provided in this Declaration. However, so long as an Initial Builder owns an IB Lot, the Initial Builder shall not otherwise (other than the IBA) be responsible for payment of any portion of the Association's operating expenses for such IB Lot, including, without limitation, any other Assessments provided for in this Declaration.

5.11.2. Assessments Against Builders. Notwithstanding anything contained herein, the Declarant shall have the right to contract with Builders on an individual or collective basis, to provide that until such Builder conveys their Lot, such Builder shall be required to pay Assessments on such basis and on such terms as Declarant determines in its sole and absolute discretion.

5.11.3. Assessments against Founder Members. Each Founder Member, as described in Section 3.1.1 herein, is subject to an assessment equal to the then current regular annual assessments payable by a Lot Owner, as described in Section 5.4(a) herein, and shall be subject to no other assessments.

5.12. Working Capital Contributions and Working Capital Fund. A capital contribution shall be paid by the first purchaser of each and every Lot (other than Declarant or Builders), at the time such Lot Owner acquires its fee interest in the Lot to the Association in the amount then established by the Board for such Lot and/or Home, in addition to any Assessment. The capital contribution shall be deposited by the Association into a working capital fund which the Association may use to pay any and all expenses which may be incurred by the Association during the period of time that The Oaks is being developed for such purposes as the Association determines, including, but not limited to, normal operating expenses, making purchases for and improvements to the Common Properties, purchasing initial and future equipment and supplies, including, without limitation, furniture and equipment for any clubhouse or other recreational facility that Declarant may construct. The working capital fund may also be used to acquire property for the use of the Lot Owners or for the Association, to make any deposits required by utility companies, to prepay insurance premiums upon Common Properties or otherwise required in and about the operation of the Association or to pay for repairs, replacement and maintenance of the Common Properties, or for other purposes which benefit The Oaks as determined by the Association in its sole and absolute discretion. The capital contribution is in addition to the Assessments. The amount of capital contributions shall be established and set forth by the Board and may be changed by the Board, in its sole discretion from time to time, and shall be paid, at the time of conveyance of title to the initial Lot Owner. Additionally, the Declarant may prepay, at Declarant's sole option, capital contributions and/or be reimbursed and capital contributions may be utilized to reimburse Declarant for monies that it may have advanced to fund the operation of the Association, including but not limited to, pursuant to this Section 5.12 or otherwise. IB Lots shall not be subject to the assessment for capital contribution as long as owned by Declarant and Initial Builder; however, any IB Lot which is conveyed shall immediately become subject to such capital contributions then in effect (in addition to any other Assessments payable pursuant to this Declaration). Amounts paid into the working capital fund are not to be considered as advance payments of regular annual assessments or any other Assessments.

5.13. Association Funds. The portion of all Assessments collected by the Association for reserves, if any, and the entire amount of all special assessments, not being used for the purposes collected, shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions the deposits of which are insured by an agency of the United States.

- 5.14. Special Use Fees. The Declarant shall have the right to establish from time to time, specific charges, ticket, service, and/or use fees and charges as well as a damage and/or cleaning deposit ("Special Use Fees"), for which one or more Lot Owners (but less than all Lot Owners) and/or Founder Members and/or Outside Members are subject, such as, costs of special services or facilities provided to a Lot Owner, Founder Member and/or Outside Members relating to the special use of the recreation facilities or tickets for shows, special events, or performances held in recreation facilities, which are paid initially by the Declarant, or to the use of the Membership Amenities (if any). Special Use Fees shall be payable at such time or time(s) as determined by the Declarant.

ARTICLE 6.

MAINTENANCE OF HOMES AND LOTS

- 6.1. Homes. Each Lot Owner shall be solely responsible for maintaining all structures and improvements (including the Home) located on their Lot in good working condition and in a neat, orderly and attractive manner and consistent with the general appearance of The Oaks. The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of The Oaks as initially constructed and otherwise improved by Declarant or by any Builders who build in accordance with plans approved by Declarant (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of the ACC). Each Lot Owner shall repaint or restrain, as appropriate, the exterior portions of their Home (with the same colors as initially used on the Home or as otherwise approved by the ACC) as often as is necessary to comply with the foregoing standards. Lot Owners shall be responsible for all maintenance of their Homes, including, without limitation, pressure cleaning, cleaning of the roof, fertilization of sod and landscape, painting of exterior, trimming of trees and bushes, and repairs to irrigation, fences and/or screens. All mailboxes for Lots in The Oaks shall be uniform in all respects (as determined in the sole discretion of the Declarant or the ACC), including, without limitation, size, style and color; however, Neighborhoods may slightly modify their mailboxes in a uniform manner, at the Neighborhood's sole cost and expense and only upon the approval of the ACC or the Declarant in its sole discretion.
- 6.2. Lots. Except only for the portions of the Lots designated as Common Properties, if any, hereunder, each Lot Owner shall be solely responsible for maintaining their Lot, including, without limitation, areas adjacent to their Lot, which are, if any, the sidewalks, swales, mailboxes, lake bank, lake access tract, trees, shrubbery, grass and all landscaping thereon and the irrigation thereof, the irrigation system, the driveways thereon (subject to the provisions below) and the swimming pool and any other approved outdoor appurtenances thereon, in good working condition and all in a neat, orderly and attractive manner and consistent with the general appearance of The Oaks as a whole. The minimum (though not sole) standard for the foregoing shall be the general appearance of The Oaks as initially landscaped by Declarant or Builders (such standard being subject to

being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained) Each Lot Owner shall be deemed to have agreed to indemnify and hold harmless Association and the holder of any such easement, including, without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Properties and any easement or the construction and/or maintenance of any driveway in that portion of the Common Properties, easement area, or in a right-of-way between the boundary of such Lot Owner's Home and the edge of the adjacent right-of-way or lake tract. Further, each Lot Owner agrees to reimburse the Association any expense incurred in repairing any damage to such driveway in the event that such Lot Owner fails to make the required repairs.

- 6.3. Irrigation. Due to water quality, irrigation systems may cause staining on Homes, other structures or paved areas. All irrigation systems using well water (which shall be installed only upon the advance written approval of the ACC, which may be withheld in its sole discretion) shall use an appropriate rust (iron) inhibitor filter system to prevent stains. It is each Lot Owner's responsibility to treat and remove any such staining. Association may require from time to time that Lot Owners adopt systems to prevent stains (e.g., automatic deionization systems). No Lot Owner whose Lot adjoins a waterway or lake may utilize the waterway or lake to irrigate. Association may use waterways and lakes to irrigate Common Properties, as applicable, subject to applicable permitting. Declarant and Association shall have the right (but not the obligation) to use one or more pumps to remove water from lakes and waterbodies for irrigation purposes at all times, subject to applicable permitting. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of The Oaks and/or installation or maintenance of utilities or which may obstruct or retard these flow of water through The Oaks and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.
- 6.4. Subdivision and Regulation of Land. No portion of any Home or Lot shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Lot Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to The Oaks, without the prior written approval of Declarant, which may be granted or denied in its sole discretion.
- 6.5. Remedies for Noncompliance. In the event of the failure of a Lot Owner to maintain their Home or Lot or failure to fulfill any of their maintenance obligations with regard to the Common Properties in accordance with this Article, the Association shall have the right (but not the obligation), upon fifteen (15)

days' prior written notice to the Lot Owner at the address last appearing in the records of the Association, to enter upon the Lot Owner's Lot and perform such work as is necessary to bring the Lot, Home or fulfilling any of their maintenance obligations with regard to the Common Properties, as applicable, into compliance with the standards set forth in this Article. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration (including, without limitation, the imposition of fines or special assessments, the filing of liens or the filing of other legal or equitable actions).

- 6.6. Costs of Remedial Work; Surcharges. In the event that the Association performs any remedial work on a Home, Lot or Common Properties pursuant to this Declaration, the costs and expenses thereof shall be deemed a special assessment under Section 5.5 of this Declaration and may be immediately imposed by the Board of Directors. In order to discourage Lot Owners from abandoning certain duties hereunder for the purpose of forcing the Association to assume same, and, additionally, to reimburse the Association for administrative expenses incurred, the applicable entity may impose a surcharge of not more than fifty percent (50%) of the cost of the applicable remedial work, such surcharge to be a part of the aforesaid special assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the Association in the sole discretion of the Board of Directors.
- 6.7. Right of Entry. There is hereby created an easement in favor of the Declarant, the Association and their applicable designees over each Lot for the purpose of entering onto such Lot in the performance of the work herein described.
- 6.8. Limited Exemption. To the extent that a Home on a Lot is under construction by the Declarant or a Builder bound to comply with construction-related requirements or restrictions imposed by the Declarant, the provisions of this Article shall not apply to such Lot until such time as the construction of the Home is completed as evidenced by the issuance of a certificate of occupancy therefor.
- 6.9. Title Documents. Each Lot Owner by acceptance of a deed to a Lot acknowledges that such Lot and Home thereon is subject to certain land use and title documents and all amendments thereto, which may include among other items, the following documents (this Declaration, the Articles and the By Laws collectively, the "Title Documents"):
- (a) Declarant's plan of development for The Oaks may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DECLARANT RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Lot

Owners other than Declarant, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Lot Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Lot Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Declarant through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Lot Owner shall be obligated;

- (b) To execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents, and
- (c) That such Lot Owner has waived its right to object to or make any comment concerning the form or substance of any amendment, modification, or termination of the Title Documents.

Without limiting the foregoing, when Class B membership ceases, the Association shall assume all of the obligations of Declarant under the Title Documents unless otherwise provided by Declarant by amendment to the Declaration recorded in the Public Records, from time to time, and in the sole and absolute discretion of Declarant.

- 6.10. Buffer Area Maintenance. The owner of Lots 11 and 12, Block B2 and Lots 14 and 15, Block B3 ("Buffer Lots"), of OAKS AT BOCA RATON PLAT ONE, as recorded in Plat Book 95, Pages 16 through 22, of the Public Records of Palm Beach County, Florida ("Plat One") shall be responsible for maintaining and irrigating the land within Tract L-8 of Plat One which is immediately adjacent to the rear of their respective Lot, in accordance with standards set by the ACC from time to time. The owner of the Buffer Lots is granted the privilege and requirement of using this land immediately adjacent to their rear Lot line and the buffer wall as open and/or green space and of placing their fence up to and abutting the wall (but not attaching the fence to the wall). The owner of the Buffer Lots is prohibited from removing, altering or adding to the landscaping within Tract L-8 without the prior consent of the Association (or ACC) or from using said space for any purpose other than as open and/or green space. In the event of the failure of the owner of the Buffer Lots, to maintain and irrigate the portion of Tract L-8 of Plat One adjacent to the rear of their Lot, the Association shall be entitled to perform such work and charge the respective Lot Owner in accordance with Section 6.5 and 6.6 herein. Further, lack of use of Tract L-8 of Plat One by the Association, and the granting of this privilege and enjoyment to the owners of the Buffer Lots in no event grants any ownership interest in the land within Tract L-8 to the Buffer Lots.

- 6.11. Maintenance of Adjacent Swales and Sidewalks. Lot Owners are solely responsible for the maintenance and irrigation of all swales, including without limitation, any trees planted in the swales as approved by the Declarant or the Association and maintenance of all sidewalks adjacent to their respective Lots. Lot Owners are permitted to construct a driveway across such swales and/or sidewalks, subject to approval by the ACC. In the event of the failure of a Lot Owner to maintain the sidewalks adjacent to the Lot and maintain and irrigate the swales adjacent to the Lot in accordance with the standards set by the ACC or any governmental or quasi-governmental entity, the Association shall be entitled to perform such work and charge such Lot Owner in accordance with Sections 6.5 and 6.6 herein.
- 6.12. Maintenance of Lake Maintenance Easement Areas and Lake Access Tracts. Lot Owners are solely responsible for the maintenance and irrigation of Lake Maintenance Easement Areas and Lake Access Tracts as provided for in Section 4.10. In the event of the failure of a Lot Owner to maintain and irrigate the Lake Maintenance Area (including green space between edge of the Lake Maintenance Easement and the water's edge) and Lake Access Tract in accordance with the standards set by the ACC, the Association shall be entitled to perform such work and charge such Lot Owner in accordance with Sections 6.5 and 6.6 herein.

ARTICLE 7.

CERTAIN RULES AND REGULATIONS

- 7.1. Applicability. Pursuant to Section 7.34 hereof, the Association, from time to time, by and through the Board of Directors, may adopt additional rules and regulations governing the Lots, Homes and Common Properties of The Oaks. The provisions of this Article 7 and Article 13 and any other rules and regulations adopted by the Association shall be applicable to all of the Lots, Homes and Common Properties of The Oaks, but shall not be applicable to the Declarant or any of its written designees (including, but not limited to, one or more Builders or other Lot Owners if so designated) or Lots or other property owned by the Declarant or any of its designees. This right will continue until the last Lot or Home is built by the Builder[s] that Declarant designates in its sole discretion.
- 7.2. Obstruction of Common Properties. No portion of the Common Properties may be obstructed, encumbered, or used by Lot Owners for any purpose other than as permitted by Association.
- 7.3. Assumption of Risk. Without limiting any other provision herein, each person using any portion of the Common Properties accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with the use of such Common Properties including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizer restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within The Oaks, and (e) design of any portion of The Oaks. Each such person also expressly indemnifies and agrees to hold

harmless Declarant, Association and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Properties, including for attorneys' fees, paraprofessional fees and costs at trial and upon appeal. EACH OWNER ACKNOWLEDGES THAT THE COMMON PROPERTIES MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, RACCOONS, DEER, SWINE, TURKEYS, SNAKES, DUCKS, AND FOXES. DECLARANT, BUILDERS, AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND ALL THEIR GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

- 7.4. Lot Owner's Obligations to Indemnify. Each Lot Owner agrees to indemnify and hold harmless Declarant, Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Properties, and/or from any act or omission of Declarant, Association or of any of the Indemnified Parties. Should any Lot Owner bring suit against Declarant, Association or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Lot Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.
- 7.5. Land Use and Building Type. No Lot shall be used except for single family residential and reasonably ancillary purposes, unless otherwise approved by the Declarant. No building constructed on a Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Home. Temporary uses by Declarant and its designees for model homes, guest accommodations, sales displays, parking lots, sales offices and other offices, or any one or combination of such uses, shall be permitted at all times. No improvements may be made to a Lot, or changes thereafter made (unless such changes are made by the Declarant) without the consent of the ACC (as hereinafter defined). Neither the Association nor any Lot Owner shall make or permit any modification or alteration of any improvements or landscaping (including, without limitation, removal of soil, changing the level of the land within The Oaks, or planting landscaping which results in any permanent change in the flow and drainage of water) within The Oaks except with the prior written consent of the ACC. No building shall be demolished or removed without the prior written consent of the Board of Directors.

- 7.6. Construction Activity. Unless otherwise approved in advance by the ACC, no construction or construction related activities or third party landscaping or maintenance activities on a Lot or Home may be undertaken except on the times and dates determined by the Association as set forth in the rules and regulations.
- 7.7. Easements. Easements for installation and maintenance of Community Systems, utilities, and for roadway and turnaround purposes are reserved as shown on the recorded Plats or recorded easements and as provided herein. Within these easements, no structure, planting, fence, screen or other material may be placed or permitted to remain that will interfere with or prevent the utilization of the easements unless approved in writing in advance by Declarant or the Association. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Lot Owner of the Lot, except as provided herein to the contrary and except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, natural gas company, the Association and the Declarant, and its and their affiliates, and respective successors and assigns, shall have a perpetual easement for the installation and maintenance, all underground, of water lines, sanitary sewers, storm drains, and electric, telephone and security lines, natural gas lines, cables and conduits, under and through the utility easements as shown on the Plat or as reserved herein. Declarant and its affiliates, and its and their designees, successors and assigns, shall have a perpetual easement for the installation and maintenance of cable and community antennae, radio, television, natural gas and security lines (and for all future technological advances not now known) within platted or reserved utility easement areas, or any other portion of The Oaks (other than under improvements not owned by Declarant or its affiliates). All utilities and lines within the subdivision, whether in street rights-of-way or utility easements, shall be installed and maintained underground except those appurtenances commonly required to be above ground that support the underground system. Those appurtenances may include transformers, hand holds, service boxes, risers, etc.
- 7.8. Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to others within The Oaks. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors, which shall render a decision in writing, and such decision shall be dispositive of such dispute or question. ALL PERSONS ARE REFERRED TO SECTION 13.11 HEREOF WITH RESPECT TO CERTAIN ACTIVITIES OF DECLARANT.
- 7.9. Temporary Structures; Other Outdoor Equipment. Except as may be approved or used by the Declarant during construction and/or sales periods, no structure of a temporary character, or trailer, tent, mobile home or recreational vehicle, shall be permitted on any Lots within The Oaks at any time or used at any time as a

residence, either temporarily or permanently, except by the Declarant and its affiliates during construction. Any outdoor equipment such as, but not limited to, pool pumps, water softening devices, air conditioning and heating compressors and/or condensers, outdoor children's recreational equipment and/or artwork of any kind shall be completely screened from the view of anyone not standing on the Lot by the use of landscaping or other means (in any event, as approved by the ACC); provided, however, that the use of such screening shall not obviate the requirement that the installation of any such equipment nevertheless be approved by the ACC.

- 7.10. Signs. No sign of any kind shall be displayed to the public view within The Oaks or within any of the Common Properties except for signs used by the Declarant, Builders and their affiliates and agents (to the extent such signs are approved by the Declarant) during the development, construction and/or sale of the Lots by the Declarant or such Builders. No "FOR SALE" signs shall be permitted on any Lot.
- 7.11. Pets, Livestock and Poultry. Subject to the rules and regulations governing the Oaks (attached hereto as Exhibit "D"), which may be modified to limit the number and/or type of pets permitted in a Home, each Lot Owner of a Lot may keep not more than three (3) household pets in their Home, subject to the terms hereof, and provided that any pet does not become a nuisance or annoyance to any neighbor by reason of barking or otherwise. A determination by the Board of Directors that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. Except for the household pets which may be maintained on Lots, no other animals, reptiles, wildlife, livestock or poultry of any kind shall be raised, bred or kept on any Lot. No pet may be kept, bred or maintained for any commercial purpose. No dogs or other pets shall be permitted to have excretions on any Common Properties, except areas designated by the Association, if any, and Lot Owners shall be responsible to clean up any such excretions. For purposes hereof, "household pets" shall mean dogs, cats and other animals expressly permitted by the Association, if any. ALL PETS SHALL BE KEPT ON A LEASH WHEN NOT IN THE APPLICABLE HOME OR IN A SECURED FENCED-IN LOT, IF ANY. Pets shall also be subject to all applicable rules and regulations. Nothing contained herein shall prohibit the keeping of fish or domestic (household-type) birds, as long as the latter do not become a source of annoyance to neighbors. No horses or barns are permitted.
- 7.12. Visibility at Intersections. No obstruction to visibility at street intersections or Common Properties intersections shall be permitted, including, without limitation any obstruction caused by trees, shrubs, walls and fences; provided that the Association shall not be liable in any manner to any person or entity, including Lot Owners and Members' Permittees for any damages, liabilities, injuries or deaths arising from violations of this Section. All trimming of said trees and shrubs shall be the sole responsibility of the adjacent Lot Owner(s).
- 7.13. Architectural Control. The Architectural Control Committee ("ACC") shall be a committee appointed by the Board of Directors and absent such appointment the

Board of Directors shall serve in such capacity. Members of the ACC serve at the pleasure of the Board of Directors and may be removed and replaced by the Board of Directors at any time in the Board of Director's sole and absolute discretion. The ACC shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. A majority of the ACC may designate a representative to act for the ACC and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ACC, the remaining members shall have full authority to designate a successor. The members of the ACC shall not be entitled to any compensation for services performed pursuant to this covenant, unless engaged by the Association in a professional capacity.

No building or other structure or improvement of any nature including, but not limited to, pools, screen enclosures, patios or patio extensions, hedges, other landscaping, exterior lighting, mailboxes, exterior paint or finish, awnings, shutters, hurricane protection, permanent basketball hoops (however, rules governing the use and times of play may be established by the Board of Directors and permanent hoops must be free standing only, properly placed, and screened from adjacent Lots and Common Properties in accordance with the determination by the ACC), swing sets or play apparatus, decorative plaques or accessories, birdhouses, outdoor children's recreational equipment, artwork of any kind, other pet houses, swales, asphalt, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the land or to other improvements) shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping or of the materials as may be required by the ACC have been approved, if at all, in writing by the ACC and all necessary governmental permits are obtained. Fences, walls and similar improvements shall be governed by Section 7.18 herein. Conversions of garages to living space or other uses are permitted when in the opinion of the ACC same are not readily apparent from the exteriors of applicable Homes. Each building, wall, fence (if any) or other structure or improvement of any nature, together with landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and location plans, or any of them, may be based on any grounds, including purely aesthetic ones, which in the sole and absolute discretion of said ACC are deemed sufficient, and neither the Architectural Control Committee nor the members thereof shall be liable for any loss or damage arising from such refusal. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of landscaping, shall be deemed an alteration requiring approval. The ACC shall use reasonable efforts to act on submissions to it within forty-five (45) days after receipt of the same (and all further documentation required by it). In the event the ACC does not respond within such forty-five (45) day period, such submission shall be deemed not approved by the ACC.

The ACC shall not unreasonably withhold its approval of the installation of hurricane shutters or a similar equipment; provided, however, that the Board of Directors is expressly authorized to adopt reasonable rules and regulations governing when such shutters are kept in a closed position

No request for approval shall be valid or require any action unless and until all Assessments on the applicable Lot (and any interest and late charges thereon) have been paid in full.

In light of the fact that the types, styles and locations of Homes may differ among the different areas of The Oaks, in approving or disapproving requests submitted to it hereunder the ACC may vary its standards among such areas to reflect such differing characteristics. Accordingly, the fact that the ACC may approve or disapprove a request pertaining to a Lot in one area shall not serve as precedent for a similar request from a Lot Owner in another area where the latter has relevant characteristics differing from the former.

In the event that any new improvement or landscaping is added to a Home/Lot, or any existing improvement on a Lot is altered, in violation of this Section, the Association shall have the right (and an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the applicable violation after giving the Lot Owner at least ten (10) days' prior written notice of, and opportunity to cure, the violation in question. The costs of such remedial work and a surcharge of a minimum of fifty dollars (\$50.00) (but in no event more than fifty percent (50%) of the aforesaid costs) shall be a special assessment against the Lot, which Assessment shall be payable upon demand and secured by the lien for Assessments provided for in this Declaration.

The approval of any proposed improvements or alterations by the ACC shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the ACC or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Lot Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association generally, from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

The ACC may, but shall not be required to, require that any request for its approval be accompanied by the written consent of the Lot Owners [up to five (5)] adjoining or nearby the Lot or Home proposed to be altered or further improved as described in the request.

Without limiting the generality of Section 7.1 hereof, the foregoing provisions shall not be applicable to Declarant or its affiliates or designees or to construction activities conducted by the Declarant or its affiliates.

Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure cleaned within thirty (30) days of notice by the ACC.

Homes shall be repainted within forty-five (45) days of notice by the ACC.

The ACC shall have the right, in its sole discretion, to charge a reasonable fee for the review of all materials provided by a Lot Owner and to collect a security deposit (to be determined by the ACC, in its sole discretion) in the event that the Common Properties are damaged by the proposed improvement or activity, including, without limitation, structures, sidewalks, landscape buffers, drainage and swales.

7.14. Community Standards. Each Lot Owner and its contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board of Directors from time to time. The Community Standards shall be effective from the date of adoption, shall be specifically enforceable by injunction or otherwise, and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Lot Owner to alter the improvements previously constructed. So long as Class "B" membership exists, Declarant shall have the right to approve the Community Standards, which approval may be granted or denied in its sole discretion.

7.15. Motor Vehicles, Trailers, Campers and Boats and Lots/Garages. No jet skis, jet ski trailers, nor any vehicle having a shell, camper or other attachment, or commercial vehicles, campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or vans, shall be permitted to be parked or to be stored at any place within The Oaks, nor in dedicated areas, except in enclosed garages. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of trucks and commercial vehicles, such as for providing pickup and delivery, nor to passenger-type vans with windows for personal use which are in acceptable condition in the sole opinion of the Board of Directors (which favorable opinion may be changed at any time), nor to any vehicles of the Declarant or its affiliates. In all cases, vehicles kept within The Oaks shall be roadworthy including, without limitation, as to not having flat tires, being in operating condition and having a current license plate/registration. All Lot Owners and other occupants of Homes are advised to consult with the Association prior to purchasing, or bringing into The Oaks, any type of vehicle other than a passenger car inasmuch as such other type of vehicle may not be permitted to be kept within The Oaks. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted, including, without limitation,

leaking oil or other fluids, may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting. Garage doors shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open.

- 7.16 Parking on Common Properties and Lots. No vehicles of any type shall be parked on any portion of the Common Properties (including roadways) or any portions of a Lot other than its driveway (which prohibition shall include, without limitation, parking on swales or the sidewalk between the driveway and the apron of the given Lot) and/or garage. Notwithstanding the foregoing, provided (i) there is no interference with traffic, (ii) the vehicle is permitted to be parked outside a garage in accordance with Section 7.15 hereof, (iii) such parking does not create any safety hazard, and (iv) such parking is in compliance with all governmental laws and regulations and the rules and regulations of the Association, as modified from time to time, a Lot Owner may park their vehicle on the streets located within the Common Properties (except for Bridgebrook Drive and Oaks Club Drive) during daylight hours as long as traffic and utilities (such as fire hydrants) are not obstructed.
- 7.17. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish (including materials for recycling) shall be kept out of doors except as permitted by the Association. The requirements from time to time of the Board of Directors and/or the applicable governmental authority for disposal or collection of waste shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Except as permitted by the Association, all garbage and trash placed outdoors on a curb must be in a plastic container with a lid which is held down by a bracket or other closure device. Garbage must be maintained in accordance with the requirements of the Board of Directors and may not be placed out for collection sooner than twenty-four (24) hours prior to scheduled collection and must be removed within twelve (12) hours of collection. In the event that governmental disposal or collection of waste is not provided to individual Homes or Lots, garbage, refuse, trash or rubbish shall be collected by a private entity hired by the Association. The Association shall adjust the Assessments to reflect the cost thereof.
- 7.18. Fences, Walls and Hedges. No fence, wall, hedge, enclosure (i.e., screen) or other structure shall be erected on any Lot, except as originally installed by Declarant or its affiliates or as approved by the ACC as above provided. In considering any

request for approval of a hedge or other landscaping, the ACC shall give due consideration to the possibility of same obstructing the view from any adjoining Lot or the Common Properties and may condition its approval on the hedge or other landscaping being kept to a specific height by the Association.

7.19 No Drying. No clothing, laundry or wash shall be aired or dried on any portion of The Oaks which would be visible from other Lots or the Common Properties.

7.20 Home Air Conditioners and Reflective Materials. No air conditioning units may be mounted through windows or walls. No building shall have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except such as may be approved by the ACC for energy conservation purposes.

7.21 Exterior Antennas. No exterior antennas or satellite dishes or similar equipment shall be permitted on any Lot or improvement thereon, except for satellite dishes which are installed no higher than forty-eight inches (48") off of the ground, are less than twenty-four inches (24") in diameter and are screened from view in all directions to the satisfaction of the ACC and provided that Declarant and its affiliates shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines. Because of changing technology, Declarant may periodically update the requirements of this paragraph and may modify these requirements by adopting rules and regulations approved by the Association, which must be reasonable in light of changing technology and uses and which will have the effect of modifying this paragraph.

7.21.1 Solar Panels. Exterior solar panels shall be permitted on any Home, provided that the solar panels are installed on the rear roof of the Home and cannot be seen from the Common Properties or from an adjacent Lot to the satisfaction of the ACC.

7.22 Lakes and Waterbodies. No swimming is permitted in any lake or other body of water located in the Common Properties ("Lake"). Neither Declarant nor the Association make any representation about water quality in any Lake. Declarant and/or Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody or waterfall within The Oaks. Notwithstanding the foregoing, a Lot Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Lot with the prior approval of the ACC. No fence or other structure may be placed within any Lake Maintenance Easement Area. No landscaping shall be placed within any Lake Maintenance Easement Area without the prior written approval of the ACC, which may be withheld in its sole and absolute discretion. Swimming will not be permitted in any waterbody. No docks may be erected within any waterbody forming part of the Common Properties. No boats are permitted in any Lake. Lot Owners are not permitted to draw water from any Lake. EACH LOT OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND

WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DECLARANT OR ASSOCIATION THAT WATER LEVELS AND LITTORAL ZONES WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME.

- 7.23. Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted, and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Declaration.
- 7.24. Boat Storage. No boats may be stored on a Lot or used by a Lot Owner on any lakes or waterbodies within The Oaks.
- 7.25. Intentionally Omitted.
- 7.26. Disturbance of Littoral Zone Plantings. No person shall disturb any of the littoral zone planting and any person disturbing same shall be responsible for the expense of replacing or repairing such littoral zone plant, and same may be specially assessed against any Lot owned by such person.

In addition to the foregoing, each Lot Owner hereby stipulates and agrees that any and all conservation areas required by any governmental authority to be located within The Oaks shall be Common Properties and shall be the perpetual responsibility of the Association and may in no way be altered from the natural or permitted state. Activities prohibited within any and all conservation areas which may be required to be located within The Oaks, include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing of soil or other substances such as trash; removal or destruction of trees, shrubs or other vegetation (with the exception of "exotic" and/or "nuisance" vegetation removal); excavation; dredging or removal of soil material; diking or fencing (unless same is installed by the Association to protect plants) and any other activities detrimental to drainage, flood control, water conservation, erosion control or fish and wildlife habitat conservation or preservation.

Furthermore, the Palm Beach County Department of Environmental Resource Management ("DERM") requires littoral zone lake plantings to be installed and maintained in certain areas in The Oaks. These plantings may not be disturbed, trimmed or removed by any other persons other than the Association who must first receive approval from DERM. The ongoing maintenance, cost and perpetual obligation of such plantings shall be and remain the responsibility of the Association after Class B membership in the Association ceases and the Declarant's representatives resign from the Board of Directors. Any Lot Owner who damages the referenced plantings shall be solely responsible for the cost of repairing same, as well as any fines, costs, or other charges imposed by DERM or any other agency or governmental entity arising from such damage. ALL LOT OWNERS SHALL BE DEEMED TO HAVE ACKNOWLEDGED AND

AGREED THAT VIEWS OF CERTAIN AREAS, INCLUDING, BUT NOT LIMITED TO, ANY LAKES OR OTHER BODIES OF WATER IN OR OUTSIDE OF THE OAKS MAY BE ALTERED BY THE PRESENCE OF SUCH PLANTINGS.

All work pursuant to this Section 7.26 and all expenses incurred or allocated to the Association shall be paid for by the Association through Assessments imposed in accordance herewith.

Without limiting the foregoing, each Lot Owner shall also be subject to the littoral zone restrictions set forth in Section 7.22 of this Declaration.

- 7.27. Security Guards. The Association may employ guards to monitor the property and may determine to employ a guard company that utilizes armed guards. Neither the Declarant nor the Association nor any officer, director, employee, member or agency (including any guard company) thereof shall be liable for any damage to property, personal injury, or death arising from deeds or actions of such guards.
- 7.28. Golf Carts. Golf carts are permitted in The Oaks provided (i) they are powered by electricity and not gas, (ii) they are not parked on the street at any time, (iii) they are stored in an enclosed garage each night, (iv) they obey all common vehicles rules of the road, and (v) they are permitted by governmental laws then in effect.
- 7.29. Members' Permittees. No Lot or Home shall be occupied by any person other than the Lot Owner(s) thereof and the applicable Members' Permittees and in no event other than as a residence. For purposes of this Declaration, Member's Permittees shall be the following persons and such persons' families, provided that the Lot Owner or other permitted occupant must reside with his/her family: (a) an individual Lot Owner(s), (b) an officer, director, stockholder or employee of a corporate owner, (c) a partner in or employee of a partnership owner, (d) a fiduciary or beneficiary of an ownership in trust, or (e) occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration. Under no circumstances may more than one family reside in a Home at one time. The provisions of this Section shall not be applicable to Homes used by the Declarant for model apartments, guest accommodations, sales offices or management services. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Home as or together with the Lot Owner or permitted occupant thereof, as well as any live in household help of any Lot Owner or permitted occupant. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Home. Unless otherwise determined by the Board of Directors, a person(s) occupying a Home for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to leases and lessees. The purpose of this paragraph is to

prohibit the circumvention of the provisions and intent of this Article and the provisions of Article 8 and the Board of Directors shall enforce, and the Lot Owners shall comply with, same with due regard for such purpose.

- 7.30. Home Office. No Lot Owner shall be permitted to utilize his/her Home or any portion of his/her Lot or Lots as an office for professional or commercial purposes unless (a) the Lot Owner obtains an occupational license for such use and is otherwise fully in compliance with all applicable laws, statutes, codes, ordinances and other agreements with government and quasi-governmental offices and (b) such use will not unduly disturb (e.g., without limitation, excessive visitors and/or deliveries) other Lot Owners' quiet enjoyment of their Homes and the Common Properties. Except for subsection (b), above, the foregoing provision shall not apply to home offices which are solely staffed by a Lot Owner who is a natural person and/or their immediate family.
- 7.31. Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association; (ii) removing all removable furniture, plants and other objects from outside the Home, and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Association shall have no responsibility of any nature relating to any unoccupied Home.
- 7.32. Variances; Exceptions. The Board of Directors (or the ACC as to those matters requiring the approval of the ACC) shall have the right and power to grant variances from the provisions of this Article 7 for good cause shown, as determined in the reasonable discretion of the Board of Directors or ACC, as appropriate. No variance granted as aforesaid shall alter, waive or impair the operation or effect of the provisions of this Article 7 in any instance in which such variance is not granted. Notwithstanding anything to the contrary, the provisions of this Article 7 shall not be applicable to the Declarant (or any of its designees) or Lots or other property owned by the Declarant (or such designees).
- 7.33. Applicability to Builders. Any Builder shall be exempt from the provisions of this Article, as well as those of Article 6 above, to the extent that the application of same would prevent or unreasonably interfere with the construction of a Home in a lawful manner; provided, however, that such Builder shall not be exempt unless it is subject to initial construction review requirements by the Declarant. Notwithstanding the foregoing, Declarant, through the rules and regulations of the Association, may (but shall not be obligated) to elect to regulate Builders to ensure that Builder's Lots which contain construction sites are fenced and are kept in a neat, clean and orderly manner appropriate for such site.
- 7.34. Additional Rules and Regulations. Attached hereto as Exhibit "D" are certain additional rules and regulations of the Association which are incorporated herein by this reference and which, as may the foregoing, may be modified, in whole or

in part, at any time by the Board of Directors without the necessity of recording an amendment hereto or thereto in the public records.

ARTICLE 8. RESALE AND LEASE RESTRICTIONS

- 8 1. Resale. No Lot Owner, other than the Declarant or its designees, may sell or convey their interest in a Lot unless all Assessments and other sums due the Association are paid in full and an estoppel certificate in recordable form to such effect shall have been received by the Lot Owner. If all such sums shall have been paid, the Association shall deliver such certificate within seven (7) days following a written request therefor. The Lot Owner requesting the certificate may be required to pay to the Association a reasonable fee to cover the costs of preparing the certificate and examining records.
- 8 2. Leases. No portion of a Lot (other than an entire Lot and the Home therein) may be rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association and its applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing The Oaks or administered by the Association. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home or Lot. All leases or occupancy agreements shall be in writing, and a copy of all leases of Homes or Lots shall be provided to Association if so requested by Association. No Home or Lot may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No time-share or other similar arrangement is permitted. The Lot Owner must make available to the lessee or occupants copies of the Association Documents. No lease term shall be less than four (4) months.

Lot Owners wishing to lease their Lots and Homes may, if the Board of Directors so elects, be required to place in escrow with the Association a sum of up to \$500.00 which may be used by the Association to repair any damage to the Common Properties or other portions of The Oaks resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The Association shall not be required to pay or remit any interest on any such escrowed funds. The Lot Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. Any balance remaining in the escrow account, less an administrative charge not to exceed \$50.00 and exclusive of any interest retained by the Association, shall be returned to the Lot Owner within ninety (90) days after written notice that the tenant vacates the Home.

ARTICLE 9.
ENFORCEMENT

- 9.1. Compliance by Lot Owners. Every Lot Owner and all Members' Permittees shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors, or any other agreement, document or instrument affecting The Oaks or administered by the Association and/or the ACC.
- 9.2. Enforcement. Failure of a Lot Owner or their Member's Permittees to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend the rights of use of Common Properties (except for vehicular and pedestrian ingress to and egress from the Lot Owner's Lot) of defaulting Lot Owners (and their Members' Permittees). The offending Lot Owner shall be responsible for all costs of enforcement including attorneys' and paraprofessionals' fees actually incurred and court costs, including those relating to appeals.
- 9.3. Fines. In addition to all other remedies, in the sole discretion of the Board of Directors, a fine or fines may be imposed upon a Lot Owner for failure of a Lot Owner, or Permittees to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:
- (a) Notice: The Association shall notify the Lot Owner of the alleged infraction or infractions. Included in the notice shall be a date and time, which shall be not less than fourteen (14) days following the date of notice, of a meeting of a committee of the Board of Directors (which committee shall not consist of any officers, directors or employees of the Association nor any spouse, parent, child, brother or sister of any officer, director or employee) at which time the Lot Owner or occupant shall present reasons why fines should not be imposed.
 - (b) Hearing: The alleged noncompliance shall be presented to the committee after which the committee shall hear reasons why a fine(s) should not be imposed. A written decision of the committee shall be submitted to the Lot Owner not later than twenty-one (21) days after the committee's meeting. The Lot Owner shall have a right to be represented by counsel and to cross-examine witnesses.
 - (c) Amounts: The committee may direct the Board of Directors to impose special assessments against the Lot owned by the Lot Owner in an amount not to exceed \$50.00, provided, however, that with respect to an infraction of a continuing nature, the fine may be in an amount equal to \$50.00 for each day that the infraction continues and there shall be no limit on the aggregate amount of such fines.

- (d) Payment of Penalties: Fines shall be paid not later than five (5) days after notice of the imposition or Assessment of the penalties
- (e) Collection of Fines: Fines shall be treated as an Assessment subject to the provisions for the collection of Assessments as set forth herein.
- (f) Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.
- (g) Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Lot Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Lot Owner.

ARTICLE 10.

INSURANCE

- 10.1. Common Properties. The Association shall keep all improvements, facilities and fixtures located within the Common Properties, insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, excavation costs and similar matters), and may obtain insurance against such other hazards and casualties as the Association may deem desirable including, without limitation (but without the obligation to procure the same) flood and/or hurricane insurance. The Association may also insure any other property, whether real or personal, owned or maintained by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance for and on behalf of itself and all Members. The insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association first for the repair or replacement of the property for which the insurance was carried, and thereafter, if any insurance proceeds remain, for any purpose determined by the Board of Directors, in its sole and absolute discretion. Premiums for all insurance carried by the Association are common expenses included in the Assessments made by the Association.

To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association shall contain provisions, or be accompanied by endorsements, for: agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction.

All insurance policies shall contain standard mortgagee clauses, if applicable.

- 10.2. Replacement or Repair of Property. In the event of damage to or destruction of any portion of the properties insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article 11 of this Declaration.
- 10.3. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board of Directors, the Members, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.
- 10.4. Liability and Other Insurance. The Association shall have the power to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least \$1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to the Common Properties (but not the Lots), including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts shall also be maintained. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Member and the Association and its Board of Directors and officers, from liability in connection with the Common Properties, the premiums for which shall be Common Expenses and included in the Assessments made against the Members. The Association may also obtain such other insurance as the Board of Directors deems appropriate. All insurance policies shall be reviewed at periodically by the Board of Directors and the limits increased in its discretion.

The Board of Directors may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board of Directors or any management company engaged by the Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board of Directors or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding of anyone (compensated or not) who handles or is responsible for funds held or administered by the Association, with the Association to be an obligee thereunder. Such bonding shall be in an amount of at least \$500,000 or a greater amount if established by the Board of Directors.

- 10.5. Insurance for Homes. Each Lot Owner shall be required to obtain and maintain adequate insurance of their Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape the

land comprising the Home and Lot. Upon the request of Association, each Lot Owner shall be required to supply the Board of Directors with evidence of insurance coverage on their Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require a Lot Owner to comply with their obligations hereunder.

ARTICLE 11.

DAMAGE OR DESTRUCTION TO INSURED PROPERTIES

- 11.1. Casualty Damage to or destruction of all or any portion of the properties insured by the Association (the "Insured Properties") shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:
- (a) In the event of damage to or destruction of the Insured Properties, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such portions of the Insured Properties to be repaired and reconstructed substantially as it previously existed.
 - (b) If the insurance proceeds are within Five Hundred Thousand Dollars (\$500,000.00) or less of being sufficient to effect total restoration of the Insured Properties, then the Association shall cause such portions of the Insured Properties to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a capital improvement assessment against each of the Lot Owners in equal shares.
 - (c) If the insurance proceeds are insufficient by more than Five Hundred Thousand Dollars (\$500,000.00) to effect total restoration of the Insured Properties, then by written consent or vote of a majority of each class of the Members, they shall determine, whether (1) to rebuild and restore the Insured Properties in substantially the same manner as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying capital improvement assessments against all Members, (2) to rebuild and restore in a way which is less expensive than replacing the Insured Properties in substantially the same manner as they existed prior to being damaged, or (3) subject to the approval of the Board of Directors, to not rebuild and to retain the available insurance proceeds. Anything to the contrary herein notwithstanding, no decision not to rebuild or to rebuild in a manner which would result in a change in the Insured Properties shall be effective without the written approval of the Board of Directors and the ACC, either of which can require rebuilding as they deem appropriate.
 - (d) Each Member shall be liable to the Association for any damage to the Insured Properties not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of any

Member or their Member's Permittees. Notwithstanding the foregoing, the Association reserves the right to charge such Member an assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Member. In the case of joint ownership of a Lot/Home, the liability of such Member shall be joint and several. The cost of correcting such damage shall be an Assessment against the Member and may be collected as provided herein for the collection of Assessments.

- 11.2. Casualty to a Home. In the event that any Home is destroyed by fire or other casualty, the Lot Owner of such Home shall do one of the following: the Lot Owner shall commence reconstruction and/or repair of the Home ("Required Repair"), or Lot Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ACC ("Required Demolition"). If a Lot Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Lot Owner's receipt of the insurance proceeds respecting such Home. If a Lot Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board of Directors in its sole and absolute discretion. If a Lot Owner elects to perform the Required Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Lot Owners of Homes separated by party walls shall not be required to perform the Required Demolition, but all Lot Owners of damaged or destroyed Homes with party walls shall perform the Required Repair with respect to such Homes. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against a Lot Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against a Lot Owner who fails to either perform the Required Repair or Required Demolition on their Home within the time periods and in the manner provided herein. Each Lot Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.
- 11.3. Standard of Work for Home Casualty. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of The Oaks.
- 11.4. Additional Rights of Association for Home Casualty. If a Lot Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Lot Owner to perform

the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board of Directors may levy an Assessment against the Lot Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

- 11.5. Association Has No Liability for Home Casualty. Notwithstanding anything to the contrary in this Section, Association, its directors and officers and Declarant shall not be liable to any Lot Owner should a Lot Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers and Declarant shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

ARTICLE 12.

MORTGAGEE PROTECTION

The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

- (a) The Association shall be required to make available to all Lot Owners and Mortgage Lenders, and to insurers and guarantors of any first mortgage, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By Laws and rules and regulations and the books and records of the Association. Furthermore, such persons shall be entitled, upon written request, to (i) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) receive notices of and attend the Association meetings, (iii) receive notice from the Association of an alleged default by a Lot Owner in the performance of such Lot Owner's obligations under this Declaration, the Articles of Incorporation or the By Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default, and (iv) receive notice of any substantial damage or loss to the Common Properties.
- (b) Any holder, insurer or guarantor of a mortgage on a Lot shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Properties, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (iv) any proposed action which requires the consent of a specified number of Mortgage Lenders.

- (c) Unless at least 66-2/3% of first mortgagees (based upon one vote for each mortgage owned), and the Members holding at least two-thirds (2/3) of the votes entitled to be cast by them, have given their prior written approval, neither the Association nor the Lot Owners shall:
- (i) by act or omission seek to sell or transfer the Common Properties and any improvements thereon which are owned by the Association (the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Properties to another similar association of the Lot Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause);
 - (ii) change the basic method of determining the obligations, Assessments, dues or other charges which may be levied against a Lot, except as provided herein with respect to future Lots;
 - (iii) by act or omission, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Oaks except as may be permitted by law;
 - (iv) fail to maintain fire and extended insurance on insurable portions of the Common Properties as provided herein; or
 - (v) use hazard insurance proceeds for losses to any Common Properties for other than the repair, replacement or reconstruction of the improvements until such replacement or reconstruction of the improvement has been completed.

ARTICLE 13. **GENERAL PROVISIONS**

- 13.1. Duration. The covenants and restrictions of this Declaration shall run with and bind The Oaks, and shall inure to the benefit of and be enforceable by the Declarant, the Association, the ACC and the Lot Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Lot Owners of 75% of all the Lots subject hereto and 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions; provided, however, that no such agreement to revoke (unless consented to by 100% of the Lot Owners) shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice

of the proposed agreement is sent to every Lot Owner at least ninety (90) days in advance of any signatures being obtained.

- 13.2 Notice. Any notice required to be sent to any Member or Lot Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postage prepaid, to the last known address of the person who appears as Member or Lot Owner on the records of the Association at the time of such mailing.
- 13.3 Enforcement. Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in any action to enforce these covenants shall be entitled to receive, from the nonprevailing party or parties, all attorneys' and paralegals' fees and court costs actually incurred by the prevailing party, including those for any appeals.
- 13.4 Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.
- 13.5 Ratification. Each Lot Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Home, by reason of occupancy, shall be deemed to have acknowledged and agreed (i) that all of the provisions of this Declaration, and the Articles and By Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects, and (ii) to automatically consent to any rezoning, replatting, creation of a special taxing district, covenant in lieu of unity of title, change, addition or deletion made in, on or to The Oaks by the Declarant and in such regard, each Lot Owner, or occupant of a Home, hereby designates the Association to act as agent and attorney-in-fact on behalf of the Lot Owner to consent to any such rezoning, replatting, creation of a special taxing district, covenant in lieu of unity of title, change, addition or deletion. If requested by the Declarant, each Lot Owner shall evidence their consent to a rezoning, replatting, creation of a special taxing district, covenant in lieu of unity of title, change, addition or deletion in writing (provided, however, that the refusal to give such written consent shall not obviate the automatic effect of this provision).
- 13.6 Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time, in whole or in part, upon the execution and recordation of an instrument executed by the Declarant alone, for so long as it or its affiliates holds

title to any Lot; or, alternatively by approval at a meeting of Lot Owners holding not less than 66-2/3% vote of the entire membership in the Association (as opposed to only those Members represented at a meeting of the Association); provided, however, that so long as the Declarant or its affiliates is the Lot Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained if such amendment, in the sole opinion of the Declarant, affects its interest. Such amendments may include, without limitation, the creation of easements for Community Systems, including, without limitation, Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of The Oaks, additions or deletions from the properties comprising the Common Properties, changes in the Rules and Regulations, modifications of restrictions on the Homes, and maintenance standards for landscaping. Declarant's right to amend under this provision is to be construed as broadly as possible. Notwithstanding the foregoing, no provision of this Declaration may be amended if such provision is required to be included herein by any code, ordinance, law or statute of Palm Beach County, Florida. The foregoing sentence may not be amended.

- 13.7. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.
- 13.8. Conflict. In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration and the exhibits attached hereto or otherwise, this Declaration shall take precedence over the Articles of Incorporation, By Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By Laws and applicable rules and regulations; and the By Laws shall take precedence over applicable rules and regulations, all as amended from time to time.
- 13.9. Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Declarant or its affiliates, the Association or the ACC, such consent, approval or action may be withheld in the reasonable discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Declarant or its affiliates or the Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant or Association, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the Association rendered in good faith that a particular interpretation is not unreasonable shall conclusively establish the validity of such interpretation.
- 13.10. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be

considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Lot Owners designate hereby the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Lot Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

- 13.11. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE OAKS ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE OAKS. EACH OWNER, OCCUPANT AND USER OF THE OAKS AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE OAKS WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NONWORKING HOURS), (iii) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE OAKS HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE OAKS.

- 13.12. Notices and Disclaimers as to Community Systems. Declarant, the Association, or their successors, assigns or franchisees and any applicable Community Systems operator (an "Operator"), may enter into contracts for the provision of security services and those other utility services and Telecommunication Services referred in Section 1.10 through any Community Systems. DECLARANT, THE ASSOCIATION, OPERATORS AND THEIR FRANCHISEES, AND ANY OPERATOR, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR

IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH SECURITY OR MONITORING SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY LOT OWNER OR OCCUPANT OF PROPERTY SERVICED BY THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DECLARANT OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of an Operator to perform any of its obligations with respect to security services, utility services and Telecommunication Services and, therefore, every owner or occupant of property receiving security services, utility services and Telecommunication Services through the Community Systems agrees that Declarant, the Association or any successor, assign or franchisee thereof and any Operator assumes no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Lot Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the security service provider.

Every owner or occupant of property obtaining security services, utility services and Telecommunication Services through the Community Systems further agrees for themselves, their grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the Community System, or from negligence, active or otherwise, of the Operator or its officers, agents, or employees, the liability, if any, of Declarant, the Association, any franchisee of the foregoing and the Operator or their successors or assigns, for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or non-performance by Declarant or an officer, agent or employee thereof, the Association or any franchisee, successor or design of any of same or any Operator. Further, in no event will Declarant, the Association, any Operator

or any of their franchisees, successors or assigns, be liable for consequential damages, wrongful death, personal injury, commercial loss or punitive damages.

In recognition of the fact that interruptions in cable television, other Community Systems and the entry gate systems will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider(s) of such services.

- 13.13. Notices and Disclaimers as to Water Bodies. NEITHER DECLARANT, THE ASSOCIATION NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, USE, WATER QUALITY, FISH QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN OR NEAR THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME OR CONSUMING FISH THEREFROM DOING SO AT THEIR OWN RISK. THE USE OF WATER BODIES AND LAKES SHALL NOT BE THE RESPONSIBILITY OF THE LISTED PARTIES.

ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES OR USING ANY WATER BODY SHALL BE DEEMED, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER AND LITERAL ZONE PLANTINGS IN SUCH BODIES.

- 13.14. Certain Reserved Rights of Declarant with Respect to Community Systems. Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, Declarant hereby reserves and retains to itself:

- (a) the title to any Community Systems and a perpetual easement for the placement and location thereof;
- (b) the right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Declarant may in its sole

discretion deem appropriate including, without limitation, Telecommunications Providers, and other companies licensed to provide CATV, voice, data, phone, and/or natural gas systems in Palm Beach County, Florida, for which service Declarant shall have the right to charge any users a reasonable fee (which shall not exceed any maximum allowable charge provided by any applicable governmental regulations); and

(c) the right to offer from time to time monitoring/alarm services through the Community Systems.

Neither the Association nor any officer, director, employee, committee member or agent (including any management company) thereof shall be liable for any damage to property, personal injury or death arising from or connected with any act or omission of any of the foregoing during the course of performing any duty or exercising any right privilege (including, without limitation, performing maintenance work which is the duty of the Association or exercising any remedial maintenance or alteration rights under this Declaration) required or authorized to be done by the Association, or any of the other aforesaid parties, under this Declaration or otherwise as required or permitted by law.

THE DECLARANT MAY CONTINUE TO CONTROL AND RECEIVE REVENUE FOR THE SYSTEMS DESCRIBED IN THIS SECTION 13.14 AFTER CLASS B MEMBERSHIP TERMINATES IN THE ASSOCIATION AND THE DECLARANT HAS RESIGNED FROM THE BOARD OF DIRECTORS. FURTHER, AS SET FORTH IN SECTION 4.16 ABOVE, DECLARANT SHALL HAVE THE RIGHT TO RECEIVE COMPENSATION FROM THE PROVIDER(S) OF COMMUNITY SYSTEMS OR PUBLIC OR PRIVATE UTILITIES FOR PERMITTING SAME TO BE LOCATED IN AND USED AT THE OAKS, INCLUDING, BUT NOT LIMITED, BY TO THE LOT OWNERS, AND SUCH COMPENSATION SHALL BE CONTINUED TO BE PAID TO DECLARANT BY SUCH PROVIDER SUBSEQUENT TO ANY TRANSFER TO THE ASSOCIATION, THE SALE OF ALL THE LOTS, OR FOR ANY OTHER EVENT.

- 13.15. Disclaimer of Warranties. TO THE MAXIMUM EXTENT LAWFUL AND UNLESS CLEARLY AND ABSOLUTELY PROHIBITED BY LAW, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND HABITABILITY, ANY WARRANTIES IMPOSED BY STATUTE AND ALL OTHER IMPLIED WARRANTIES OF ANY KIND OR CHARACTER ARE SPECIFICALLY DISCLAIMED. DECLARANT HAS NOT GIVEN AND OWNER HAS NOT RELIED ON OR BARGAINED FOR ANY SUCH WARRANTIES.

AS TO ANY IMPLIED WARRANTY WHICH CANNOT BE DISCLAIMED ENTIRELY, ALL SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE SPECIFICALLY EXCLUDED AND

DISCLAIMED (CLAIMS FOR SUCH SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES BEING CLEARLY UNAVAILABLE IN THE CASE OF IMPLIED WARRANTIES WHICH ARE DISCLAIMED ENTIRELY ABOVE).

ALL OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE LOTS (WHETHER FROM THE DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

ALL OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE LOTS (WHETHER FROM THE DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE ACCEPTED THE COMMUNITY PROPERTIES IN THEIR "AS-IS", "WHERE-IS" CONDITION "WITH ALL FAULTS". EACH LOT OWNER BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE LOTS (WHETHER FROM THE DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE EXPRESSLY ACKNOWLEDGED THAT: (I) NEITHER THE DECLARANT, THE ASSOCIATION NOR THE BOARD OF DIRECTORS HAS MADE AND DID NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE COMMON PROPERTIES (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF HABITABILITY, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE), WHICH MIGHT BE DEEMED PERTINENT BY ANY OWNER IN DETERMINING TO PURCHASE ANY LOT; (II) NO SUCH REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE AND THAT SUCH OWNER IS NOT RELYING UPON SAME; AND (III) NEITHER THE DECLARANT, THE ASSOCIATION NOR THE BOARD OF DIRECTORS SHALL BE LIABLE FOR OR BOUND IN ANY MANNER BY ANY PROMISES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE COMMON PROPERTIES MADE OR FURNISHED BY ANY BROKER, REAL ESTATE AGENT, EMPLOYER, SERVANT OR ANY OTHER PERSON REPRESENTING OR PURPORTING TO REPRESENT THE DECLARANT, THE ASSOCIATION OR THE BOARD OF DIRECTORS.

- 13.16. Liability of the Association. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, NOR IN ANY MANNER BE DEEMED A GUARANTOR OR INSURER OF,

THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE OAKS, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS, MEMBERS' PERMITTEES OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS.

13.17. Waiver of Jury Trial. The Declarant and each Lot Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Home, by reason of occupancy, hereby shall be deemed to have knowingly, voluntarily and intentionally waived the right each may have to a trial by jury with respect to any litigation based hereon, or arising out of, under or in connection with this Declaration or any document contemplated to be executed (or which may be executed) in connection herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or any actions of the Declarant, the Lot Owner or any such occupant, with respect to any matter arising out of or in any way related to the terms, conditions, liabilities or obligations arising under this Declaration or any document contemplated to be executed (or which may be executed) in connection therewith.

- (a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE OAKS HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE OAKS AND THE VALUE THEREOF;
- (b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND
- (c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF,

ANY PORTION OF THE OAKS (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, ALL ACC MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS SECTION SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT AND ALL PARTIES RELATED THERETO, ALL OF WHICH SHALL BE FULLY PROTECTED HEREBY.

- 13.18 Interlocal/School Agreement. Lot Owner(s) ARE hereby OBLIGATED to join in and consent to any application, petition or agreement involving an Interlocal/School Agreement supported by Declarant and which will benefit The Oaks, in Declarant's sole and reasonable discretion. Lot Owner(s) additionally acknowledge that school boundaries periodically change within Palm Beach County and Declarant does not provide any warranty or guaranty to Lot Owner(s) as to a child's attendance at a specific school for a specific period of time.
- 13.19 Disclosure of Agricultural Uses, Packing Plant and Animal Clinic. PORTIONS OF THE OAKS ARE IMMEDIATELY ADJACENT TO THE CLINT MOORE ANIMAL HOSPITAL, WHICH IS A VETERINARY CLINIC AND COMMERCIAL DOG KENNEL, AND WHICH HAS OUTDOOR DOG RUNS AND EXERCISE AREAS, WHICH AMONG OTHER THINGS COULD GENERATE NOISE. EACH LOT OWNER ACKNOWLEDGES AND AGREES THAT THE USES OF THE CLINT MOORE ANIMAL HOSPITAL PREDATE THE DEVELOPMENT OF THE OAKS AND THAT IN ACQUIRING THE RESPECTIVE LOT, EACH LOT OWNER HAS HAD AN OPPORTUNITY TO INSPECT THE CONDITIONS PRESENTED BY THE USES OF THE CLINT MOORE ANIMAL HOSPITAL AND KNOWINGLY AND VOLUNTARILY ACKNOWLEDGES AND ACCEPTS SUCH CONDITIONS, AND WAIVES, RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE DECLARANT AND THE ASSOCIATION FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS ARISING FROM OR RELATED TO SUCH CONDITIONS.

PORTIONS OF THE OAKS ARE IMMEDIATELY ADJACENT AND NEAR CERTAIN AGRICULTURAL FACILITIES AND A PACKING PLANT, THE ACTIVITIES OF THESE FACILITIES, AMONG OTHER THINGS MAY GENERATE NOISE, ODORS AND TRUCK TRAFFIC. EACH LOT OWNER ACKNOWLEDGES AND AGREES THAT THESE USES PREDATE THE OAKS AND THAT, IN ACQUIRING ITS LOTS, EACH LOT OWNER HAS HAD AN OPPORTUNITY TO INSPECT THE CONDITIONS PRESENTED THEREBY AND KNOWINGLY AND VOLUNTARILY ACKNOWLEDGES AND ACCEPTS SUCH CONDITIONS AND WAIVES, RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE DECLARANT AND THE ASSOCIATION FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS ARISING FROM OR RELATED TO SUCH CONDITIONS.

- 13.20. Covenants Running With The Land. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 13.1 hereof, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions, shall run with the land and with title to The Oaks. Without limiting the generality of Section 13.4 hereof, if any provision or application of this Declaration would prevent this declaration from running with the land as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties affected hereby (that these covenants and restrictions run with the land as aforesaid) be achieved.
- 13.21. Articles and Bylaws. Attached hereto as Exhibit "A" and Exhibit "B" are the Articles of Incorporation and Bylaws, respectively, of the Association and the Articles and Bylaws may be modified in whole or in part, at any time in accordance with the terms thereof without the necessity of recording an amendment hereto in the public records.
- 13.22. Indemnification. The Association shall protect, indemnify and hold harmless all Board Members and ACC Members from and against all claims, demand, liabilities and expenses (including costs and attorney fees) in connection with such Board Members or ACC Members performance of their official duties, except for their willful misconduct or gross negligence.

ARTICLE 14.
ADDITIONAL RIGHTS OF DECLARANT

- 14.1. Sales Office. For so long as the Declarant, or its nominee(s), owns any property in The Oaks or affected by this Declaration or maintain one or more offices for sales, construction and/or management purposes, the Declarant, or its nominee(s), shall have the right to take such action reasonably necessary to transact any business necessary to consummate the development and sale of Lots and/or other properties owned by Declarant or its nominee(s). This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of The Oaks, including Common Properties, employees in the models and offices, use of the Common Properties and to show property. The sales office and signs and all items pertaining to development and sales remain the property of the Declarant, or its nominees.
- 14.2. Promotional Events. Declarant and its nominees shall have the right to hold marketing and promotional events within the Property and/or on the Common Properties, without any charge for use. Declarant or its nominees, agents, affiliates, or assignees shall have the right to market The Oaks in advertisements and other media by making reference to The Oaks, including, but not limited to, logos and pictures or drawings of The Oaks, Common Properties, and Homes constructed in The Oaks.
- 14.3. Modification. The development and marketing of The Oaks will continue as deemed appropriate in Declarant's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of The Oaks to, as an example and not a limitation, amend the Plat, modify the boundary lines of the Common Properties, expand the boundaries of the planned unit development, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Declarant, or their agents, affiliates, or designees may deem necessary or appropriate. All Lot Owners automatically consent to any such change, addition or deletion thereafter made by the Declarant and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general automatic effect of this provision).
- 14.4. Use by Prospective Purchasers. Either before or after Class B Membership exists, Declarant shall have the right, without charge, to show and/or use the Common Properties and Membership Amenities (if any) for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Declarant outside of The Oaks. Notwithstanding what is otherwise provided herein, this right shall continue for so long as Declarant is marketing Homes or Lots for sale.

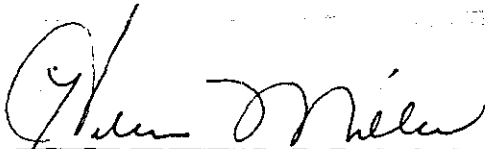
14.5. Franchises. Declarant may grant franchises or concessions to commercial concerns on all or part of the Common Properties and shall be entitled to all income derived therefrom.

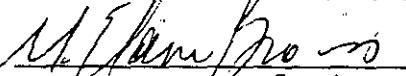
EXECUTED as of the date first above written.

Witnessed by:

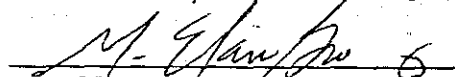
**THE OAKS AT BOCA RATON VENTURE,
L.P., a Florida limited partnership**

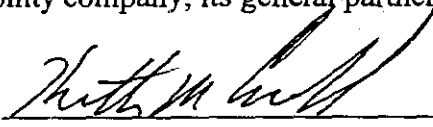
By: THE OAKS AT BOCA RATON
DEVELOPMENT, LLC, a Florida limited
liability company, its general partner

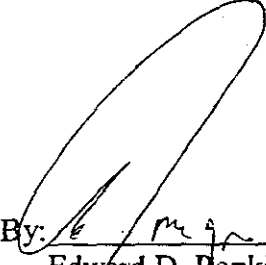

Print Name: Helen Miller


Print Name: M. ELAINE Browning


Print Name: Helen Miller


Print Name: M. ELAINE Browning

By: 
Kenneth Endelson, Manager

By: 
Edward D. Popkin, Manager

Address: 1000 Clint Moore Road
Suite 110
Boca Raton, FL 33487

STATE OF FLORIDA)
) SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me, this 2nd day of August, 2004, by Kenneth Endelson, as Manager of The Oaks at Boca Raton Development, LLC, a Florida limited liability company, as general partner of The Oaks at Boca Raton Venture, L.P., a Florida limited partnership, on behalf of the limited partnership. He is personally known to me or has produced n/a as identification.

My Commission Expires:

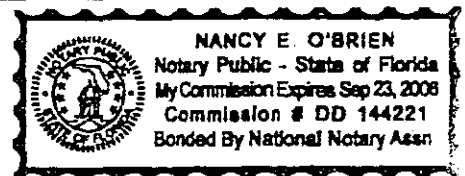
9/23/06

Nancy E. O'Brien
Print Name: Nancy E. O'Brien

Notary Public, State of Florida

Commission No.: DD 144221

(Notarial Seal)



STATE OF FLORIDA)
) SS:
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me, this 5 day of October, 2004, by Edward D. Popkin, as Manager of The Oaks at Boca Raton Development, LLC, a Florida limited liability company, as general partner of The Oaks at Boca Raton Venture, L.P., a Florida limited partnership, on behalf of the limited partnership. He is personally known to me or has produced n/a as identification.

My Commission Expires:

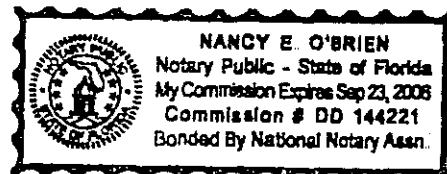
9/23/06

Nancy E. O'Brien
Print Name: Nancy E. O'Brien

Notary Public, State of Florida

Commission No.: DD 144221

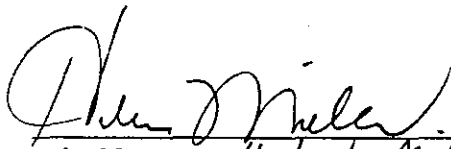
(Notarial Seal)

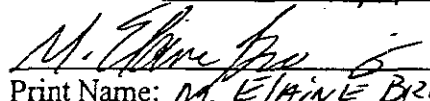


JOINDER AND CONSENT

CITY NATIONAL BANK OF FLORIDA, a banking corporation authorized to do business in Florida, as Mortgagee under that certain Mortgage and Security Agreement recorded in Official Records Book 12585, at Page 685 (as modified, collectively, the "Mortgage"), all of the Public Records of Palm Beach County, Florida, hereby joins in and consents to the execution and recordation of the aforesaid Amended and Restated Declaration of Covenants and Restrictions for The Oaks at Boca Raton ("Declaration") and hereby agrees that the lien and operation of the Mortgage shall be subordinate to the terms and conditions of the Declaration. This Joinder and Consent shall not be construed as a limitation on the operation or effect of the Mortgage nor the consent of Mortgagee to any action which may be taken by any party to the Declaration, if such action otherwise would require the approval of Mortgagee pursuant to the Mortgage or the Declaration.

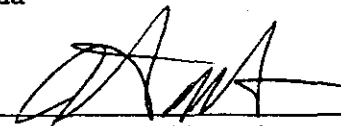
Witnesses


Print Name: Helen Miller


Print Name: M. ELAINE BROWNING

CITY NATIONAL BANK OF FLORIDA, a
banking corporation authorized to do business in
Florida

By:


J. Scott McCleneghen,
as ~~Executive~~ Vice President
Senior

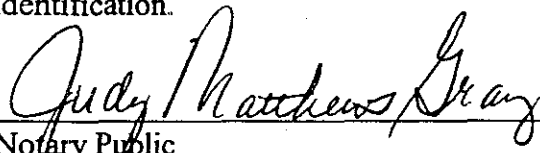
STATE OF FLORIDA)

COUNTY OF PALM BEACH)

SS.

The foregoing instrument was acknowledged before me this 18th day of OCTOBER, 2004, by J. Scott McCleneghen, as ~~Executive~~ ^{Senior} Vice President of City National Bank of Florida, on behalf of said Bank. He is personally known to me or has produced n/a as identification.

[NOTARY SEAL]


Notary Public
Printed Name of Notary: JUDY MATTHEWS-GRAY
My commission expires: _____



Judy Matthews-Gray
My Commission DD199882
Expires April 24 2007

Exhibit "A"

**Articles Of Incorporation for The Oaks At Boca Raton Property Owners'
Association, Inc.**

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Amendment, filed on January 25, 2002, to Articles of Incorporation for FOX HILL ESTATES ASSOCIATION, INC. which changed its name to THE OAKS AT BOCA RATON PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is N99000003139.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fifth day of January, 2002



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State