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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
VANDERBILT LAKES II

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DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
VANDERBILT LAKES II

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| Exhibit "C" | Legal Description of Green Areas |
| Exhibit "D" | Articles of Incorporation |
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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

VANDERBILT LAKES II

THIS DECLARATION is made this 10th day of January,
19 89, by VANDERBILT LAKES II, a Florida general partnership
(hereinafter called "Developer").

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W I T N E S S E T H T H A T:

WHEREAS, Developer is the owner of the real property described
in Article II of this Declaration and desires to create a
residential community on such property with open spaces and other
common facilities for the benefit of such community, to be known as
VANDERBILT LAKES II; and

WHEREAS, Developer desires to provide for the preservation of
the values and amenities in VANDERBILT LAKES II and for the
maintenance of its common properties; and

WHEREAS, Developer has deemed it desirable for the efficient
preservation of the values and amenities in VANDERBILT LAKES II to
delegate and assign to a newly formed nonprofit corporation the
powers of maintaining and administering the community properties
and facilities and administering and enforcing these covenants and
restrictions and collecting and disbursing the assessments and
charges hereinafter created; and

WHEREAS, the Developer has incorporated under the laws of the
State of Florida, as a nonprofit corporation, VANDERBILT LAKES II
HOMEOWNERS ASSOCIATION, INC., for the purposes of exercising the
functions stated above, which Association is not intended to be a
"Condominium Association" as such term is defined and described in
the Florida Condominium Act (Chapter 718 of the Florida Statutes).

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PREPARED BY AND TO BE RETURNED TO:

Stephen E. Thompson, Esquire
FROST & JACOBS
1300 Third Street South
Naples, Florida 33940
(813) 261-0582

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions to such real property as may be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. The following words shall have the following meanings:

(a) "Articles" means the Articles of Incorporation of the Association attached hereto as Exhibit "D" and made a part hereof.

(b) "Assessment" means any Periodic Assessment, Special Assessment or other charge as described in Article V.

(c) "Assessment Period" shall mean a calendar quarter commencing the first day of January, April, July and October, respectively, of each year, unless otherwise provided by the Board of Directors.

(d) "Association" shall mean and refer to VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, whose purpose is to administer the Properties in accordance with the provisions of the Land Use Documents.

(e) "Board" means the Board of Directors of the Association.

(f) "By-laws" means the By-laws of the Association attached hereto as Exhibit "E" and made a part hereof.

(g) "Common Properties" shall mean and refer to those areas of land shown on the Plat, and intended to be devoted to the common use and enjoyment of the owners of the Properties, in accordance with the terms of this Declaration, except that the Developer reserves the right to convey to third parties those two certain areas labeled respectively as Tract "E" and Tract "F" on the Plat located respectively adjacent to and northerly of Lot 1, Block B, and Lot 1, Block A, and as more particularly described on Exhibit "C", attached hereto and made a part hereof and hereinafter referred to as "Green Areas".

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The Green Areas shall constitute part of the Common Properties only until such time as the Developer conveys them to a third party (unless the grantee in such conveyance is the Association) and effective automatically upon the recording in the public records of such a conveyance of the Green Areas to a party other than the Association, the Green Areas shall cease to be a part of the Common Properties. In the event the Green Areas are conveyed by the Developer to the Association, they shall continue to constitute part of the Common Properties. Common Properties shall include the private streets (names of which are indicated on the plat), parking areas, recreational facilities (if any), as well as any additional parcels of land on the Plat that the Developer may from time to time designate as Common Properties or as is presently dedicated on the Plat for purposes other than for fee simple ownership by the Owner(s) of a Lot.

(h) "Developer" means VANDERBILT LAKES II, a Florida general partnership, and its successors and assigns, including without limitation RYAN HOMES, G.P., a Virginia general partnership. Any rights specifically reserved to Developer in any instrument of conveyance shall not inure to the benefit of its successors or assigns unless such rights are assigned by VANDERBILT LAKES II in a recorded instrument to such successor or assignee, and such successor or assignee accepts the obligations of Developer. The Developer may assign or pledge any or all of its rights reserved under the Land Use Documents upon a specific designation to such assignee in an instrument of conveyance or assignment. Reference to VANDERBILT LAKES II as the Developer is not intended, and shall not be construed, to impose upon Developer any obligation or liability for the acts or omissions of third parties who purchase Lots within The VANDERBILT LAKES II Subdivision from Developer and develop and resell such Lots.

(i) "Dwelling Unit" means any residential dwelling unit, intended as an abode for one family, constructed on the Properties including, without limitation, an attached or detached single-family home, an attached townhouse dwelling, a villa, an attached duplex or other multiplex-dwelling, or any

apartment-type unit contained in any multi-unit residential building and whether any of the foregoing are subject to fee simple, cooperative, condominium, rental or other forms of ownership and possession.

(j) "First Mortgagee" shall mean and refer to the Developer and/or to an Institutional Lender who holds a first mortgage on a Lot and who has notified the Association in writing of its interest in the Lot.

(k) "Institutional Lender" shall mean and refer to one or more commercial or savings banks, savings and loan associations, mortgage companies, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts, and any other lender engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such lender, or any private or governmental institution which has insured the loan of the lender, or any combination of the foregoing entities.

(l) "Land Use Documents" shall mean this Declaration, the Articles, By-Laws and the Rules.

(m) "Lot" shall mean and refer to each portion of land shown upon the Plat which has been designated by the Developer to contain a single family dwelling.

(n) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 3.1 hereof.

(o) "Notice" shall mean and refer to:

(i) Written notice delivered personally or mailed to the last known address of the intended recipient, in the manner set forth in the By-Laws of the Association ; or

(ii) Notice published at least once each week for two consecutive weeks in a newspaper having general circulation in Lee County; or

(iii) Notice given in any other manner provided in the By-Laws of the Association.

(p) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or other Dwelling Unit, but, notwithstanding

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any applicable theory of mortgage law, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired fee simple title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(q) "Plat" shall mean that plat of VANDERBILT LAKES II, recorded in Plat Book 39, at Pages 40 through 44, inclusive, in the Public Records of Lee County, Florida.

(r) "Properties" shall mean and refer to the property described in Exhibit "A" attached hereto and made a part hereof.

(s) "Roads" shall mean those private streets, roads, terraces, drives, cul-de-sacs, courts, and avenues including the entire rights-of-way as designated and set forth on the Plat.

(t) "Rules" means any and all rules and regulations of the Association promulgated by the Board pursuant to its powers under any Land Use Document.

(u) "Single Family" shall mean and refer to either a single person occupying a dwelling and maintaining a household, including not more than one authorized tenant; or two (2) or more persons related by blood, marriage, or adoption occupying a dwelling and living together and maintaining a common household, including not more than one authorized tenant; or not more than four (4) unrelated persons occupying a dwelling as distinguished from a group occupying a boarding or lodging house, hotel, club or similar dwelling for group use.

(v) "Turnover" shall mean that date following conversion of Class "B" votes to Class "A" votes upon which the Developer conducts a Special Meeting of the Membership for the purpose of electing officers and directors, as set forth in Article III of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS

DECLARATION AND ADDITIONS THERETO

Section 2.1 Existing Properties. The real property which initially is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Lee County,

Florida, and is more particularly described in Section 1.1 (r).

Section 2.2 Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Additions by the Developer. Additional land within the area described in Exhibit "B", which is attached hereto and made a part hereof, may be annexed by the Developer, without the consent of members, within five (5) years of the date of this instrument.

(b) Additions by Approval of Members. Without restriction upon the Developer to add to the Properties in the manner provided in the foregoing Paragraph (a), upon approval in writing of the Association pursuant to an affirmative vote of two-thirds (2/3) of its Members as provided in the Articles, the owner of any property who desires to add the same to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplemental Declaration of Covenants and Restrictions with respect to such additional property, attaching thereto the Association's written approval and reciting in a sworn statement said affirmative vote, which shall extend the schemes of the covenants and restrictions of this Declaration to such property.

(c) Additions by Merger. Upon a merger or consolidation of the Association with another association as provided in the Articles, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Properties together with the Covenants and Restrictions established upon any other property as one scheme.

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Section 2.3 Site Plan Changes. Developer reserves the right to make such changes and/or modifications to any plat or site plan as are required by appropriate governmental authorities or as Developer deems necessary for additions to the Properties.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

IN THE ASSOCIATION: TURNOVER

Section 3.1 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall automatically be a Member of the Association, provided that any such person or entity who holds an interest merely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and shall not be separated from ownership of any Lot or Dwelling Unit.

Section 3.2 Voting Rights. The Association shall have two classes of voting memberships:

(a) Class "A". Class "A" Members shall be all those owners as defined in Section 3.1 with the exception of the Developer. Each person or entity who owns a Lot, including all builders, whether it is unimproved or contains a dwelling, for resale to another party for occupancy shall be a Class "A" Member. Class "A" Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 3.1. When more than one 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 in no event shall more than one vote be cast with respect to any such Lot. The By-Laws may establish procedures for voting when the title to a Lot is held in the name of a partnership, a corporation, or more than one person or entity.

(b) Class "B".

(i) The Class "B" Member shall be the Developer. The Class "B" Member shall be entitled to three votes for each Lot in which it holds any interest required for

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membership by Section 3.1, provided that the Class "B" Membership shall cease and become converted to Class "A" Membership on the happening of the earlier of either of the following events:

(A) when the total outstanding in the Class "A" Membership are equal the total votes outstanding in the Class "B" Membership; or

(B) at any earlier time that the Developer, in its sole discretion, voluntarily converts its Class "B" Membership to Class "A" Membership; or

(C) on January 1, 2000.

(ii) From and after the happening of the earlier of these events, the Class "B" Member shall be deemed to be a Class "A" Member entitled to one vote for each Lot in which it holds the interest required for Membership under Section 3.1.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 4.1 Members' Easements of Enjoyment. Subject to the provisions of Section 4.5 and the additional provisions of this Declaration, every Member, his agents, licensees and invitees, shall have a permanent and perpetual non-exclusive easement for the use and enjoyment of the Common Properties and each easement shall be appurtenant to and shall pass with title to every Lot subject to the provisions of this Declaration. Such easements of enjoyment shall include but not be limited to the Member's right of ingress and egress over the streets, roadways and walkways on the Common Properties for purposes of access to the Member's Lot, which right of ingress or egress shall not be subject to any fees or charges.

Section 4.2 Title to Common Properties.

(a) The Developer shall convey the Common Properties, less and except the Green Areas as defined in Section 1.1(g), to the Association (and the Association shall accept such conveyance), prior to the conveyance of a Lot to an owner for occupancy of a dwelling unit constructed on the Lot, (or, if later with the written recordable consent of each such owner),

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free and clear of all liens and encumbrances, except this Declaration, covenants and restrictions of record at the time of the conveyance of the Common Properties to the Association, the Plat, real and personal property taxes for the year in which the conveyance takes place, and any easements created or allowed by the terms of this Declaration.

(b) Even though legal title to the Common Properties will be in the name of the Association, rights to use the Common Properties can not be conveyed without conveyance of the Lots, and the Common Properties can not be conveyed by the Association except as provided in Section 4.3(b) of this Article.

Section 4.3 Limitation of Members' Easements. The rights and easements of use and enjoyment created hereby shall be subject to the following:

(a) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, or for a period not to exceed sixty (60) days for any violation of this Declaration, the Association's Articles, By-Laws or published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members; provided that no such dedication or transfer, shall be effective unless an instrument signed by the appropriate officers of the Association certifying that a Special or Regular Meeting of Members was called for such purpose, of which thirty (30) days' prior written notice was sent to each member, and that the vote of two-thirds (2/3) of the Members present, either in person or by proxy, was obtained, agreeing to such dedication or transfer;

(c) the right of the Association to grant exclusive easements and rights-of-way over certain parts of the Common Properties to Members of the Association when the Association deems it necessary;

(d) the right of the Developer, without approval of the

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Association, or the Membership, to dedicate easements and rights-of-way over the Common Properties in accordance with the terms of this Declaration;

(e) the right of the Association to adopt and enforce at any time rules and regulations governing the use of the Common Properties and all facilities situated thereon, which shall apply until rescinded or modified as if originally set forth at length in this Declaration;

(f) the right of the Association to grant to governmental agencies the right to install water, sewer, drainage and irrigation facilities within the Common Properties;

(g) the easements described in Sections 4.5, 4.6 and 4.7 of this Article IV.

(h) the right of the Association to (i) charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Properties; and (ii) suspend the voting rights and right to use of the recreational facilities by an Owner (A) for any period during which any assessment against his Lot remains unpaid, and (B) for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations;

Section 4.5 Utility and Other Easements. There is reserved unto the Developer so long as it owns a Lot the right to grant reasonable easements for the installation and maintenance of temporary roads, cable television services, security system services, public utilities, drainage and irrigation systems (including the installation of irrigation pumps) on the Common Properties and the Properties in addition to those easements already reserved.

Section 4.6 Easement for Governmental, Health, Sanitation and Emergency Services. A nonexclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, for purposes of ingress and egress over the Common Properties.

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Section 4.7 Developer's Construction and Sales Activities. In addition to the property rights granted in this Declaration to the Developer, as an Owner or otherwise, the Developer is extended the right to enter upon the Properties at any time and in any way reasonably necessary to allow the Developer to construct or sell, or promote, in this subdivision or any contiguous subdivision, or to carry out any responsibility of the Developer to Owners in such subdivisions, including, but not limited to, the right to use the street in front of the Model Areas designated by Developer for parking by visitors and staff, to use any part of the Common Properties for location of Developer's sales center, to maintain and show model homes, to have employees in the office, and to use the Common Properties. Notwithstanding any other provision in the Declaration, the Developer is irrevocably empowered to sell, lease or rent Lots on any terms to any purchasers or lessees for as long as it owns any Lot.

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Section 4.8 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Properties and facilities to the members of his family, his tenants, or contract purchasers who reside on his lot.

ARTICLE V

COVENANTS FOR ASSESSMENTS

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Lot owned by it within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor is hereby conclusively deemed to covenant and agree, to pay to the Association: (1) Periodic Assessments or Charges; (2) Special Assessments for improvements and such other expenditures as are made from time to time by the Association, such periodic and special assessments and other charges to be established and collected as hereinafter provided. The Periodic and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The Periodic and Special Assessments, together with interest, costs

and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made.

Section 5.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the Lots, including but not limited to:

(a) Improvements, maintenance and repair of the Common Properties;

(b) Water, electrical lighting and other necessary utility services for the operation of the Common Properties;

(c) Fire insurance covering the full insurable replacement value of the Common Properties with extended coverage;

(d) Liability insurance insuring the Association against any and all liability to the public, to any Owner, or to the invitees, or tenants of any Owner arising out of their occupation and/or use of the Common Properties (the policy limits shall be set by the Board, and shall be reviewed at least annually and increased or decreased in the discretion of the Board);

(e) Workmen's compensation insurance to the extent necessary to comply with the Florida Statutes, and any other insurance deemed necessary by the Board.

(f) Acquisition of equipment for the Common Properties as may be determined by the Association, including without limitation, all equipment and personnel necessary or proper for maintenance and use of the Common Properties;

(g) Operation, repair and maintenance of the roads;

(h) Operation, repair and maintenance of stormwater system of the Common Properties and Properties;

(i) Operation, repair and maintenance of any security systems protecting of the Common Properties and Properties;

(j) Operation, repair and maintenance of the lakes and

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related surface water management systems of the Common Properties and Properties, as well as payment of all regular and special assessments imposed upon all or any part of the Properties (i) by Vanderbilt Wastewater Association, Inc., a Florida non-profit corporation, pursuant to that certain Declaration of Covenants, Conditions and Restrictions of Vanderbilt Wastewater Treatment Area, more particularly described in Section 6.1(b); and (ii) by the Vanderbilt Community Services Association, Inc., a Florida non-profit corporation, pursuant to the terms of that certain Access, Utility and Drainage Easement dated June 29, 1987 and recorded July 8, 1987 in Official Records Book 1928, at Pages 1149 through 1161, inclusive, of the Public Records of Lee County, Florida;

(k) Any other materials, supplies, equipment, labor, management, supervision, services, personnel, repairs, structural alterations, insurance, real estate and other taxes or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or the By-Laws, or which shall be necessary or proper in the opinion of the Board for the operation of the Common Properties, for the benefit of the Owners or for the enforcement of these restrictions.

Section 5.3 Basis and Maximum Amount of Periodic Assessments.

(a) "Periodic Assessments" shall mean all assessments for the purposes described in Section 5.2 except for Special Assessments described in Section 5.4. Until the Turnover Meeting, the Periodic Assessments for all Class "A" Members shall be established by the Developer.

(b) The maximum annual assessment shall be limited as follows:

(i) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Dollars (\$100.00) per month per Lot (or Dwelling Unit), plus any amounts that may be assessed under Section 5.4 of this Article.

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot or Dwelling Unit to an Owner, the maximum annual assessment may be increased each year without a vote of the Membership by a sum not more than five percent (5%) above the sum of: (1) the maximum annual assessment for the previous year, adjusted to reflect price increases based on the U.S. Government's current Consumer Price Index All Cities - All Items (1967 = 100) as published by the U.S. Department of Labor, plus (2) any increases mandated by governmental agencies and/or increased costs incurred to obtain services from utility entities.

(iii) From and after January 1 of the year immediately following the conveyance of the first Lot or Dwelling Unit to an Owner, the maximum annual assessment may be increased above the provisions as described in Section 5.3(b)(i) by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board may change the budget and level of Periodic Assessments at a duly constituted meeting of the Board which occurs after Turnover, provided that written notice containing a copy of the newly adopted budget outlining the assessment change is sent to all Members at least thirty (30) days in advance of the effective date of the adopted change. For each twelve-month period thereafter commencing on the first day of January (hereinafter called an "Assessment Year"), the Periodic Assessments may be adjusted by vote of the Board at a duly held meeting after giving proper notice as described above.

Section 5.4 Special Assessments.

(a) The Board may levy in any Assessment Year a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or for any extraordinary working capital requirements provided that any

such assessment shall have the assent of a majority of the board of directors or two-thirds (2/3) of the Members voting in person or by proxy at a meeting duly called for that purpose. The due date of any Special Assessment under this Article shall be fixed in a resolution authorizing such assessment.

(b) Funds in excess of \$10,000.00 in any one case which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Properties under the jurisdiction of the Association and which have not previously been collected as reserves or are otherwise available to the Association shall be levied by the Association as Special Assessments only upon approval of a majority of the Board of Directors of the Association or upon approval by two-thirds (2/3) favorable vote of the Members of the Association voting at a duly constituted meeting of the Association.

Section 5.5 Uniform Rate of Assessment. All Periodic and Special Assessments shall be at a uniform rate for each Lot or Dwelling Unit. However, until such time as the Class "B" membership converts to Class "A" membership, the maintenance costs for the unsold Lots chargeable to the Developer will be determined as follows: The total amounts charged for common expenses to Owners other than the Developer will be deducted from the total common expenses as incurred by the Association and the difference will be paid by the Developer as its contribution to cover the common expenses for the unsold Lots. The Association shall have a lien upon all unsold Lots until such difference is paid; such lien is to be enforceable in accordance with this Article. After the Class B membership converts to a Class A memberships, the Developer will pay the same assessment for common expenses on each of said Lots as every other Owner. Nothing in this Section 5.5 shall be construed to require a Lot Owner other than the Developer to pay more than the maximum annual assessment set forth in Section 5.3 above except in accordance with that section. Nor shall this Section 5.5 be construed to require a Lot Owner other than the Developer to pay more than his proportionate share (based on the total number of Lots under this Declaration) of the estimated

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operating budget for the year in question, which budget shall be determined as if all Lots and Dwelling Units which have been brought under the scope of this Declaration were occupied and the Association were in full operation.

Section 5.6 Date of Commencement of Periodic Assessments; Due Dates; Assessment Period.

(a) The Board of Directors of the Association shall prepare budgets and 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 Owner. Periodic Assessments shall commence as to each Lot on a date (which shall be the first day of a calendar month) fixed by the Board of Directors of the Association to be the date of commencement. The due date of any assessment shall be fixed in the resolution authorizing such assessment. The assessment shall be payable in advance in one payment or in monthly or quarterly installments if so determined by the Board. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each Assessment Year. Written notice of the assessment for each Assessment Year shall be sent to every Owner subject thereto at least thirty (30) days prior to the commencement of the Assessment Year.

(b) The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. If no such certificate is obtained, the Purchaser shall be conclusively presumed to have assumed such past due assessments and shall become forthwith liable therefor.

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Section 5.7 Effect of Nonpayment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association; Late Fees.

(a) If any assessment against a Lot or Dwelling Unit is not paid on the date when due (being the dates specified in Section 5.4 and Section 5.6(a) hereof), then such delinquent assessment shall, together with such interest thereon and cost of collection thereof, on such date be a continuing lien on the Lot or Dwelling Unit which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to such assessment shall remain his personal obligation for the statutory period of limitations.

(b) No voluntary sale of any Lot or Dwelling Unit shall be effective, nor shall any marketable title be conveyed unless and until the seller has obtained from the proper officers of the Association a certificate, in recordable form, attesting to the fact that the seller has paid all assessments to date. If no such certificate is obtained and recorded, the purchaser shall be conclusively presumed by acceptance of the deed to have assumed and to be liable for such past-due assessments. The Owner requesting the certificate shall pay to the Association a reasonable sum to cover the attorney's fees and other costs of examining records and preparing the certificate.

(c) Any assessment not paid within thirty (30) days after the due date shall be conclusively deemed delinquent and being the dates set forth on Sections 5.4 and 5.6(a) hereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum or the maximum legal rate of interest, whichever is greater. The Association may place in the Public Records a claim of lien for all such unpaid assessments, interest and other costs, including but not limited to attorneys' fees. The Association may bring an action at law against the Owner personally obligated to pay the outstanding assessments and/or, at its election, bring an action to foreclose the lien against the Lot or Dwelling Unit; and there shall be added to the amount of such assessment all costs of

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collection, including but not limited to, the cost of preparing and filing the complaint in such action, the cost of any and all attorneys' fees incident to collection whether or not suit is brought, including attorneys' fees on appeal. In the event a judgment is obtained, such judgment shall include interest on the assessments as provided above and reasonable attorneys' fees to be fixed by the court, together with costs incident to the action. No Owner may waive of otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot or Dwelling Unit.

Section 5.8 Subordination of the Lien to Mortgages.

(a) The lien of the assessments provided for herein against any Lot or Dwelling Unit shall be subordinate to the lien of any first mortgagee now or hereafter placed upon the Lot or Dwelling Unit. If a first mortgagee of record, or other purchaser, obtains title to any such Lot as a result of foreclosure of the lien of such first mortgagee or as a result of a deed given in lieu of foreclosure thereof, such acquirer of title and his successors and assigns shall not be liable for the assessments by the Association chargeable to the former Owner of such Lot or Dwelling Unit which became due and payable prior to the acquisition of title as a result of the foreclosure or deed given in lieu of foreclosure, unless such assessments are secured by a Claim of Lien for assessments that is recorded prior to the recording of such mortgage.

(b) Such sale or transfer shall not relieve such Lot or Dwelling Unit from liability for any assessments thereafter becoming due, or from the lien of any such subsequent assessment. Any such subsequent assessment shall be subordinate to the lien of a first mortgage placed upon the Lot or Dwelling Unit prior to the time of the recording of such subsequent assessment lien.

Section 5.9 Special Assessments for Capital Improvements to Common Properties and Dwelling Units. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or improvement of the Common Properties and/or a Dwelling Unit or Dwelling Units.

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Only the Owner or Owners of the Dwelling Unit or Dwelling Units being constructed, reconstructed, repaired or improved shall be assessed for such purposes for any Dwelling Unit(s). In the event any proceeds of any insurance policy are received by the Association pursuant to Article VII of this Declaration, such proceeds shall be applied first to the cost of such construction, reconstruction, repair or improvement according to the provisions of Article VII, but the Association may assess the Owner or Owners of such Dwelling Unit or Dwelling Units for such Owner's or Owners' ratable share of the excess of such cost over such insurance proceeds.

Section 5.10 Working Capital Fund. At the time Developer conveys a Lot to a purchaser, or an Owner conveys his Lot to a subsequent purchaser, such purchaser shall deposit with the Association an amount equal to two (2) times the amount equal to the annual assessment divided by twelve (12), as a deposit into the working capital fund to be used for maintenance, reserve, emergency needs, initial and nonrecurring items, permits, licenses, utility deposits and advance insurance premiums for insurance policies and coverages, and other similar and necessary expenses. The working capital fund may be commingled by the Association with any of its other funds.

Section 5.11 Exempt Property. There shall be exempted from the assessments, charges and liens created herein all properties to the extent any easement or other interest therein is dedicated and accepted by the local public authority and devoted to public use.

ARTICLE VI

EASEMENTS OVER THE PROPERTIES

Section 6.1 Easements. The Developer does hereby establish and create for the benefit of the Association and for all Owners from time to time of Lots of the Properties (and for the benefit of their respective guests, tenants, invitees and licensees) and does hereby give, grant, and convey to said Association and Lot Owners, the following easements, licenses, rights and privileges:

(a) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under and across the streets, roads, and walks (as shown on any plat affecting any portion of the Properties or otherwise constituting a portion of the Common

Properties pursuant to this Declaration);

(b) Right to connect and make use of utility lines, wires, pipes, conduits, cable television lines, and drainage lines (but not sewer lines the connection to which and use rights are governed by the certain Declaration of Covenants, Conditions and Restrictions of Vanderbilt Wastewater Treatment Area, dated July 16, 1985 and recorded at Official Records Book 1797, Pages 680 through 704, inclusive, as modified by that certain First Amendment thereto, dated October 17, 1985 and recorded in Official Records Book 1809, Pages 3234 through 3242, inclusive, and Page 3245, and as further amended by that certain Second Amendment to Declaration of Covenants, Conditions, and Restrictions dated June 29, 1987 and recorded August 6, 1987, at Official Records Book 1934, Pages 0266 through 0282, inclusive, in the Public Records of Lee County Florida) which may from time to time be in or along the streets and roads or other areas of the Properties.

Section 6.2 Reservation of Easements. The Developer reserves the easements, licenses, rights and privileges of a right-of-way on, through, over, under and across the Common Properties, for the purpose of constructing residences and other improvements on the Properties and towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over and across the Common Properties, for the installation, maintenance, and inspection of lines appurtenances for public or private water, sewer, drainage, cable television, natural gas, fuel oil and other utilities and for any other materials or services necessary for the completion of any such work. The Developer also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Properties. Finally, the Developer reserves the right to continue to use the Common Properties and any model centers, sales or construction offices or trailers and parking spaces located or to be located on the Properties in its efforts to market the Lots. Developer reserves the right to place such signs as it deems necessary on the Properties.

Section 6.3 Drainage and Utility Easements. Certain easements for installation and maintenance of drainage and utility facilities may be shown on the plat or otherwise granted and the same are reserved for such use. No structure, planting, or other materials shall be placed or permitted to remain in such easement areas or on any Lot which may damage or interfere with the installation and maintenance of utilities, change the direction of flow or drainage in the easement areas, or which may obstruct or retard the flow of water through drainage channels in the easement areas. It is important that the banks, swales, and berms constituting a part of the lakes, swales and drainage canals located within the Properties remain undisturbed and properly maintained in order to perform their function. Where any portion of such berms, swales and banks lie within a Lot, the Owner of that Lot shall maintain (except for those improvements for which a public authority or utility company is responsible) the same continuously and shall not disturb, damage or otherwise interfere with the berm, swale, drainage canal or other portion of said lake, drainage canal or system which adjoins said Owner's Lot.

Section 6.4 Reservation of Rights. Developer or the transferees of Developer shall undertake the work of developing the Properties, and shall conduct all activities which they, in their judgment, deem reasonably necessary or advisable in connection with the completion of that work. The sale, rental or other disposition of the Lots is essential to the establishment and welfare of the development as an ongoing residential community. In order the such work may be completed and the development established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent developer, Developer's transferees, or the employees, contractors, or subcontractors of Developer or Developer's transferees from doing on any part or parts of the Properties, owned or controlled by Developer or Developer's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work.

(b) Prevent Developer, Developer's transferees, or the employees, contractors, or subcontractors of Developer or Developer's transferees from construction and maintenance activities on any part or parts of the Properties owned or controlled by Developer, Developer's transferees or their representatives, such structures as may be reasonably necessary for the completion of such work, the establishment of the Properties as a residential community and the disposition of lots by sale, lease or otherwise and operating the business of accomplishing the same.

(c) Prevent Developer, Developer's transferees, or the employees, contractors or subcontractors of the Developer, or Developer's transferees from maintaining such sign or signs on any of the Lots owned or controlled by any of them, as may be necessary in connection with the sale, lease or other disposition of the Lots. As used in this section, the words, "its transferees" specifically excludes purchasers of Lots improved with completed residences.

Notwithstanding the rights and privileges contained in this Section 6.4, any exercise of such rights by Developer's transferees or their transferees, employees, contractors or subcontractors, shall be reasonable and shall be exercised only after written consent is received from the Developer.

Section 6.5 Repair. In connection with the exercise by the Association or any other entity or individual of any easement rights herein granted, the Association or such entity or individual shall restore any portions of the Properties affected by such exercise to its condition existing immediately prior to the exercise of such rights. However, the Association, entity or individual responsible for said restoration shall not be obligated to restore any building, structure or wall encroaching into any easement area.

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ARTICLE VII

DESIGN REVIEW COMMITTEE

Section 7.1 Members of Committee. As specified in the By-Laws, the Association shall have a Design Review Committee ("DRC"). The DRC shall consist of three (3) Members. The initial Members of the DRC shall consist of persons designated by the Developer. Each of said persons shall hold office until, (i) all Lots have been conveyed by Developer, (ii) resignation or, (iii) dismissed, at the option of the Developer. Thereafter, each new Member of the DRC shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. The Board of Directors shall have the right to appoint and remove (either with or without cause) any and all Members of the DRC at any time, except for Members of the DRC appointed by the Developer.

Section 7.2 Review of Proposed Construction.

(a) Except for the exemption in Section 7.9 below, no building, fence, wall or other structure or improvement (including landscaping) shall be commenced, painted, erected or maintained in the Properties, nor shall any addition, change or alteration visible from the exterior be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the DRC.

(b) The DRC shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Properties as a whole, and that the appearance of any structure affected thereby will be in harmony with the topography, surrounding structures and is otherwise desirable. The DRC shall adopt design review criteria for submissions, which criteria shall be amended from time to time by the DRC. However, any proposal or plans and specifications

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submitted in compliance with paragraph (c) shall be subject to the criteria in effect prior to the date of submission and not to any amendments adopted after that date.

(c) The DRC may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The DRC may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The DRC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors.

(d) Until receipt by the DRC of any and all required plans and specifications, the DRC may postpone review of any plans submitted for approval. The DRC shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved.

(e) The decisions of the DRC shall take precedence, to the extent they are more stringent over all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

(f) Any decision of the appointed DRC may be appealed by any Lot Owner, including Owners of lots other than that which is being considered by the DRC, to the Board of Directors of the Association within fifteen (15) days from the date of rendition of the decision of the DRC pursuant to such procedures as may be established by the Board. The Board of Directors shall be the ultimate deciding body and its decisions shall be final and binding upon all parties.

Section 7.3 Meetings of the DRC. The DRC shall meet from time to time as necessary to perform its duties hereunder. The DRC may from time to time, by resolution unanimously adopted in writing, designate any DRC representative (who may, but need not, be one of its Members) to take any action or perform any duties for and on

behalf of the DRC, except the granting of variances pursuant to Section 7.8 hereof. In the absence of such designating, the vote of any two (2) Members of the DRC shall constitute an act of the DRC.

Section 7.4 No Waiver of Future Approvals. The approval of the DRC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the DRC, shall not be deemed to constitute waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval or consent. CR2051

Section 7.5 Compensation. The Members of the DRC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder. The DRC, however, shall have the power to engage the services of professionals to serve as Members of the DRC for compensation for purposes of aiding the DRC in carrying out its functions. PG4515

Section 7.6 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article VII, the applicant (the "Applicant") shall give written notice of completion to the DRC.

(b) Within thirty (30) days after receipt of the notice of completion, the DRC or its duly authorized representative may inspect such improvement. If the DRC finds that such work was not completed in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and requiring the Applicant to remedy the same.

(c) If, upon the expiration of thirty (30) days from the date of such notification of noncompliance, the Applicant shall have failed to remedy such noncompliance, the DRC shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the

nature thereof and the estimated cost of correcting or removing the same.

(d) If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either (i) remove or cause the removal of the noncomplying improvement, or (ii) remedy the noncompliance, and in either of such events the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. Any such removal of noncomplying improvements shall not constitute a trespass (such entry being hereby conclusively authorized). If any such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a special assessment against such Applicant for reimbursement.

(e) If for any reason the DRC fails to notify the Applicant of any noncompliance within thirty (30) days after receipt of the written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with said approved plans.

Section 7.7 Non-Liability of DRC Members. Neither the DRC nor any Member thereof, nor its duly authorized DRC representative, shall be liable to the Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance or nonperformance of the DRC's duties hereunder, unless due to the willful misconduct or bad faith of a Member and only that Member shall have any liability. The DRC shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely for the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Properties. The DRC shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed

approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 7.8 Variance. The DRC may authorize variances from compliance with any of the design review criteria when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing, in recordable form, which must be signed by at least two (2) Members of the DRC, witnessed by two witnesses as to each signature, and notarized. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of his Lot, including, but not limited to zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

Section 7.9 Developer's Exemption. The Developer shall be exempt from the provisions of this Article VI with respect to alterations and additions to be made by Developer and shall not be obligated to obtain DRC approval for any construction or changes in construction which the Developer may elect to make at any time.

Section 7.10 Attorneys' Fees. For all purposes necessary to enforce this Article, the Association shall be entitled to collect reasonable attorneys' fees (including without limitation at trial and appellate levels), court costs and other expenses against the Owner of a Lot, whether or not litigation is instituted, and the Board may assess such amounts against any such Lot in the form of a Special Assessment.

ARTICLE VIII

INSURANCE

Section 8.1 Property and Casualty Insurance. Property and casualty insurance on the Common Properties (not including interior furnishings and contents) shall be maintained by the Association through an insurance company selected by the Association, in an amount equal to the maximum insurable value thereof. All such

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property as is damaged shall be repaired and restored to the original condition using the proceeds of the insurance (to be apportioned as the Association shall determine) and, if the insurance proceeds are inadequate to cover the costs of such repair and restoration, through Special Assessments. In the event that the insurance proceeds shall be greater than the amount required to repair and restore the damage, the excess shall be deposited with the Association for the operation of the Association and/or maintenance of the Properties. Prior to the end of each policy period, the Association shall adjust the insurance coverage so that the Common Properties are insured for their maximum replacement cost or in the alternative obtain inflation protection endorsements.

Section 8.2 Other Insurance. The Association shall also purchase such other insurance as may be necessary on the Common Properties and for purposes of properly operating the Association. The Association shall purchase liability insurance covering the Association's Directors and Officers.

Section 8.3 Premiums. The premiums of all insurance policies purchased by the Association shall be deemed to be general expenses for the Association and shall be paid by the Members through the Periodic Assessments against each Lot.

Section 8.4 Fidelity Bonds. The Association shall also carry fidelity bonds on all employees handling funds of the Association, which bonds shall be in the minimum amount of twenty-five percent (25%) of the annual assessments.

ARTICLE IX

MAINTENANCE RESPONSIBILITIES OF THE ASSOCIATION

Section 9.1 Preamble.

(a) The responsibility for the maintenance of the Properties is divided between the Association and the Owners. Except as provided below, maintenance of the Lots and dwelling units constructed therein are the responsibility of the Owners. In the event that an Owner erects a DRC approved fence on the rear of the Owner's Lot, then the Owner shall provide all maintenance as to the area inside the fence, as well as the remainder of his Lot. The maintenance of the Common Properties

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is the responsibility of the Association.

(b) The Board of Directors has the right to require the Members to maintain their Lots in a manner befitting the standards of the community; and this responsibility of the Owner, unless otherwise assumed by the Association in accordance with the terms of this Declaration, shall include the Member's obligation to maintain the shrubbery in a neat and trimmed manner, and to remove all objectional debris or material as may be located on the Lot.

Section 9.2 Exterior Maintenance Responsibility.

(a) In addition to maintenance upon the Common Properties, the Association shall provide exterior maintenance upon each dwelling not properly maintained by the Owner thereof, as the Association deems necessary in its sole discretion in accordance with general standards of the community, including, but not limited to the following: painting, replacement and repair of roofs, gutters, downspouts, exterior building surfaces, grass and walkways.

(b) General standards of the community shall include but not be limited to:

(i) No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any portion of the Properties, and no refuse or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon; and

(ii) All lawns, landscaping and sprinkler systems shall be kept in a good, clean, neat and attractive condition; and

(iii) The Lots and any dwellings or other buildings or improvements thereon shall be kept in good, safe, clean, neat and attractive condition, and all buildings, structures and improvements thereon shall be maintained in a finished, painted and attractive condition.

(c) Upon the failure to maintain any Lot or portion thereof as aforesaid to the satisfaction of Developer or the Association, and upon the Association's or Owner's failure to make such improvement corrections as may be necessary within

thirty (30) days after receipt of written notice by Developer or the Association, the Developer or the Association may enter upon such Lot and make such improvements or corrections as may be necessary. Written notice need not be given in the case of emergency, and the Developer or the Association may without any prior notice directly remedy the problem.

(d) Such entry by the Developer or the Association or its agents shall not constitute a trespass and by acceptance of a deed from a Lot or dwelling, or by the recordation of these Covenants and Restrictions, such party has expressly given the Developer and the Association the continuing permission to do so, which permission may not be revoked.

Section 9.3 Assessment of Costs. The cost of exterior maintenance which is not performed by the Association as part of its regular maintenance responsibilities shall be assessed against the Lot upon which such maintenance is performed, and, at the option of the Board of Directors, either be added to and become part of the Periodic Assessment to which such Lot is subject under Article V hereof, or become a Special Assessment for such expenses; and, as a part of such Periodic Assessment or as a Special Assessment, it shall be a lien against the Lot and the obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof.

Section 9.4 Dissolution of Association. In the event of the dissolution or termination of the Association, Lee County shall not be obligated to carry out any of the maintenance obligations of the Association unless such obligations are undertaken by way of a resolution of the Lee County Commission.

Section 9.5 Management Services. The Association may contract for the management of all or part of the Common Properties and any other Association duties for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration.

Section 9.6 Utility Services. The Association may contract with public or private utility companies for purposes of supplying utility services to the Properties and may assess the costs and expenses charged by such utility companies as part of the Periodic Assessments or as a Special Assessment.

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Section 9.7 Maintenance of Masonry Walls. Any masonry walls surrounding portions of the Properties (other than walls located on any of the Lots) shall be maintained by the Association, and a perpetual non-exclusive easement of ingress and egress over the Lots abutting the masonry walls (but not over any portion thereof improved with houses or other buildings) is hereby granted to the Association for purposes of construction and maintenance activities related to any such masonry walls.

ARTICLE X

PERMITTED AND PROHIBITED USES

Section 10.1 Residential Land Use. All Lots shall be used for residential purposes only, unless otherwise identified on the recorded plat as public or private open space. No structure of any kind, including without limitation any fence, wall or building, shall be constructed on any Lot except structures designated solely for residential use and occupancy and first approved by the DRC, as provided in Article VII. "Residential use and occupancy" shall include individual single-family homes, together with an attached or separate garage for use in connection therewith, part of which may including living quarters for servants, and other single-family Dwelling units. No temporary residence shall be permitted on any Lot. In addition to any Dwelling Unit, related structures, which under no circumstances will be used for living space of any kind, may be erected, but only as provided for and in compliance with Section 10.9. Any garage, outbuilding or other structure must meet the zoning and other regulatory requirements of the appropriate governmental authorities, including the Planning and Zoning Department of Lee County. All structures shall be constructed in accordance with any and all permits and approvals required by the governmental authority having jurisdiction over such matters. The Developer and the Association shall have the authority to construct structures and other improvements on the Common Properties or other recreational areas shown on the plat of the Properties, if any, which are not single family residences.

Section 10.2 Utilities Easements. Easements for the installation and maintenance of utilities and drainage facilities

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are reserved as shown on any recorded plat of the Properties. Restrictions governing the use of such easements are set forth in Section 6.3.

Section 10.3 Driveways. All driveways shall be maintained in the style originally established by the Developer or original builder or the dwelling on the Lot.

Section 10.4 Clothes and Drying Facility. No outside clothesline or other clothes drying facility shall be erected or permitted in the general view and without the prior written approval of the DRC. It is the intention hereof that all such facilities shall be provided within the building to be constructed on a Lot or behind a screened area so approved by the DRC.

Section 10.5 Trash Containers and Disposal. Garbage or other waste shall be kept in sanitary trash containers. All trash containers and contents thereof shall be stored in a screened in area not visible from the streets or adjoining Lots. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste materials. For purposes of periodic trash removal, however, an Owner, within twenty-four (24) hours prior to pick-up, may place the covered trash containers at locations convenient for pick-up. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No incinerator or any outdoor burning shall be permitted. The type of sanitary containers and location of same shall be approved by the DRC. All Owners shall subscribe to and use the mandatory garbage pickup service provided to the Properties through the Developer, the Association, or other entity having jurisdiction over the Properties.

Section 10.6 Exterior Antennae or Light Fixtures. No exterior radio, television or other electronic device antennae, nor any exterior light fixtures shall be permitted on any Lot without the prior written approval of the DRC.

Section 10.7 Parking.

(a) The parking and storage of automobiles shall be limited to the driveways of Lots and other paved surfaces designated by the Association, but not so any such motor vehicle blocks any public sidewalk.

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(b) No commercial or recreational vehicles of any variety, including without limitation any boats, trucks, other non-passenger motor vehicles, campers, camping trailers, trailers, vans (other than small passenger vans), disabled vehicles or any unsightly bulky piece of machinery or equipment, shall be parked or stored at any time on the Common Properties, or parked or stored on any Lot or portion thereof, including side and back yards (except in an enclosed garage), unless (i) the same is a repair or furniture-moving vehicle being used for construction or repair work on a Dwelling Unit (for no more than four [4] hours at a time) in the Properties or (ii) unless approved in advance by the DRC; provided, however that notwithstanding anything in the foregoing to the contrary, any Owner may keep or park on the Owner's Lot one boat or one recreational mobile vehicle, which boat or recreational mobile vehicle shall be parked in the garage, rear or side yard of the Owner's Lot and shall be totally isolated from public view. No maintenance or repair of any boat or motor vehicle shall be performed on any Lot that is visible or audible to the neighbors or public.

(c) No motor vehicle shall be permitted to be kept or parked in the right-of-way area between the sidewalk and the street in front of any Lot and all parking along roadways and streets is prohibited. No disabled or unregistered motor vehicle shall be permitted to be kept, stored or parked on any Lot or street more than twenty-four (24) hours during any consecutive period unless it is kept in a closed garage.

(d) The Board of Directors is specifically authorized to promulgate additional rules and regulations pertaining to parking, and the Board of Directors is specifically granted by this Declaration the right to enforce this Declaration and the rules and regulations of the Board of Directors pertaining to parking by authorizing and directing, or contracting with a duly licensed towing company for the towing of vehicles which are in violation of the parking regulations.

(e) The foregoing restrictions, in subsections (a) through (d), with references to vehicles as referred to in this

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Section 10.7, shall not apply to vehicles used in the building and developing of the Properties by the Developer, its designee or assigns, its contractors, subcontractors and materialmen.

Section 10.8 Signs. No sign of any nature whatsoever including without limitation "For Rent" or "For Sale" or other similar signs, shall be erected or displayed upon any Lot except where express prior written approval of the size, shape, content and location thereof has been obtained from the DRC, which approval may be arbitrarily withheld, except that withholding of consent by the DRC for advertising and promotion of the Properties by the Developer or its designees shall not be arbitrary or unreasonable. Provided, however, that notwithstanding anything in the foregoing to the contrary, one sign of not more than five (5) square feet advertising the Properties for sale or rent, or signs, may be used by the Developer or its designees to advertise any Lot or Developer Unit, which signs shall conform to sizes allowed by the current zoning ordinance, and the Developer may erect a sign on any of the Green Areas designating the name for marketing purposes of the Properties. This Section does not prohibit street and subdivision signs.

Section 10.9 Additional Temporary or Permanent Structures. No structure of a temporary or permanent character, including but not limited to, basements, tents, shacks, garages, barns, treehouses, or other out-building shall be used or erected on any Lot without prior approval of the DRC. The foregoing shall not prohibit a small temporary sales office of the Developer or its designees to be used while the Properties are under development. "Under development" is defined as such time as all lots have permanent dwelling units built thereon. One permanent storage shed size building, gazebos, pool shelters and detached garages may be permitted on each Lot if approved by the DRC pursuant to Article VII. The appearance, quality and structure of such buildings must be consistent and in harmony with the other permitted structures in the Properties, as a whole, and also with the Dwelling Units adjacent to and one removed to the Lot on which the proposed structure is to be located. Furthermore, such structures must be architecturally and aesthetically compatible with the Dwelling Units on the same Lot.

Section 10.10 Livestock and Poultry; Pets. No animals, reptiles, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that ordinary domestic dogs, cats, small caged birds, and fish in an aquarium, may be kept on the interior of residences or within fenced rear yards (but no more than two dogs and cats in total in one Dwelling Unit), provided that they are not kept, bred, or maintained for any commercial purpose, or in any number greater than two (2). No pets shall be permitted on front or unfenced yards unless accompanied by a person and tethered to a leash. Animals are prohibited upon the Common Properties.

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Section 10.11 Commercial & Offensive Activities; Nuisances. No Lot or Dwelling Unit shall be used or occupied for any purpose other than as a residential dwelling by a Single Family, its household servants and guests. No business or commercial building shall be erected on any Lot. No commercial, trade, noxious or other offensive activity shall be carried on upon any Lot or within any Dwelling Unit, nor shall offensive odors be permitted nor anything be done thereon which may be or may become a public nuisance. The use of home computers is not prohibited by this Section 10.11. This provision, however, shall not be deemed to prohibit the Association from acquiring any Lot within the Properties for such purpose as it may be deemed necessary or beneficial for the Members, including, but not limited to, recreational purposes.

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Section 10.12 Air Conditioning Units and Reflective Materials. No window or wall air conditioning units shall be permitted to be placed in a dwelling on a Lot unless the consent of the DRC is obtained. No dwelling on a Lot shall have aluminum foil placed in any window or glass door or any reflective substance placed on any glass, except as may be approved in advance by the DRC for energy conservation purposes.

Section 10.13 Exterior Alterations & Colors. No structural changes, exterior color changes, or alterations shall be made or added to any dwelling on a Lot without prior approval of the DRC. Each building shall be of one color (except for trim) and no color shall be applied without prior approval in writing by the DRC. Materials and colors of the exteriors of all buildings must be

constructed, kept repaired and replaced with materials harmonious and compatible with the natural surroundings and the adjoining home(s) in color and texture. The DRC shall have the sole right to approve or disapprove materials and colors so controlled and may make such decisions on purely aesthetic grounds, based solely on the DRC's own judgments.

Section 10.14 Destruction of a Dwelling. In the event that any dwelling on a Lot is destroyed by or removed for any cause whatsoever, any replacement must be with a dwelling of a similar size and type. The plans and specifications for any new dwelling must be approved, in writing, by the DRC.

Section 10.15 Fencing, Walls and Hedges. No fences, walls, hedges, other dividing device or instrumentality, or any similar type of enclosures may be erected on any Lot, unless the same are in complete compliance with the requirements of this Section. All such enclosures, except those for swimming pools, shall not exceed four (4) feet in height, shall be ornamental in character and all plans for the same shall be subject to the approval of the DRC. All walls, fences or other enclosures shall be located only in the rear of each Lot, except that such enclosures may extend into the front yard up to the front building setback line of each respective Lot. Hedges may be placed in the front yard beyond the front building setback line, but shall not exceed four (4) feet in height, and shall not obstruct the sight distance or cause an unsafe condition for street use. The "rear of each Lot" shall mean that portion of each Lot which is not occupied by a Dwelling Unit and is located on the opposite side of such Dwelling Unit from the street and/or sidewalk on each Lot as shown on the Plat. No chain link fence shall be permitted on any Lot or portion thereof, except for temporary construction purposes.

Section 10.16 Swimming Pools. Any swimming pool to be constructed on any Lot shall be subject to the requirements of the DRC, which include, but are not limited to, the following:

- (a) Composition to be of material thoroughly tested and accepted by the industry for such construction;
- (b) Pool screening may not be visible from the street in front of the dwelling on a Lot. All screening material shall

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be of a color in harmony with the exterior of the dwelling. No raw aluminum color screen or screen supports will be allowed.

Section 10.17 Tennis Court. No tennis court shall be constructed on a Lot or portion thereof.

Section 10.18 Mailboxes. The Developer has specified the style and material of all mailboxes for dwellings on the Lots. All mailboxes throughout the single family area shall be of the same size, color, and have the same post that the Developer has selected. Any replacements shall be of the same style and material of the originally approved mailbox.

Section 10.19 Awnings. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of any building unless such awnings, canopies or shutters have been approved by the DRC.

Section 10.20 Mining or Drilling. There shall be no mining, quarrying or drilling for minerals of any kind, oil, gas, other hydrocarbons, gravel, earth, or any other substances located in or under the ground of the Properties or Common Properties. Dredging and excavating are permitted in connection with the construction or reconstruction of Common Properties or Dwelling Units. No other dredging or excavation shall be performed in the Properties. No water wells, except one per Lot approved in advance by the DRC for household or yard irrigation purposes drilled in full compliance with all applicable governmental laws and regulations, shall be permitted in the Properties.

Section 10.21 Required Setbacks. Every dwelling constructed on a Lot shall comply in all ways with the Code of Ordinances of Lee County, Florida, as amended. No building, roof or wall on any Lot shall be closer to the boundaries of the Lot (whether on the ground or in a vertical plane with the ground) than the set back lines established by the Code of Ordinances as minimum setback requirements for front, side and rear yards. In addition, the following setbacks shall be observed:

| | |
|--|---------|
| front yard | 25 feet |
| side yard | 10 feet |
| rear yard (to include setback from lakes) | 25 feet |

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Requirements for roof overhangs and lanais shall be set by resolution of the DRC.

Section 10.22 Trees. No tree or shrub, the trunk of which exceeds two inches in diameter shall be cut down or otherwise destroyed without the prior express written consent of the DRC.

Section 10.24 Landscaping. A basic landscaping plan for each home must be submitted to and approved by the DRC. All shrubs, trees, grass, and planting of every kind shall be kept well maintained, properly cultivated, and free of trash and other unsightly material. Landscaping as approved by the DRC shall be installed no later than sixty (60) days following the occupancy of, or completion of, any building, whichever occurs first. All portions of Lots not improved with structures or paving shall be kept as lawns or grass, except those portions planted with trees, shrubs, bushes and other plantings. All lawns shall extend to the road right-of-way. In addition, all lands forming portions of a public right-of-way between the boundary of a Lot and the pavement installed within the right-of-way, shall be grassed by the adjacent and abutting Owner and maintained by him as a portion of his lawn. Lake front lawns shall extend to the water's edge. Rock or gravel yards are prohibited.

Section 10.25 Storage & Septic Tanks. No above ground storage tanks, including but not limited to, those used for storage of water, gasoline, oil, or other liquid or gas shall be permitted on any Lot outside of the building thereon. No septic tanks or outside privies shall be permitted on any Lot.

Section 10.26 Lawns. All lawns shall be mowed at reasonable intervals. No unsightly growth shall be permitted to grow or remain upon any Lot and no refuse pile or any other unsightly object shall be allowed to be placed or remain anywhere thereon. In the event any owner shall fail or refuse after a thirty (30) day notice mailed to his last known address to keep his Lot mowed, neat and trim, and free of such unsightly growths or objects, then the Association may enter the Lot and remove the unsightly growths and objects and/or mow the lawn at the expense of the Owner and such entries shall not be deemed a trespass. Said expense shall be added to and become part of the assessment to which said Lot is subject.

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Section 10.27 Building Exterior. All windows, porches, balconies, and exteriors of all buildings on any Lot shall at all times be maintained in a neat and orderly manner. Exteriors of all homes and other structures must be completed within one (1) year after construction is commenced, except where a written extension of time is granted by the DRC.

Section 10.28 Multiple Lots and Subdividing. Two or more adjacent Lots may be used as a single building site with the approval of the DRC. However, such a combined site may not be re-subdivided without the written consent of the Developer, and no single Lot may be subdivided under any circumstances except by the Developer, provided nevertheless that adjacent property owners may split a lot between them so long as no building site shall be less than one lot.

Section 10.29 Minimum Building Elevation. The first living floor of any building shall be at the minimum requirement to conform with the then existing Federal Flood Insurance Regulations, but not less than 12.5 feet above mean sea level. Buildings will be elevated on suitable substructures compatible with the design of the home and the DRC shall have the authority to restrict the height above sea level to which the ridge of the roof or any element of the building excluding chimneys, flues, and vents on the particular Lots may extend. The purpose of such restriction is to preserve views and aesthetics for the overall benefit of the community. The roof of each structure shall have a 4/12 slope and shall be made only those materials specified in Section 10.34. All second floor rooms shall be within the normal single story roof enclosure. No structure shall exceed twenty-five (25) feet above the finished floor elevation at the topmost point of the roofline.

Section 10.30 Easements. Owners may not grant easements on their Lots without written consent of the Developer, or after turnover, the Association.

Section 10.31 Dwelling Size. Dwellings with only one level of livable, air conditioned finished floor area must have a minimum of 1,750 square feet. Dwellings with more than one level of livable, air conditioned finished floor area must have a minimum of 2,000 square feet. Open porches and garages are excluded as a part of the minimum square footage requirement.

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Section 10.32 Lake. Boats with power motors of any kind are prohibited. Non-motorized boats or canoes are permitted on the lake subject to the approval of the Developer. Docks are prohibited.

Section 10.33 Exterior Lighting. Each dwelling shall have one (1) exterior lamp post placed at the driveway entrance. Each will have a photocell causing it to light at dark. These lamp posts shall only be of the same kind throughout the Properties. They can be purchased through the Developer.

Section 10.34 Dwelling Materials. All Dwelling Units shall be constructed of stone, brick, stucco and frame, or other construction materials approved by the DRC. No asbestos siding shall be used in the construction of any structure, nor shall cinder blocks or concrete blocks be exposed on any exterior wall without the prior written approval of the DRC. The roof of each structure shall be made of concrete or ceramic tile, unless a variance is obtained from the DRC as provided in Section 7.8 and shall be approved by the DRC.

Section 10.35 Building Compulsion Time. Start of construction shall commence within eighteen (18) months of date of purchase and shall be completed within twelve (12) months thereafter. In the event construction fails to commence within said eighteen (18) month period, or fails to be completed within said additional twelve (12) month period, Developer may, for a period of six (6) months after the close of either such period, in its sole discretion, elect by written notice to repurchase the Lot and all improvements thereon, if any, at the original lot purchase price. Said notice shall be mailed to the address on the deed. For purposes of this subsection, start of construction shall mean the filing of a Notice of Commencement and physical construction on the Lot.

Section 10.36 Sales Office. Notwithstanding anything in this Declaration to the contrary, the Developer or its designees or agents, may construct or maintain a sales agency office upon the Properties. The Developer, its agents or designees may place "For Sale" signs or signs similar thereto on any Lot or Lots of their choosing until such time as all the Lots in the Properties have been sold by the Developer.

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Section 10.37 Additional Rules and Regulations. The Developer, until Turnover, and thereafter the Board of Directors of the Association, may establish such additional rules and regulations as may be deemed for the best interests of the Association and its Members for purposes of enforcing the provisions of this Article X.

Section 10.38 Variances. The DRC may grant variances to use restrictions contained in Sections 10.4 through 10.10, 10.12 through 10.35, in accordance with the requirements of Section 7.8.

Section 10.39 Right to Abate Violations. The Association or the Developer, prior to Turnover, and the Association thereafter, after reasonable notice and opportunity to cure a violation given to an Owner, may enter upon a Lot for the purposes of curing the violation. The cost thereof shall be charged against the Owner as a Special Assessment.

Section 10.40 Exemption for Developer. The Developer, provided that it owns any Lot in the Properties or in the event that the Developer is doing any construction work within the Properties, shall be exempt from the provisions of this Article X and Sections 9.2 and 9.3 of Article IX.

ARTICLE XI

PARTY WALLS

Section 11.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Each such Lot shall have the benefit of and be burdened with an easement for the support and maintenance of such party wall in accordance with the remaining provisions of this Article.

Section 11.2 Sharing of Repair and Maintenance. The cost of repair, maintenance and restoration of any party wall shall be shared jointly by the Owners upon whose Lots any portion of the wall is located in the proportion that the length of such wall

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located upon each Owner's respective Lot bears to the total length of the subject party wall between such Lots.

Section 11.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, including without limitation due to any intentional and negligent acts or combination thereof, the Owners of each Lot upon which the destroyed or damaged wall stands shall restore it, and all such Owners shall contribute their respective proportionate share to the cost of restoration thereof, without prejudice, however, to the right of any such Owners to demand and/or obtain all or part of any such repair and restoration costs by contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 11.4 Weatherproofing. If either surface of any such party wall is at any time exposed to the elements, the Owner of the Lot on which such surface stands shall promptly and at his expense take such action as is reasonably necessary to protect such surface against the elements. Notwithstanding any other provision of this article, an Owner who by his negligent or willful act or omission causes or permits the party wall upon his Lot to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and repairing any damage to such wall resulting from such exposure, as well as from any such act or omission.

Section 11.5 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 11.6 Arbitration. 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 by a majority of all the arbitrators shall be binding upon all parties to said dispute. If a party fails to choose an arbitrator within ten (10) days of receipt of written notification from the other party or parties involved of their selection of an arbitrator, then the DRC shall within ten (10) additional days select an arbitrator for such

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party and such selection shall be binding upon the non-selecting party. Arbitration procedures shall be in accordance with the Rules of the American Arbitration Association, where such rules are appropriate.

Section 11.7 Lien for Unpaid Maintenance Costs. In the event any party fails to pay their proportionate or other share of the maintenance use or restoration costs as determined by such arbitrators, within fifteen (15) days after reviewing notification of the decision of the arbitrators, then the Association shall fund the amount due from the non-paying owner(s) to repair and/or restore said party wall. The Association shall then promptly file a claim of lien upon the non-paying Owner's Lot or Dwelling Unit, that shall bear interest from such funded amount and all costs related thereto, shall be foreclosed in the manner provided in Sections 5.7 and 5.8.

ARTICLE XII

ENFORCEMENT PROVISIONS

Section 12.1 Rules and Regulations. The Board of Directors is specifically granted the power to pass rules and regulations for purposes of enforcing this Declaration.

Section 12.2 Enforcement - General. Failure of an Owner to comply with a provision in this Declaration or a provision in the By-Laws, Articles or Rules and Regulations of the Association shall provide the Association and each Owner with the right to bring any appropriate action against any person or entity violating or attempting to violate any such provision, in law or in equity, including but not limited to an action for injunctive relief, damages, or a combination thereof; and against the Owner's Lot and/or Dwelling Unit to enforce any lien created by these covenants. All costs and expenses incurred by the Association in terminating or resolving a violation of this Declaration, inclusive of attorneys' fees (whether or not litigation is instituted) shall be the responsibility of the Owner determined by the Association to be in violation. Collection of such attorneys' fees may be enforced by any method in this Declaration providing for the collection of a Periodic Assessment, including but not limited to a

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foreclosure proceeding. Failure by the Developer, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded. After the original thirty (30) year period, the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such thirty (30) year period, or each successive ten (10) year period, an instrument signed by the then Owners of three-quarters (3/4) of the Lots agreeing to terminate the covenants and restrictions at the end of such thirty (30) year or ten (10) year period has been recorded in the Public Records of Lee County, Florida. No such agreement to terminate the covenants and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This section shall not be amended.

Section 13.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 13.3 Amendment. This Declaration may be amended:

(a) During the first thirty (30) year period by an instrument:

(i) signed by not less than ninety percent (90%) of the Lot Owners, and

(ii) joined by all mortgages of record; and

(b) thereafter by an instrument

(i) signed by not less than seventy-five (75%) of the Lot Owners, and

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(ii) joined in by all mortgagees of record.

Any amendment must be recorded. Developer shall have the right at any time within five (5) years from the date hereof to amend this Declaration to correct scrivener's errors and to clarify any ambiguities determined to exist herein, or to change or add provisions to this Declaration for the purpose of meeting the requirements of governmental agencies, including but not limited to the Federal Housing Administration and the Veterans Administration, so long as such amendments do not materially affect vested property rights of Dwelling Unit Owners, lienors or mortgagees. Such Amendment need be executed and acknowledged by the Developer only, and need not be approved by the Association, Dwelling Unit Owners, lienors and mortgagees of units, whether or not elsewhere required for amendments. No Amendment shall alter the subordination provisions of this Declaration without the prior approval of any mortgagees enjoying such protection.

Section 13.4 Temporary Committees. The Developer, prior to Turnover of the Association, at its sole discretion, may create temporary committees for the purpose of aiding in the transition of the Association from Developer control to control by the Membership.

Section 13.5 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and the Articles shall take precedence over the By-Laws.

Section 13.6 Withdrawal. Anything herein to the contrary notwithstanding, the Developer reserves the absolute right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Properties from the provisions of this Declaration.

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Section 13.7 Flooding. The 100 year flood elevation as determined by Federal Flood insurance rate maps places this property in an area that is subject to the flooding under a "100 year event" and therefore all prospective Owners are advised to consult the County Building Department and consider this matter at the time purchase of a lot and construction of a residential structure.

Section 13.8 Encroachments. In the event any portion of any Dwelling Unit encroaches upon an adjacent Lot as a result of the construction, reconstruction, repair, shifting, settlement or moving of any portion of the Dwelling Unit, a valid easement for the encroachment, and for the maintenance of the same, shall exist so long as the encroachment exists (but only as long as the encroachment is not more than 12 inches).

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IN WITNESS WHEREOF, this Declaration of Covenants and Restrictions has been signed by Developer, joined by the Association, the day and year first above set forth.

WITNESSES:

VANDERBILT LAKES II, a
Florida general partnership

By: Ewing Industries, Inc., an Ohio
corporation, General Partner

Linda L. Welch
Nancy M. Rhoads

By: [Signature]
Thomas L. Williams,
President

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me, this 10
day of January, 1989, by THOMAS L. WILLIAMS, as the
President of EWING INDUSTRIES INC. an Ohio corporation, the General
Partner of Vanderbilt Lakes II, a Florida general partnership, on
behalf of said corporation and partnership.

Nancy Marie Rhoads
NOTARY PUBLIC

I am a Notary Public in the State of Ohio and my commission expires:

0193s



NANCY MARIE RHOADS
Notary Public, State of Ohio
My Commission Expires Oct. 22, 1990

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THE PROPERTIES

VANDERBILT LAKES II, a subdivision according to the Plat thereof as recorded in Plat Book 39, Pages 40 through 44, inclusive, Public Records of Lee County, Florida.

ALSO KNOWN AS:

A parcel of land in Section 4, Township 48 South, Range 25 East, Lee County, Florida and being more particularly described as follows:

From the Southwest corner of Section 4, run N 89° 40' 04" E along the South line of Section 4 for 522.06 feet to the POINT OF BEGINNING; thence N 00° 28' 00" W for 1076.59 feet; thence N 89° 32' 00" E for 60.00 feet to a point on a curve; thence run in a Southeasterly direction along the arc of said curve through a central angle of 89° 56' 37" and having a radius of 219.11 feet for 343.96 feet; thence N 33° 25' 36" E for 192.36 feet; thence N 00° 28' 00" W for 151.35 feet; thence N 89° 22' 40" E for 1024.97 feet; thence S 00° 37' 20" E for 63.13 feet; thence N 89° 22' 40" E for 149.26 feet to a point on a curve; thence run in a Northerly direction along the arc of said curve through a central angle of 04° 13' 25" and having a radius of 271.56 feet for 20.02 feet; thence N 89° 22' 40" E for 60.00 feet; thence N 00° 37' 20" W for 20.00 feet; thence run along the arc of a curve to the right through a central angle of 90° 00' 00" and having a radius of 30.00 feet for 47.12 feet to the beginning of a compound curve; thence run along the arc of said curve through a central angle of 18° 34' 22" and having a radius of 123.81 feet for 40.13 feet; thence N 17° 57' 02" E for 221.54 feet; thence N 00° 37' 20" W for 379.51 feet; thence N 53° 21' 30" E for 427.26 feet; thence S 00° 35' 52" E for 1039.06 feet; thence continue S 00° 35' 52" E for 329.90 feet; thence S 00° 38' 18" E for 650.61 feet; thence S 89° 40' 04" W for 2109.68 feet to the POINT OF BEGINNING.

Exhibit "A" to
Declaration of Covenants and Restrictions

ADDITIONAL LANDS

Parcel III

The South half of the South half of the Southwest quarter of Section 4, Township 48 South, Range 25 East, Lee County, Florida, excepting thereout and therefrom a strip of land 25 feet wide along the Easterly line as conveyed to County of Lee for road purposes in deed recorded in Deed Book 221, Page 27, Public Records of Lee County, Florida; ALSO excepting thereout and therefrom the West 50 feet of hereinabove described lands as conveyed to Board of County Commissioners for right of way purposes in Deed Book 301, Page 291, Public Records of Lee County, Florida.

LESS AND EXCEPT:

Parcel II

A parcel of land in Section 4, Township 48 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

From the Southwest corner of Section 4, run N 89° 40' 04" E along the South line of Section 4 for 200.00 feet to the POINT OF BEGINNING of the herein described parcel. From the said POINT OF BEGINNING continue N 89° 40' 04" E along said south line of Section 4 for 2,431.74 feet; thence N 00° 38' 18" W for 650.61 feet; thence S 89° 35' 23" W for 2,199.59 feet; thence S 00° 24' 37" E for 120.00 feet; thence S 89° 35' 23" W for 229.92 feet; thence S 00° 26' 57" E for 527.31 feet to the POINT OF BEGINNING.

Bearings hereinabove are based on the South line of Section 4, being N 89° 40' 04" E.

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"GREEN AREAS"

Tract "E"

GREEN AREA I

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK B, VANDERBILT LAKES II AS RECORDED IN PLAT BOOK 39, PAGES 40 THRU 44 INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN N 00°28'00" W FOR 233.66 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 230.00 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE (ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF WINTHROP CIRCLE S.W.) 86.00 FEET THROUGH A CENTRAL ANGLE OF 21°25'26"; THENCE RUN S 21°53'26" E FOR 160.95 FEET; THENCE LEAVING SAID RIGHT-OF-WAY RUN S 89°40'04" W 74.68 FEET TO THE POINT OF BEGINNING.

Tract "F"

GREEN AREA II

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK A, VANDERBILT LAKES II AS RECORDED IN PLAT BOOK 39, PAGES 40 THRU 44 INCLUSIVE, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN ALONG THE EASTERLY RIGHT-OF-WAY LINE OF WINTHROP CIRCLE N 21°53'26" W FOR 99.06 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 170.00 FEET; THENCE RUN ALONG THE ARC OF SAID CURVE NORTHWESTERLY 63.57 FEET THROUGH A CENTRAL ANGLE OF 21°25'26"; THENCE RUN N 00°28'00" W FOR 85.00 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 219.11 FEET; THENCE LEAVING SAID RIGHT-OF-WAY RUN ALONG THE ARC OF SAID CURVE SOUTHEASTERLY 261.67 FEET THROUGH A CENTRAL ANGLE OF 68°25'27"; THENCE RUN S 68°06'34" W FOR 97.33 FEET TO THE POINT OF BEGINNING.

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ARTICLES OF INCORPORATION
OF
VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC.,
a Florida not for profit corporation



State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on January 26, 1989, as shown by the records of this office.

The document number of this corporation is N30349.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
27th day of January, 1989.



Jim Smith
Secretary of State

ARTICLES OF INCORPORATION

OF

VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC.

(A corporation not for profit)

In compliance with the requirements of Chapter 617 (Part I) of the Florida Statutes, the undersigned, all of whom are residents of Florida and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

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ARTICLE I

The name of the corporation is VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., hereafter called the "Association."

ARTICLE II

The principal office of the Association is located at 5412 Harbour Castle Drive, Fort Myers, Florida 33907.

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ARTICLE III

Dale G. Hafele, whose address is 5412 Harbour Castle Drive, Fort Myers, Florida 33907, is hereby appointed the initial registered agent of this Association.

ARTICLE IV

PURPOSES AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residential Lots and Common Area (as each are defined in the Declaration described below) within that certain tract of property (the "Property") described as:

All of that certain property shown on the Plat of VANDERBILT LAKES II, a subdivision, as recorded in Plat Book 39, Pages 40 through 44, Public Records of Lee County, Florida.

and to promote the health, safety and welfare of the residents within the above-described Property and any additions thereto as

may hereafter be brought within the jurisdiction of this Association. In furtherance of their purposes, the Association shall have the power to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the Property and recorded or to be recorded in the public records of Lee County, Florida, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area (as defined in the Declaration) to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall automatically be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two classes of voting membership:

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

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or

(b) on January 1, 2000.

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ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of Directors composed of three (3) directors. Directors need not be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

| <u>Name</u> | <u>Address</u> |
|-------------------|--|
| Dale G. Hafele | 5412 Harbour Castle Drive Fort Myers, Florida 33907 |
| Kevin J. Killilea | 623 Coral Drive Naples, Florida 33940 |
| Robert T. Pearson | 4403 East Tamiami Trail Naples, Florida 33962 |

At the first annual meeting the members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years and one (1) director for a term of three (3) years; and at each annual meeting thereafter the members shall elect one (1) director for a term of one (1) year.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to

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be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

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ARTICLE IX

DURATION

The corporation shall exist perpetually.

ARTICLE X

AMENDMENTS

Amendment of these Articles shall require the assent of seventy-five percent (75%) of the entire membership.

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IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 11 day of January, 1989.

Dale G. Hafele
Dale G. Hafele

STATE OF FLORIDA)
)ss:
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Dale G. Hafele, known to be to be the individual described in and who executed the foregoing Articles of Incorporation, and he acknowledged that he subscribed the said instrument for the uses and purposes set forth therein.

WITNESS my hand and official seal in the County and State last aforesaid, this 11 day of January, 1989.

Marcell D. Miller
NOTARY PUBLIC
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COM. EXPIRES AUG. 15, 1992
LEASING FROM GENERAL INS. UNDO.

CERTIFICATE DESIGNATING PLACE OF BUSINESS
OR DOMICILE FOR THE SERVICE OF PROCESS WITHIN FLORIDA,
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In compliance with Section 48.091, Florida Statutes, the following is submitted:

That VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., desiring to organize or qualify under the laws of the State of Florida, with its principal place of business at the City of Fort Myers, State of Florida, has named Dale G. Hafele, located at 5412 Harbour Castle Drive, Fort Myers, Florida, as its agent to accept service of process within Florida.

VANDERBILT LAKES II
HOMEOWNERS ASSOCIATION, INC.
a Florida corporation

By: Dale G. Hafele
Name: Dale G. Hafele
Its: Incorporator

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Having been named as Registered Agent for the above stated Association, the undersigned hereby agrees to act in this capacity, and the undersigned further agrees to comply with the provisions of all statutes relative to the proper and complete performance of the undersigned's duties.

Dale G. Hafele
Dale G. Hafele
Registered Agent

Dated: Jan 10, 1989

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BY-LAWS
OF
VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC.,
a Florida not for profit corporation

Exhibit "E" to
Declaration of Covenants and Restrictions

BY-LAWS

OF

VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 5412 Harbour Castle Drive, Fort Myers, Florida, 33907, but meetings of members and directors may be held at such places within the State of Florida, County of Lee, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, or such other dwelling units as may be provided for in the Declaration (as defined in Section 7 of this Article) with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract vendors, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Developer" shall mean and refer to VANDERBILT LAKES II, a Florida general partnership, its successors and assigns if such successors or assigns should acquire more than

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one undeveloped Lot from the Developer for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Properties recorded in the Public Records of Lee County, Florida.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III

MEETING OF MEMBERS

Section 1. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of eight o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-third

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(1/3) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors composed of three (3) directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting the members shall elect one (1) director for a term of one year, one (1) director for a term of two years and one (1) director for a term of three years; and at each annual meeting thereafter the members shall elect one (1) director for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

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Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then

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that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

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(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

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- (g) cause the Common Area to be maintained; and
- (h) cause the exterior of all dwellings located upon the Properties to be maintained, if authorized pursuant to Article VII of the Declaration.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may appoint such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make such resignation effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

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Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President: The president shall preside at all Meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President: The vice-president shall act in stead the place and of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer: The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

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ARTICLE IX

COMMITTEES

The Association shall appoint a Design Review Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

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ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable costs.

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ARTICLE XI

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or the maximum legal rate of interest, whichever is greater, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit.

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., have hereunto set our hands this 10th day of January, 1989.

Dale G. Hafele
Dale G. Hafele
Kevin J. Killilea
Kevin J. Killilea
Robert T. Pearson
Robert T. Pearson

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CERTIFICATION

I, the undersigned, DO HEREBY CERTIFY:

THAT I am the duly elected and acting secretary of the
VANDERBILT LAKES II HOMEOWNERS ASSOCIATION, INC., a Florida
corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws
of said Association, as duly adopted at a meeting of the Board of
Directors thereof, held on the 10th day of January, 1989.

Bob P. Hinkle

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JOINDER TO DECLARATION OF COVENANTS
AND RESTRICTIONS FOR VANDERBILT LAKES II

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The undersigned, RYAN HOMES, G.P., a Virginia general partnership, with a mailing address of ~~4403 East Tamiami Trail, Naples, Florida 33962~~ ^{241 S AIRBORN RD 33942} ("RYAN") hereby certifies that it is the owner of Lot 5, Block A; Lot 19, Block A and Lot 2, Block D, all located within VANDERBILT LAKES II, a subdivision, according to the Plat thereof, as recorded in Plat Book 39, Pages 40 through 44, inclusive, in the Public Records of Lee County, Florida.

RYAN does hereby join in, consent and agree to that certain Declaration of Covenants and Restrictions of VANDERBILT LAKES II recorded Feb. 27, 1989, 1989 in Official Records Book 2051, Pages 4517 through 4592, inclusive, in the Public Records of Lee County, Florida.

IN WITNESS WHEREOF, RYAN has caused these presents to be executed by its general partner duly authorized and by affixing its corporate seal hereon with the authority of its partners, this 23rd day of January, 1989.

Signed, sealed and delivered
in the presence of:

RYAN HOMES, G.P.,
a Virginia partnership

By: RYAN HOMES, INC.,
Its General Partner

[Handwritten signatures: Lisa M. ... and Sandra ...]

By: *[Handwritten signature]*
Robert T. Pearson,
Vice President

[CORPORATE SEAL]

STATE OF FLORIDA)
) SS:
COUNTY OF COLLIER)

The foregoing instrument was acknowledge before me this 23 day of January, 1989 by Robert T. Pearson, Vice President of Ryan Homes, Inc., a General Partner of RYAN HOMES, G.P., a Virginia general partnership, on behalf of the corporation and the partnership.

[Handwritten signature]
NOTARY PUBLIC
My Commission Expires:
NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: OCT. 13, 1992.
BONDED THRU NOTARY PUBLIC UNDERWRITERS

JOINDER TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR VANDERBILT LAKES II

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

The undersigned, CENTRALBANC MORTGAGE COMPANY, an Ohio corporation, with a mailing address of 201 East Fifth Street, Cincinnati, Ohio ("Mortgagee"), hereby certifies that it is the owner and holder of that certain Mortgage dated December 30, 1983, made by VANDERBILT LAKES II, a Florida general partnership, in favor of Mortgagee, recorded January 6, 1984, in Official Records Book 1705, Pages 3549 through 3560, inclusive, in the Public Records of Lee County, Florida, as modified by that certain Amendment and Supplement to Open End Mortgage dated June 30, 1987 and recorded July 8, 1987 in Official Records Book 1928, Page 1185, of the Public Records of Lee County, Florida (collectively the "Mortgage"), granted upon that certain real property described therein.

Mortgagee does hereby join in and consent and agree that the mortgage shall be subordinated to that certain Declaration of Covenants, Conditions and Restrictions of Vanderbilt Lakes II recorded Feb 27 1989, 1989 in Official Records Book 2057, Pages 4517 through 4522, inclusive, Public Records of Lee County, Florida.

Nothing contained herein shall be deemed to or in any way limit or affect the Mortgage held by CENTRALBANC MORTGAGE COMPANY or the priority of the lien created thereby, and the sole purpose of this Consent is to acknowledge the consent of said Mortgagee to the Declaration of Covenants, Conditions and Restrictions as hereinabove provided and the submission of CENTRALBANC MORTGAGE COMPANY thereto.

By execution of this Consent and its recordation in the Public Records of Lee County, Florida, CENTRALBANC MORTGAGE COMPANY does not intend to become a Developer and further shall not become a Successor Developer for warranties in the Declaration in the event it becomes necessary for CENTRALBANC MORTGAGE COMPANY to foreclose the above-referenced Mortgage.

IN WITNESS WHEREOF, the Mortgagee has caused these presents to be executed by its officers duly authorized and by affixing its corporate seal hereon with the authority of its Board of Directors, this 26th day of June, 1987.

Signed, Sealed and Delivered
in the Presence of:

THE CENTRALBANC MORTGAGE
COMPANY, an Ohio corporation

Deborah L. Hoffmann
E. Richard O'Brien

By: [Signature]
Its: President

REC'D
FEB 21 4 15 PM '89

State of Ohio)
) ss:
County of Hamilton)

The foregoing instrument was acknowledged before me this 26 day of June, 1987, by Ralph L. Baugh, President of THE CENTRALBANC MORTGAGE COMPANY, an Ohio corporation, on behalf of said corporation.

E. Richard O'Brien
Notary Public

My Commission Expires:

(SEAL)

OR2051
PG4592

RECORDED & RETURNED
Baltimore