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CLERK OF CIRCUIT COURT
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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MAGIC LANDINGS

THIS DECLARATION is made as of February 1, 2001, by MAGIC LANDINGS HOMES, LLC., a Florida Limited Liability Company, which declares hereby that the "Properties" described in Article 2 of this Declaration are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration.

1. DEFINITIONS

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

- i. "Articles" or "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as amended or modified from time to time.
- ii. "Association" shall mean and refer to **MAGIC LANDINGS ASSOCIATION, INC.**, a Florida not-for-profit corporation.
- iii. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- iv. "By-Laws" shall mean and refer to the By-Laws of the Association as amended or modified from time to time
- v. "Common Areas" shall mean all property located within The Properties as indicated on Exhibit "A" attached hereto and made a part hereof; together with the landscaping and any improvements thereon, including, without limitation; all structures, landscaped areas, street lights and

irrigation systems, road ways, entrance way, perimeter walls, entry feature and signage, fountains, water & sewer systems, drainage systems, ponds; but excluding any public utility installations thereon and/or any pedestrian areas located on private Lots. Developer will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the Common Areas of The Properties, but such identification shall not be required in order for a portion of The Properties to be Common Areas hereunder. Without limiting the generality of Section 1 b, in the event that Developer determines that a particular portion of The Properties is or is not common Areas hereunder (in the manner provided in said Section 1 b), such determination shall be binding and conclusive. In the event that the Association accepts an easement or similar grant over, under or through any portion of The Properties or any property adjacent thereto or in the vicinity thereof, the area subject to such easement shall be deemed Common Areas for the purposes of, but only for the purposes of, the Association performing whatever duties or obligations are stated in, or implied by law with respect to such easement or other grant.

- vi. "Developer" shall mean and refer to MAGIC LANDINGS HOMES, LLC., a Florida Limited Liability Company, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of The Properties. In the event of such a partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.
- vii. "Lot" or "Parcel" shall mean and refer to any specific parcel of land within The Properties designated as such in this Declaration or in a Supplemental Declaration executed and recorded by the Developer (and joined into by the owner of such parcel, if different from the Developer). In the event that any Lot is owned by more than one person or entity, it shall nevertheless be deemed a single Lot hereunder, as more particularly described in Article 9 of this Declaration. The initial Lots are described on Exhibit "B" attached hereto.
- viii. "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article 3 hereof.

- ix. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties. For the purposes of this Declaration, an "Owner" shall also mean the holder of a long-term leasehold interest (i.e., one having an initial term in excess of three(3) years in a Lot (and not merely the structure(s) located thereon), even though fee simple title thereto is vested in another party (which party shall not be deemed an Owner hereunder during the term of the leasehold interest).
- x. "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.
- xi. "Unit" shall mean a house constructed upon a Lot, with all appurtenances thereto.

b. Interpretation and Flexibility. In the event of any ambiguity or question as to whether any person, entity, property or improvement falls within any of the definitions set forth in this Article 1, the determination made by Developer in such regard (as evidenced by a recorded Supplemental Declaration stating same) shall be binding and conclusive. Moreover, Developer may, also by way of Supplemental Declaration, alter or amend the application of any portion of this Declaration as to any specified portion(s) of The Properties in order to reflect any unique characteristics thereof; provided that such altered or amended application may not go so far as to be unequivocally contrary to the overall, uniform scheme of development for The Properties contemplated in this Declaration.

2. PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO; WITHDRAWALS THEREFROM

a. Legal Description. The real property which, initially, is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Osceola County, Florida, and is more particularly described in Exhibit "C" attached hereto, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as "The Properties".

b. Supplements. Developer may from time to time, but shall not be obligated to, bring other land in the general vicinity of the Properties (even though not then contiguous thereto) under the provisions hereof by recorded supplemental declarations (which shall not require the consent of then existing Owners, the Association or any mortgagee) and thereby add to The Properties. In that event, "The Properties" shall be deemed to include all of such additional property.

c. Withdrawal. Developer reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity except as provided below, for the purpose of removing certain portions of The Properties then owned by the Developer or its affiliates or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for The Properties desired to be effected by the Developer; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development of The Properties. Any withdrawal of land not owned by Developer shall not be effective without the written consent or joinder of the then owner(s) of such land.

3. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

a. Membership. Subject to the provisions of Article 9 hereof, every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Section, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

b. Voting Rights. Each Member of the Association shall be entitled to one vote for each Lot owned by that Member. When more than one person holds such interest or interests in any Unit, all such persons shall be Members, but the vote for such Unit shall be exercised as they among themselves determine.

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

4. COMMON AREAS: CERTAIN EASEMENTS

a. Members Easements. Each Member, and each tenant, agent and invitee of each Member shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other such Members, tenants, agents and invitees, in such manner as may be regulated by the Association. Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

- i. The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration.
- ii. The right of the Association to adopt at any time and from time to time and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to fine Members as hereinafter provided. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.
- iii. The right to the use and enjoyment of the Common Areas and facilities thereon for their intended purposes shall extend to all agents, employees, guests and invitees of the Owners, subject to reasonable regulation from time to time by the Association herein or in its lawfully adopted and published rules and regulations; provided, however, that neither such rules and regulations nor any amendment to this Declaration shall deprive Owners and the other aforesaid parties from access to their respective Lots.
- iv. The right of Developer to permit such persons as Developer shall designate to use the Common Areas and all facilities located thereon (if any).
- v. The right of Developer and the Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.
- vi. The right of the Developer, with a 2/3rds affirmative vote of the entire membership, to dedicate or convey portions of the Common Areas to any public or quasi-public agency, community development district or other entity under such terms as the Developer deems appropriate and to create or contract with community development and special taxing districts for lighting, roads or other services, security, or communications and other similar purposes deemed appropriate by the Association (to which such dedication or contract all owners, by the acceptance of the deeds to, or leasehold interests in, their Lots, shall be deemed to have consented).

b. Easements Appurtenant. The easements provided in Section 4.1 shall be appurtenant to and shall pass with the title to each Lot, but shall not be deemed to grant or convey any ownership interest in the Common Areas subject thereto.

c. Maintenance of Common Areas and portions of Lots. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas, and to the extent not otherwise provided for, the paving, drainage structures, perimeter walls, fountains, road ways, lighting, sidewalks, water & sewer systems, retention ponds, electrical and other utility wiring, entry signage and gates, landscaping, irrigation systems, improvements and other structures (except public utilities, to the extent same have not been made Common Areas) situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Association. Additionally, the Association shall maintain the portions of the Lots which are not improved, such maintenance to include, without limitation, maintenance of trees, shrubbery, grass and other landscaping on each Lot, if any, and all sidewalks, plazas, parking lots and similar areas, all in a neat, clean, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. Maintenance of any applicable street lighting fixtures or irrigation systems on Common Areas shall include and extend to payment for all electricity consumed in their operation, unless same is separately metered to a specific lot(s). Without limiting the generality of the foregoing, the Association shall assume all of Developer's and its affiliates' responsibility to the City of Kissimmee and Osceola County, Florida and its governmental and quasi-governmental subdivisions of any kind with respect to the Common Areas or utilities serving The Properties (including, without limitation, as to any ongoing use or maintenance requirements under any developer's agreement, bond, or similar instrument). All expenses incurred by the Association pursuant to this Section and this Declaration generally shall be paid for by the Association through assessments (either general or special) imposed in accordance herewith. No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common Areas.

d. Maintenance of Drainage Facilities, Retention Pond, Conservation Area and Roadways. Without limiting the foregoing, the Association shall specifically comply with the agreements heretofore made by the Developer, with the City of Kissimmee and Osceola County, Florida for the maintenance of the Drainage Facilities, Retention Pond, Conservation Area and Roadways, which agreement the Association adopts as its own. This obligation shall include, but shall not be limited to, maintenance of Tracts G and K as shown on the Plat of Magic Landings and which have been dedicated thereon.

e. Utility Easements. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on or described in relevant plats or in recorded instruments, shall be in accordance with the applicable provisions of this Declaration and said plats and instruments. Public utilities in the Common Areas for the service of The Properties shall be installed underground, except as may be otherwise permitted by the Developer. The Developer and its affiliates and their designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities.

f. Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

g. Ownership. The Common Areas are hereby dedicated nonexclusively to the joint and several use, in common, of the Developer and the Owners of all Lots that may from time to time constitute part of The Properties and their tenants, agents and invitees and the Developer's tenants, guests and invitees, all as provided and regulated herein or otherwise by the Association. The Common Areas (or appropriate portions thereof) shall, upon the later of completion of the improvements thereon or the date when the last Lot within The Properties has been conveyed to a purchaser (or at any time and from time to time sooner at the sole election of the Developer), be conveyed by quit claim deed to the Association (without warranty), which shall be deemed to have automatically accepted such conveyance. Except as provided in Section 10 j hereof, the Association shall be responsible for the maintenance, insurance and administration of such Common Areas (whether or not then conveyed or to be conveyed to the Association), all of which shall be performed in a continuous and satisfactory manner without cost to the general taxpayers of Osceola County, Florida. It is intended that all real estate taxes assessed against those portions of the Common Areas owned or to be owned, by the Association shall be (or have been, because the purchase prices of the Lots and/or Units have already taken into account their proportionate shares of the values of the Common Areas), proportionally assessed against and payable as part of the taxes of the applicable Lots within The Properties. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) of same, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date these covenants are recorded, and such taxes shall be prorated between Developer and the Association as of the date of such recordation. Developer and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of The Properties (including, without limitation, Lots and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere on the undeveloped portions of The Properties that Developer and its affiliates or designee elect to effect, and to use, without charge, the Common Areas and other portions of The Properties for sales, displays and signs or for any other purpose during the period of construction, development and sale of any undeveloped portion of The Properties or other portions of The Properties owned by Developer. Without limiting the generality of the foregoing, Developer and its affiliates shall have the specific right to maintain upon any portion of The Properties owned by Developer or on the Common Areas, sales, administration, construction or other offices and appropriate exclusive and nonexclusive easements of access and use are expressly reserved unto the Developer and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose. Any obligation (which shall not be deemed to be created hereby) to complete

portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above referenced activities. Accordingly, the Developer shall not be liable for delays in such completion to the extent resulting from the need to finish the above-referenced activities prior to such completion.

5. COVENANT FOR MAINTENANCE ASSESSMENTS

a. Creation of the Lien and Personal Obligation for Assessments. Except as provided elsewhere herein, the Developer (and each party joining in any supplemental declaration), for all Lots within The Properties, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments and charges for the operation of, and for payment of expenses and/or taxes allocated or assessed to or through, the Association, the maintenance, management, operation and insurance of the Common Areas as provided elsewhere herein, including such reasonable reserves as the Association may deem necessary, special assessments as provided in Section 5.3 hereof, capital improvement assessments as provided in Section 5.4 hereof and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Association, all such assessments to be fixed, established and collected from time to time as herein provided. Notwithstanding the foregoing, the initial costs of installing the Common Areas shall be an expense borne solely by the Developer and shall not be collected through assessments. The annual, special and other assessments, together with such late charges and interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such late charges and interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due and all subsequent Owners until paid. Except as provided herein with respect to special assessments which may be imposed on one or more Lots and Owners to the exclusion of others and as provided in Section 5 h below, all assessments imposed by the Association shall be imposed against all Lots subject to its jurisdiction by application of the formula set forth in Section 5.2, below. Reference herein to assessments shall be understood to include any and all interest late charges and costs of collection relating thereto, whether or not specifically mentioned.

b. Rates of Assessments. Subject to the provisions below and those set forth in Section 9 hereof, each Lot shall be assessed two (2%) percent of the total estimated operating expenses of the Association. As additional Lots may be subjected to this Declaration, or if any Lots are withdrawn, this percentage shall be adjusted.

c. Special Assessments. In addition to the regular and capital

improvement assessments which are or may be levied hereunder, the Association (through a majority vote of the Board of Directors) shall have the right to levy and collect special assessments against an owner(s) to the exclusion of other owners for (i) the repair or replacement of damage to any portion of the Common Areas (including, without limitation, improvements and landscaping thereon) and/or any other Lot caused by any construction and/or repair and/or alteration of improvements, misuse, negligence or other action or inaction, or at the direction, of an owner or his tenant(s) or invitees or (ii) the costs of work performed by the Association in accordance with Article 6 of this Declaration (together with any surcharges collectible thereunder). Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any special assessment levied hereunder shall be due within the time specified by the Board of Directors in the action imposing such assessment.

d. Capital Improvements. Funds which in the aggregate are in excess of 10% of the then current operating budget of the Association in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas under the jurisdiction of the Association and which have not previously been collected as reserves or are otherwise available to the Association (other than by borrowing) shall be levied by the Association as assessments only upon approval of a majority of the Board of Directors of the Association voting at a meeting or by ballot as may be provided in the By-Laws of the Association. It is the intent of this Section that any capital improvements having a cost of less than the amount set forth above be paid for by regular assessments, with an appropriate adjustment to the budget of the Association and the assessment levied in accordance therewith to be made, if necessary. Any capital improvement assessment shall be levied against all Lots in an equitable manner as may be determined by the Board of Directors.

e. Date of Commencement of Annual Assessments; Due Dates. The annual regular assessments provided for in this Article shall commence on the first day of the month following the date this Declaration is recorded and shall be applicable through December 31 of such year. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31.

The annual assessments shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by the Board of Directors of the Association (absent which determination they shall be payable quarterly).

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

in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any special assessment or capital improvement assessment shall be fixed in the Board resolution authorizing such assessment.

f. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall be sent to every owner thirty (30) days prior to payment of the first installment thereof, except as to special assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

The Association shall upon demand at any time furnish to any owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein stated to have been paid.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including the Developer and affiliates of the Developer) for management services. The Association shall have all other powers provided in its Articles of Incorporation and By-Laws.

g. Effect of Non-Payment of Assessment; the Personal obligation; the Lien; Remedies of the Association. If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, and the owner's heirs, personal representatives, successors and assigns. Except as provided in Section 5 h to the contrary, the personal obligation of the then Owner to pay such assessment shall pass to his successors in title and recourse may be had against either or both.

If any installment of an assessment is not paid within fifteen (15) days after the due date, at the option of the Association a late charges of five percent (5%) of the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges, provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and/or the next twelve (12) months' worth of installments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, 18% per annum) and the Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as herein above provided for) against the Lot on which the assessments and late charges are unpaid, may foreclose the lien against the Lot on which the assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same in such action shall be added to the amount of such assessments, late charges and interest, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels.

In the case of an acceleration of the next twelve (12) months' of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and special assessments against such Lot shall be levied by the Association for such purpose.

In addition to the rights collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas (except for access over Common Area roadways) until such time as all unpaid and delinquent assessments due and owing from the selling owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees, and purchasers contemplated by Section 5 h.

The failure of the Association to send or deliver bills or notices of assessments shall not relieve owners from their obligations to promptly pay same when due. All assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association.

h. Subordination of the Lien. The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and the lien of any first mortgage (recorded prior to recordation by the Association of a claim of lien) held by an institutional mortgage lender and which is now or hereafter placed upon any property subject to assessment; provided, however, that any such mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure or otherwise in satisfaction of a debt secured by a first mortgage as aforesaid, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such acquisition of title through foreclosure (or conveyance in lieu of foreclosure or in satisfaction of debt). Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Lots subject to assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure or in satisfaction of debt) took place.

i. Developer's Assessments. Notwithstanding any provision to the contrary contained in this Declaration, for as long as Developer (or any of its affiliates) is the Owner of any Lot, Developer shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it in like manner as paid by other owners; or (ii) not paying assessments on Lots owned by Developer, and in lieu thereof, funding any resulting deficit in the Association's operating expenses (exclusive of any capital costs and reserves) not produced by assessments receivable from Owners other than Developer and any other income receivable by the Association. The deficit to be paid under option (ii) above shall be the difference between (a) actual operating expenses of the Association (exclusive of capital improvement costs and reserves) and (b) the sum of all monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year (s) Developer may from time to time change the option stated above under which Developer is making payments to the Association by written notice to such effect to the Association. When all Lots within The Properties are sold and conveyed to purchasers, neither the Developer, nor its affiliates, shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions.

j. Association Funds. The portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special and capital assessments, shall be held by the Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.

6. MAINTENANCE OF UNITS AND LOTS

a. Exteriors of Units. The Association shall maintain the exteriors of all structures located on the Lots in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. In addition, the Association shall maintain all screen enclosures located behind each and attached to each unit. The minimum (though not sole) standard for the foregoing shall be consistent with the general appearance of The Properties as initially constructed and otherwise improved by Developer or by any other builders who build in accordance with plans approved by the Developer (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of the Board of Directors. The Association shall clean, repaint, restrain or refinish, as appropriate, the exterior portions of his Unit (with the same colors or finishes as initially used on the Unit) as often as is necessary to comply with the foregoing standards. The foregoing maintenance requirements shall not apply to the extent that a Unit is diligently under construction; provided, however, that during such construction period the applicable Lot shall nevertheless be kept reasonably free of accumulations of scrap, debris and refuse. The costs of the foregoing maintenance by the Association shall be deemed a Common Expenses and collected through Assessments against the Owners.

b. Lots. The Association shall maintain the trees, shrubbery, grass and other landscaping on each Lot, if any, and all sidewalks, plazas, parking lots and similar areas, in a neat, clean, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. All irrigation systems shall be underground, automatic, kept in good repair and shall not stain or discolor any wall, sign surface, curb, sidewalk or other improvement. The minimum (though not sole) standard for the foregoing shall be the general appearance of The Properties as initially landscaped (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained). The costs of the foregoing maintenance by the Association shall be deemed a Common Expenses and collected through Assessments against the Owners.

c. Excessive Wear and Tear. In the event any Unit requires maintenance is substantially greater than that of other Units, as a result of excessive wear and tear or improper use or for any other reason, the costs and expenses thereof shall be deemed a special assessment under Section 5 c of this Declaration and may be immediately imposed by the Board of Directors.

The foregoing maintenance requirements shall not apply to the extent that a Lot is under construction; provided, however, that each owner, during such construction period, shall keep the Lot reasonably free of accumulations of scrap, debris and refuse.

d. Remedies for Noncompliance. In the event of the failure of an owner to maintain his unit or Lot in accordance with this Article, or in the event that any Owner

commences improvements to his Lot but does not diligently pursue same through to completion leaving the Lot in a condition other than is required by this Declaration, then, in either such event, the Association shall have the right, upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Association, to enter upon the owner's Lot and perform such work as is necessary to bring the Lot or Unit, as applicable, into compliance with the standards set forth in this Article, including, without limitation, the right to complete any incomplete or partially completed work at the Owner's sole expense in accordance with approved plans. Such work may include, but shall not necessarily be limited to, construction of improvements, the cutting/trimming of grass, trees and shrubs; the repainting, restaining or refinishing of exterior surfaces of a Unit; the repair of walls, fences, roofs, doors, windows and other portions of a Unit or other structures on a Lot; and such other remedial work as is judged necessary by the Association. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration or otherwise under applicable law (including, without limitation, the imposition of fines or special assessments or the bringing of legal or equitable actions).

e. Costs of Remedial Work; Surcharge. In the event that the Association performs any remedial work on a Unit or Lot pursuant to this Article or any other applicable Covenants, the costs and expenses thereof shall be deemed a special assessment under Section 5 c of this Declaration and may be immediately imposed by the Board of Directors. In order to discourage Owners from abandoning certain duties hereunder for the purpose of forcing the Association to assume same, and, additionally, to reimburse the Association for administrative expenses incurred, the Association may impose a surcharge of not more than thirty-five percent (35%) of the cost of the applicable remedial work, such surcharge to be a part of the aforesaid special assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the Association in its sole discretion.

f. Right of Entry. There is hereby created an easement in favor of the Association, and its applicable designees over each Lot for the purpose of entering onto the Lot in the performance of the work herein described, provided that the notice requirements of this Article are complied with.

7. CERTAIN RULES AND REGULATIONS

a. Applicability. The provisions of this Article 7 shall be applicable to all of The Properties, except for those Lots owned by the Developer. Further, if a Lot is under construction, the provisions of this Article which presume the completion of construction shall not apply until the construction on the Lot is complete and a certificate of occupancy or certificate of completion, as applicable, has been issued by the applicable governmental authority.

b. Uses of Lots and Units. All Lots and Units (and appurtenant Common Areas) shall be used exclusively for vacation homes including time share units and primarily for transient occupancy, and at all times used, operated and maintained in accordance with applicable zoning and other requirements, conditions and restrictions applicable to same (including, without limitation, any contained in a deed or lease of the Lot/Unit from the Developer, as same may be amended from time to time). In no event shall any portion of The Properties be used for any unlawful purposes or in a manner which is or becomes noxious, offensive, unhealthy or harmful as a result of generating fumes, dust, smoke, noise, vibration, extraordinary waste or toxic or hazardous waste.

c. Temporary Structures. Except as may be used or permitted by the Developer during periods of construction or renovation, no structure of a temporary nature (including, without limitation, trailers, tents, shacks or mobile offices) shall be located or used within The Properties.

d. Refuse. All trash, garbage and other refuse shall be placed only in designated areas and containers (which shall not be removed), screened from view from parking and other public areas and shall not be permitted to overflow or otherwise accumulate outside of their containers or areas.

e. Lighting Levels of lighting in all exterior areas of Lots shall be maintained at safe levels (although in no event shall the Association be deemed to be a guarantor or insurer of such safety) and bulbs shall be replaced with bulbs of the same wattage as expeditiously as possible after the failure thereof occurs. Exterior lighting fixtures of units shall be maintained in good repair and shall be kept functioning during non-daylight hours. Common lighting installed by the Developer shall not be replaced or tampered with by an owner.

f. Oil and mining operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions. This Section shall be applicable to all Lots, including undeveloped Lots, Lots under construction and improved Lots.

g. Architectural Control. The following provisions shall not apply to the initial construction by Developer of improvements on a Lot for so long as same are subject to, and in compliance with, applicable restrictions imposed by the Developer (or variances therefrom approved by the Developer), the intent of this Section being that it shall apply to changes in and to such improvements only after same have been completed in the manner approved by the Developer. The foregoing shall not, however, make this Section inoperative as to

additions to Lots or Units after the completion of the Developer-approved improvements thereon/thereto.

No building, wall, fence or other structure or improvement of any nature (including, but not limited to, lighting fixtures, antennae, satellite dishes, landscaping, exterior paint or finish, hurricane protection, auxiliary buildings, additions to existing buildings, enclosures around "dumpsters", loading docks, awnings, canopies, domes, decorative features, swales, asphaltting, site grading or other improvements or changes of any kind) shall be erected, placed or altered on, or removed from, any Lot or Unit until the construction plans and specifications and a plan showing the location of the structure (and landscaping, if any) and of the materials proposed to be used, all as may be required by the Board of Directors of the Association, (the "Board") have been approved in writing by such Board and all necessary governmental permits are obtained. All such buildings, walls, fences or other structures and improvements must conform to any "Design Guidelines" which may be established from time to time by the Board, and no plans shall be approved if they are not in conformity with same. Each building, wall, fence or other structure or improvement of any nature, together with any applicable landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications (and plot plan if required) so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Board seem sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. The Board shall act on submissions to it within thirty (30) days after receipt of the same (and all further documentation required by it) or else the applicable request shall be deemed approved. If, after a certificate of occupancy (either temporary or permanent) has been obtained for any structure upon a Lot, or, if, after approval of the Board has been obtained, an Owner shall request approval from the Board of any changes, modifications, alterations or additions, the owner shall pay to the

The approval of any proposed improvements or alterations by the Board of Directors shall not constitute a warranty or approval as to, and no member or representative of the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association, generally, from and for any losses, claims or damages connected with the aforesaid aspects of the improvements or alterations.

No approval of the Board of Directors shall be required for the maintenance (including repainting and restaining of Unit exteriors) required by Article 6 of this Declaration.

Each building, fence, wall, structure, sign or other improvement of any nature and all landscaping shall be erected, placed, or altered upon The Properties only in substantial accordance with the plans and specifications therefor as approved by the Board of Directors, and the Board of Directors shall have the right, in the event of any breach of the foregoing, to cause the improper improvement to be removed. Upon commencing construction of any approved improvement, the Owner shall proceed diligently without stopping until Owner has completed the improvement.

h. Commercial Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, or campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or vans, shall be permitted to be regularly parked or stored at any place on The Properties, nor in dedicated areas. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to (i) temporary parking of trucks and commercial vehicles, such as for pick-up and delivery and other commercial services (even if same are parked on a regular basis) or (ii) any vehicles of the Developer or its affiliates. No on-street parking or parking on landscaped areas shall be permitted.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any reason, shall be grounds for relief of any kind. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

i. Parking Areas. No Owner or tenant shall cause or permit anything to be done on or about his Lot which interferes with the normal flow of traffic and parking of vehicle thereon or interferes with the Association's maintenance of applicable Common Areas. No parking shall be permitted on any street, lawn, median strip, public walkway, swale, berm or other unpaved place or at any place other than paved parking areas.

8. ENFORCEMENT

a. Compliance by Owners and Tenants. Every owner shall comply with the restrictions and covenants set forth herein, any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association and the Park Covenants. Inasmuch as it is contemplated that a substantial portion of the Lots and Units within The Properties may be leased by the owners thereof to others, but in light of the direct relationship of the Association with its Members (consisting of such owners) and the nature of this Declaration as running with the land, the Association shall at all times be entitled to look solely to the Owner of a Lot/Unit with respect to the enforcement of this Declaration and shall not be required (but shall always have the option) to do so as to a tenant. Each lease of any Lot/Unit or portion thereof shall provide (or, in the absence of such provision, shall be deemed to provide) that the tenant shall at all times comply with the covenants, conditions, restrictions and requirements of this Declaration (except as to the payment of assessments and fines) and such provision shall be enforceable by the Association in its own name (but at its sole option). As used herein, "lease" shall also mean a sublease and "tenant" shall also mean a sub-tenant.

b. Enforcement. Failure of an Owner or tenant to comply (or to cause compliance) with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The offending Lot Owner (even if only a landlord) shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs.

c. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an owner for failure of an Owner or its tenants, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

i. Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors at which time the owner shall present reasons why a fine(s) should not be imposed. At least six (6) days' notice of such meeting shall be given.

ii. Hearing: The alleged non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why a fine(s) should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board's meeting. The

Owner shall have a right to be represented by counsel and to cross-examine witnesses.

iii. Amounts: The Board of Directors (if its findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

- (1) First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (2) Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).
- (3) Third and subsequent non-compliance, or a violation or violations which are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00).

iv. Payment of Fines: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

v. Collection of Fines: Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

vi. Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.

vii. Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

9. MULTIPLE OWNERSHIP LOTS

a. Purpose. This Article has been adopted for the purpose of limiting the number of Owners with whom/which the Association must deal in the course of its operations as well as to simplify the administration and enforcement of this Declaration and the Articles of Incorporation, By-Laws and rules and regulations of the Association.

b. Uses of Certain Terms. As provided in Article 1 of this Declaration, a single Lot or Unit shall not lose its character as such for the purposes of this Declaration by virtue of being owned by more than one person or entity, pursuant to a partnership agreement, limited liability company operating agreement, corporate stockholders agreement or any other instrument by which the multiple owners of a Lot agree among themselves. As also provided in Article 1 an Owner shall be deemed, for purposes of this Declaration, to be the entity or association of owners for a Lot/Unit with multiple owners (a "Multi-Owner Lot"), even though such association is not actually the owner of the Lot/Unit.

c. Assessments. Assessments levied hereunder against a Multi-Owner Lot shall be but a single lien on the entirety of such Lot and shall be payable by the Owner thereof (i.e., the association therefor). Accordingly, each applicable agreement for multiple ownership shall provide (or in the absence of such provision, shall be deemed to provide) that all assessments levied hereunder shall be a common expense of all owners of a Multi-Owner Lot.

d. Enforcement. Each association for a Multi-Owner Lot shall be liable and responsible to the Association hereunder for its and its constituents' compliance with the covenants, restrictions and requirements of this Declaration and the Articles of Incorporation, By-Laws, and rules and regulations of the Association. Accordingly, while the Association shall have the right (exercisable at its sole option) to proceed against such a constituent for a violation of this Declaration, it shall have a direct right to do so against the ownership entity or association (even if the violation is not caused by such association or all of its constituents).

e. Voting Rights. Each entity or association for a Multi-Owner Lot shall be a Member of the Association as provided in section 3.2 of this Declaration, but its constituents shall not be deemed to be Members for voting purposes. Such association Member shall cast its votes as would any corporate owner, as provided in the Articles of Incorporation and/or By-Laws of the Association.

10. GENERAL PROVISIONS

a. Duration. The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Association, the Board of Directors, the Developer (at all times) and the owner of any land subject to this Declaration, and their respective legal representatives, heirs, tenants, sub-tenants, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% of all In the Lots subject hereto and of 100% of the mortgagees thereof has been

recorded, agreeing to revoke said covenants and restrictions. Provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

b. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

c. Enforcement. Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

d. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

e. Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Developer alone, for so long as it or its affiliates holds title to any Lot, or any interest therein, affected by this Declaration, provided, however, that no such amendment shall materially or adversely affect the vested property rights of the owners of any Lot without the consent of the affected Lot Owner; or alternatively by approval of a majority of those Owners present in person or by proxy at a meeting for which a quorum is present; provided, that so long as the Developer or its affiliates or successors is the owner of any Lot, or any interest therein, affected by this Declaration, the Developer's consent must be obtained if such amendment, in the sole opinion of the Developer, affects its interest.

Notwithstanding the foregoing, no amendment shall affect the provisions of Section 5 h hereof without the written consent of all mortgage holders of record.

f. Effective Date. This Declaration shall become effective upon its recordation in the Public Records of Osceola County, Florida.

g. Conflict. In the event of conflict among the powers and duties of the

Association or the terms and provisions of this Declaration, exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time.

h. Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Developer or its affiliates, the Association or the Board of Directors, such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Developer or its affiliates or the Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Developer or Association, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the Association rendered in good faith that a particular interpretation is not unreasonable shall establish the validity of such interpretation. In the event of conflict, the provisions of this Declaration shall take precedence over those of the Articles of Incorporation, By-Laws and rules and regulations of the Association.

i. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Unit owners designate hereby the Developer and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

j. Administration by Developer. Inasmuch as the Developer contemplates that it will initially improve, manage, operate, maintain and insure the Common Areas and, generally administer The Properties in the manner provided in this Declaration, the Developer shall be deemed to be vested with all of the rights and powers of the Association to do so until such time as the Developer owns any interest in any Lots or such earlier time as the Developer records a notice to the contrary in the Public Records of Osceola County, Florida, (at which time the Association shall commence the exercise and performance of its rights, powers and duties hereunder). The foregoing event shall be known as the "Turnover"

Accordingly, until the Turnover, all references herein to the Association (including, without limitation, as to the levying and collection of assessments, architectural review and approval, maintenance of Common Areas and enforcement of covenants, conditions and restrictions) shall be deemed to refer to the Developer. Notwithstanding any of the foregoing, however: (i) the recording of the notice described above shall not in any manner be deemed an abrogation, waiver or impairment of any rights, benefits, powers or privileges of the Developer in its own right (as opposed to the Developer acting in the place of the Association) and (ii) the Developer's acting in the place of the Association shall in no manner be deemed to create or suggest any fiduciary relationship between the Developer and any Owner (or any tenant, agent, guest or invitee of the Developer or of any Owner), Developer being free to act in the aforesaid capacity in its sole discretion (albeit as provided in this Declaration). Notwithstanding the foregoing, Developer, in exercising its discretion, shall at all times act in a prudent and businesslike manner. The Developer shall have the right to employ a management company to perform its obligations hereunder, including but not limited to a management company which may be an affiliate of the Developer, so long as any management contract is made for market terms.

k. Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF SECTION 1 HEREOF, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS AS WELL AS THE PARK COVENANTS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTIES. WITHOUT LIMITING THE GENERALITY OF SECTION 4 HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

l. Liability. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION, EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED TO THE CONTRARY HEREIN, SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF

ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, OWNERS AND THEIR GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

i. IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

ii. THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, OSCEOLA COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTUOUS ACTIVITIES; AND

iii. THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING AN USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

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

IN WITNESS WHEREOF, the Developer, joined by the parties signing below, has caused this Declaration to be executed for the purposes herein expressed on the date and year first above written.

MAGIC LANDINGS HOMES, LLC

By: **MAGIC LANDINGS HOMES, Inc.,**

By: _____

JOSEPH S. ANTONUCCI, President

January 30, 2001

DAVID WEISMAN, Witness

ANNELI DECARDENAS, Witness

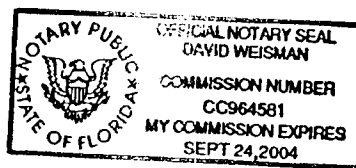
STATE OF FLORIDA)

) SS:

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this January 30, 2001, by **JOSEPH S. ANTONUCCI, President**, of **MAGIC LANDINGS HOMES, INC.**, as **Managing Member** of **MAGIC LANDINGS HOMES, LLC**, a Florida Limited Liability Company, who is personally known to me.

Notary Public, State of Florida



JOINDER OF MEMBER OF LLC

HUNTINGTON PROPERTIES & INVESTMENTS, INCORPORATED, a Florida corporation, hereby joins in this Declaration pursuant to that certain Memorandum of Restrictive Covenant recorded in Official Records Book 1730, Page 2316, of the Public Records of Osceola County, Florida:

WITNESSES:

Sign:

Marilyn Siering

HUNTINGTON PROPERTIES & INVESTMENTS, INCORPORATED, a Florida corporation

Marilyn Siering

Print name of witness on line above

Sign:

*Pete Siering**Pete Siering*

Print name of witness on line above

By:

Barney Veal

Barney Veal, President

Address: 1011 North Main Street,
Suite 6
Kissimmee, Florida 34744

STATE OF FLORIDA
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this 1st day of Feb., 2001, by **Barney Veal, as President of HUNTINGTON PROPERTIES & INVESTMENTS, INCORPORATED, a Florida corporation** who ☒ is personally known to me or who produced [] _____ driver's license or [] other: _____ as identification, and executed this instrument on behalf of the corporation.

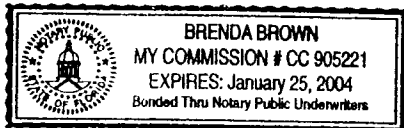
My Commission Expires:

Brenda Brown

Notary Public, State of Florida

Brenda Brown

Print name of notary on above line



JOINDER OF MORTGAGEE

COLONIAL BANK, which is organized and exists under the laws of Alabama, the owner and holder of the following instruments:

1. First Mortgage and Security Agreement executed by MAGIC LANDINGS HOMES, LLC., in favor of COLONIAL BANK recorded in O.R. Book 1722, Page 406.
2. Collateral Assignment of Purchase Agreements, Leases, Rents, Deposits, Construction Contracts, Plans and other Development Rights recorded in O.R. Book 1722, Page 419.
3. Uniform Commercial Code Financing Statement recorded in O.R. Book 1722, Page 426.
4. Second Mortgage and Security Agreement executed by MAGIC LANDINGS HOMES, INC., in favor of COLONIAL BANK recorded in O.R. Book 1722, Page 431.
5. Collateral Assignment of Purchase Agreements, Leases, Rents, Deposits, Construction Contracts, Plans and other Development Rights recorded in O.R. Book 1722, Page 445.
6. Uniform Commercial Code Financing Statement recorded in O.R. Book 1722, Page 452.
7. Third Mortgage and Security Agreement executed by MAGIC LANDINGS HOMES, INC., in favor of COLONIAL BANK recorded in O.R. Book 1812, Page 224.
8. Collateral Assignment of Purchase Agreements, Leases, Rents, Deposits, Construction Contracts, Plans and other Development Rights recorded in O.R. Book 1812, Page 237.
9. Uniform Commercial Code Financing Statement recorded in O.R. Book 1812, Page 243.

joins in and consents to this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MAGIC LANDINGS

COLONIAL BANK, which is organized and exists under the laws of Alabama

By: _____

Name: J. STEPHEN HUDSON

Title: Senior Vice-President

STATE OF FLORIDA
COUNTY OF OSCEOLA

The foregoing instrument was acknowledged before me this 16 day of Feb., 2001, by J. STEPHEN HUDSON, as Senior Vice-President of COLONIAL BANK, which is organized and exists under the laws of Alabama who ☒ is personally known to me or who produced [] _____ driver's license or [] other: _____ as identification, and executed this instrument on behalf of the corporation.

My Commission Expires:



Laurie Thilburg
Notary Public, State of Florida
Laurie Thilburg
Print name of notary on above line

EXHIBIT "A"

COMMON AREAS

**All of MAGIC LANDINGS according to the Plat thereof
recorded in Plat Book 11, Page 184 of the Public Records of
Osceola County, less and except:**

Tracts A, B, C, D, E, G, and K thereof ;

also less and except:

Lots 1 through 52 thereof, inclusive.

EXHIBIT "B"

LOTS

**Lots 1 through 52, inclusive, of MAGIC LANDINGS,
according to the Plat thereof as recorded in Plat Book 11,
Page 184 of the Public Records of Osceola County, Florida.**

EXHIBIT "C"

THE PROPERTIES

All of MAGIC LANDINGS, according to the Plat thereof as recorded in Plat Book 11, Page 184 of the Public Records of Osceola County, Florida, less Tracts A, B, C, D, E, G, and K thereof ;