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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR FORESTBROOKE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FORESTBROOKE (hereinafter referred to as the "Declaration"), is made and entered into this 13<sup>th</sup> day of MARCH, 2003, by ForestBrooke Venture, a Florida general partnership, whose principal mailing address is 1031 West Morse Boulevard, Suite 325, Winter Park, Florida 32789 and T. Milton West, a married man, whose principal mailing address is Post Office Box 1028, Ocoee, Florida 34762 (hereinafter collectively referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant is the sole record owner in fee simple of certain real property (hereinafter referred to as the "Property") located in City of Ocoee, Orange County, Florida, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein (hereinafter referred to as the "Property"); and

**WHEREAS**, the Declarant desires to provide for the preservation of the values and amenities within the Property and for the maintenance of the Common Areas (as hereinafter defined) and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each subsequent Owner (as hereinafter defined) of all or part thereof; and

**WHEREAS**, it is the intention of the Declarant to have Builder(s) (as hereinafter defined) build Dwelling Units (as hereinafter defined) on the Lot(s) (as hereinafter defined) and convey same to private home Owners (as hereinafter defined); and

**WHEREAS**, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities within the Property to create a homeowners' association to which shall be delegated and assigned the powers of maintaining and administering certain designated Common Areas and other facilities within the Property, which areas, where applicable, shall be specifically designated on the Plat (as hereinafter defined) of the Property; administering and enforcing this Declaration; and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, there is incorporated under the laws of the State of Florida, a non-profit corporation known as ForestBrooke Community Owner's Association, Inc. (hereinafter referred to as the "Association"), for the purpose of exercising the functions aforesaid. The Articles of Incorporation (as hereinafter defined) of the Association are attached hereto as Exhibit "C".

**NOW, THEREFORE**, the Declarant declares that all Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for

the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.** The following words and terms when used in this Declaration (unless contents hereof clearly indicate to the contrary) shall have the following meanings:

**Section 1.1.** "Additional Property" shall mean and refer to that certain property in the City of Ocoee, Orange County, Florida, lying contiguous or adjacent to the real property described in Exhibit "A" attached hereto, which Additional Property is more particularly described in Exhibit "B" attached hereto and incorporated herein by reference, or any portion or portions thereof, which has not yet been brought within the jurisdiction of the Association and made subject to this Declaration.

**Section 1.2.** "Architectural Review Committee" or "ARC" shall mean an architectural review committee appointed in accordance with Article V hereof, whose duties shall be as set forth in Article V hereof.

**Section 1.3.** "Articles of Incorporation" shall mean the articles of incorporation of ForestBrooke Community Owner's Association, Inc. During such time as there exists Class B Membership, the Articles of Incorporation may not be amended without the prior written approval of the FHA and VA.

**Section 1.4.** "Association" shall mean and refer to ForestBrooke Community Owner's Association, Inc., a Florida corporation not-for-profit, its successors and assigns.

**Section 1.5.** "Board of Directors" shall mean the board of directors of the ForestBrooke Community Owner's Association, Inc.

**Section 1.6.** "Builder" or "Builders" shall mean and refer to the purchaser of developed Lots for the purpose of constructing Dwelling Units thereon for the sale to third parties in the normal course of business.

**Section 1.7.** "Bylaws" shall mean the bylaws of ForestBrooke Community Owner's Association, Inc.

**Section 1.8.** "Common Area" or "Common Areas" shall mean and refer to those areas of land together with any improvements thereon, other than the Dwelling Units, to be conveyed to the Association and which are intended to be devoted to the common use and enjoyment of the Members, and which shall include, by way of example, but not by way of limitation, all streets, sidewalks, walls, park or recreation areas, landscaping, the drainage/retention system, lift station, conservation areas, entrance features and gates. The Common Areas or tracts of land identified as Common Areas may be designated on the final plat prepared by the Declarant. The term Common Area or Common Areas shall also include any personal property acquired by the

Association if said property is designated as "Common Facilities" by the Association (see Section 1.9).

**Section 1.9.** "Common Facilities" shall mean such improvements placed and/or constructed on the Common Areas which are owned by the Association for the use and benefit of the Members.

**Section 1.10.**

"City" shall mean the City of Ocoee, Florida, a political subdivision of the State of Florida.

"County" shall mean Orange County, Florida, a political subdivision of the State of Florida.

**Section 1.11.** "Declarant" shall collectively mean ForestBrooke Venture and T. Milton West, and its express successors and assigns, designated as set forth in Article IX hereof. All rights, powers and privileges granted to the Declarant by this Declaration or by the Articles of Incorporation and Bylaws of the Association shall be exercised by the Declarant in such manner as it may determine.

**Section 1.12.** "Developer" shall mean ForestBrooke Venture, and its express successors and assigns, as designated in a document recorded in the Public Records of the County which successors and assigns must be the owner of all or a portion of the Additional Property. All rights, powers and privileges granted to the Developer by this Declaration or by the Articles of Incorporation and Bylaws of the Association shall be exercised by the Developer, its express successors and assigns as permitted above in such manner as it may determine.

**Section 1.13.** "Dwelling Unit" shall mean and refer to the individual residential structure and all related improvements constructed on a Lot for which a certificate of occupancy has been issued, with the intended use as a single family residence.

**Section 1.14.** "Lot" shall mean and refer to any plot or parcel of land shown upon the Plat (as hereinafter defined) of the Property which Lot is intended to have a Dwelling Unit constructed thereon; provided, however, that there shall be excluded from the definition of Lot, the Common Areas, any dedicated areas, streets, and all lands dedicated to or owned by the Association.

**Section 1.15.** "Member" shall mean and refer to any member of the Association.

**Section 1.16.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot; provided, however, that there shall be excluded from the definition of Owner, the Declarant (excluding T. Milton West's fee simple title ownership of Lots 123 through 126), the Developer or the Builders and also shall be excluded those having such interest merely as security for the performance of an obligation.

Section 1.17. "Plat" shall mean and refer to the plat of the Property as recorded in Plat Book 53, Page 124-129 of the Public Records of the County.

Section 1.18. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto and any Additional Property which Declarant may from time to time subject to the terms and conditions of this Declaration in accordance with the terms hereof.

Section 1.19. "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

**ARTICLE II**  
**EASEMENTS RESERVED TO**  
**DECLARANT AND OTHERS; PROPERTY RIGHTS**

Section 1. Easements for Construction and Sales. There is reserved to the Declarant, and granted to the Builders, and their respective designees, successors and assigns (including, without limitation, their agents, sales agents, and representatives, and prospective purchasers of Lots), non-exclusive easements over the Common Areas, for construction, utility lines, display, maintenance and exhibit purposes in connection with the erection of improvements and sale of Lots and Dwelling Units within the Property and for ingress and egress to and from construction sites at reasonable times; provided, however, that such use shall terminate upon the later of (i) the sale of all Lots by the Declarant or (ii) the sale of all Dwelling Units by the Builders and their express successors and assigns; and provided, further, that no such use by the Declarant and/or the Builders and others shall otherwise restrict the Owners in the reasonable use and enjoyment of the Common Areas.

Section 2. Easements Over Common Areas. To the extent that easements over, upon or under the Common Areas are necessary so as to provide utility services to the Property, the Association and each Owner, and his heirs, successors and assigns, do hereby designate and appoint the Declarant as agent and attorney-of-fact, with full power in his name, place and stead, to execute instruments creating such easements; provided, however, that such easements shall not unreasonably interfere with the use by the Owners of the Common Areas. For this purpose, the Declarant shall have the right to grant easements in perpetuity over, under and across all Common Areas shown on the Plat of the Property, together with the right to grant easements to others and such easements shall include, but shall not be limited to, the right to use the said Common Areas to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, cable television, water or other public convenience or utilities and drainage and the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any similar action reasonably necessary to provide economical and safe public convenience or utility installation or to provide for drainage and to maintain reasonable standards of health, safety and appearance and the right to locate wells, pumping stations and tanks. The rights granted to the Declarant pursuant to this section shall

terminate upon the later of (i) the sale of all Lots by the Declarant, or (ii) the sale of all Dwelling Units by the Builders and their express successors and assigns.

**Section 3. Easements Over Lots.** For so long as Declarant is the owner of any Lot, the Declarant hereby reserves unto itself the right to grant easements to itself or any other entity over each such Lot owned for purposes of ingress and egress, to include drainage, utility, gas, telephone, cable TV and electrical services. With respect to easements thus granted, the Declarant shall have and does hereby retain and reserve the right to release the Lot from the encumbrance of such easements; provided, however, that Declarant shall not have the power to release any portion of a utility easement on a Lot without the consent of the utilities served thereby.

**Section 4. Easements as Shown on Plat.** Easements for installation and maintenance of utilities and drainage facilities are reserved to the Association and the City as shown on the Plat of the Property. Within such easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of drainage channels in such easements, or which may obstruct or retard the flow of water through the drainage channels or which may be inconsistent with such plans as may now or hereafter be approved by the City. The platted easement areas of each Lot, any drainage swales on a Lot and all improvements therein shall be maintained continuously by the Owner of such Lot, except for: (a) those improvements for which a public authority or utility company is responsible; and (b) those improvements for which the Association have expressly assumed responsibility.

**Section 5. Wall and Landscape Easement.** There is hereby reserved and granted to the Association and their respective agents, employees, successors and assigns the right and privilege to construct, improve, repair, replace and maintain a screening wall over, upon and across that portion of the Property indicated on the Plat thereof as Tracts C, D, F and G (the "Wall and Landscape Easement Area"). The Association, its successors, agents, employees and assigns, further reserves and is hereby granted a ten (10) foot easement along the perimeter of the Lots contiguous to the Wall and Landscape Easement Area for the purpose of ingress and egress to and from the Wall and Landscape Easement Area, provided that such easement shall not restrict any Owners in the reasonable use and enjoyment of his Lot.

**Section 6. Owner's Easement of Enjoyment for Common Areas.** Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Every Owner shall have a right to use any of the Common Facilities owned by the Association for the purposes for which such Common Facilities are reasonably intended;

(b) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility (with the exception of those dedications set forth on the Plat of the Property) for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is approved by a two-thirds (2/3rds) vote of each class of the Members.

**Section 7. Declaration of Use of Common Areas.** Any Owner may delegate, in accordance with the Bylaws, his right or enjoyment to the Common Areas and facilities to the members of his family or his tenants who reside on the Property on a permanent or transient basis.

**Section 8. Establishment of Easements.** All easements as provided for in this Article, shall be established by one or more of the following methods, to wit:

- (a) By a specific designation of an easement on the Plat of all or a portion of the Property;
- (b) By a reservation or specific statement providing for an easement in the deed of conveyance of any given Lot or Dwelling Unit, or other portion of the Property;
- (c) By a separate instrument referencing this Article II; or
- (d) By virtue of the reservation of rights set forth in this Article.

### **ARTICLE III MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Membership.** Every Owner of a Lot which is subject to assessment shall be a Member of the Association, and agrees to be bound by the terms and conditions stated herein regarding said Association, including the payment of annual assessments of the Association; provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

**Class A.** Class A Members shall be all Owners, with the exception of the Declarant (except including T. Milton West's fee simple title ownership of Lots 123 through 126), Developer and the Builders, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than (1) vote be cast with respect to any Lot.

**Class B.** Class B Members shall be the Declarant, Developer and Builders. The Class B Members shall be entitled to one (1) vote for each Lot owned by the Declarant, Developer or Builders plus two (2) votes for each vote that the Class A Members are entitled to cast at any time and from time to time. The Class B Membership shall cease and terminate and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the Declarant, Developer or the Builders no longer own record title to any portion of the Property and the Additional Property; or

(b) On January 1, 2013.

(c) At the election of the Declarant (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association).

From and after the happening of these events, whichever occurs earlier, the Class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot in which they hold the interest required for Membership under Article III, Section 1 hereof.

**Section 3. General Matters.** When reference is made herein, or in the Articles of Incorporation, Bylaws or otherwise, to majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes and not of the Members themselves.

#### **ARTICLE IV** **COVENANTS FOR MAINTENANCE FEES AND ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Fees and Assessments.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) initial fee, and (2) annual assessments or charges, such fees and assessments to be established and collected as hereinafter provided. The initial fee and annual assessments, together with interest, costs and reasonable attorneys' fees incurred in enforcing or collecting same, shall be a charge on the land and shall be a continuing lien upon the property against which each such fee and assessment is made; provided, however, no such fee and assessment shall be a lien on the land until such lien is recorded in the Public Records of the County. Each such fee and assessment, together with interest, costs and reasonable attorneys' fees, shall also be the joint and several personal obligation of the person(s) who was the Owner of such property at the time when the fee and assessment fell due. Their personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Fees and Assessments.** The fees and assessments levied by the Association shall be used exclusively for the following purposes:

(a) To promote the recreation, health, safety and welfare of the residents in the Property.

(b) For the improvement, maintenance, care, repair and operation of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements (unless maintenance shall be provided by others), landscape areas (including irrigation thereof), any walls and entry features constructed on any portion of the perimeter of the Property, the Common Areas, including, but not limited to the Common Facilities located within the Common Areas, streets, sidewalks and subdivision lights and light fixtures, any other open spaces and buffer areas designated on the Plat for the Property or the Additional Property when and if annexed. Maintenance of the foregoing shall include but not be limited to mowing and trimming of grass and shrubs as necessary.

- (c) For the payment of the operating expenses of the Association;
- (d) For the payment of taxes, insurance, labor and equipment;
- (e) For the maintenance, repair or restoration of a Lot and the exterior of the buildings and any other improvements erected thereon, but only to the extent provided for in Section 6(b) of Article IV hereof;
- (f) For the repayment of funds and interest thereon that have been or may be borrowed by the Association for any of the purposes set forth herein;
- (g) To establish and fund reserve accounts which the Association may choose to establish with respect to the maintenance, operation and improvement of the Common Areas, Common Facilities, streets, sidewalks, subdivision lights and light fixtures and all improvements and equipment located on the Property;
- (h) Doing any other things necessary or desirable in the judgment of the Association to keep the community neat and attractive or to preserve or enhance the value of the Property, or to eliminate fire, health or safety hazards.

**Section 3. Maximum Annual Assessment and Initial Fee.** Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment by the Association shall be Six Hundred Fifty Dollars (\$650.00) per Lot, payable in equal semi-annual installments. In addition, a one-time initial fee of Five Hundred Dollars (\$500.00) per Lot shall be due at the time the Lot is transferred to the Owner by the Builder ("Initial Fee"). The Initial Fee shall be used for the initial start up funding of the Association and to offset the Semi-Annual Deficiencies described in Section 6(a)(i.) hereinbelow.

(a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by up to and including fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above fifteen percent (15%) of the maximum assessment for the previous year by a vote of two-thirds (2/3rds) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may, at its option, levy the annual assessment at an amount less than but not in excess of the maximum annual assessment, or may levy the annual assessment in the amount of the maximum.

**Section 4. Reserves.** The Annual Assessments shall include reasonable amounts, as determined by the Board of Directors of the Association, to be collected and held as reserves against and for the future periodic maintenance, repair or replacement of all or any portion of the Common Areas, including, without limitation, the surface water management System, Common Facilities,



streets, sidewalks, subdivision lights or light fixtures or for such other purpose or purposes as shall be determined by the Board of Directors of the Association, in its reasonable discretion. Such portion of the Annual Assessments representing amounts collected as reserves, whether established pursuant to this Section 6(c) or otherwise, shall be deposited by the Association in a separate interest bearing bank account, certificate(s) of deposit or in United States Treasury Bonds of appropriate maturity, to be held in trust by the Association until used for the purpose or purposes for which the same are established and shall be segregated from and not commingled with the general funds or any other funds of the Association.

**Section 5. Notice and Quorum for and Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action under Sections 3(b) or 4 above shall be sent to all Members not less than thirty (30) days before nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6. Uniform Rate of Assessment.**

(a) **Annual Assessments.** Annual assessments must be fixed at a uniform rate for all Lots, except that as long as there is Class "B" membership, the Declarant and Builders will have the following option with respect to the annual assessments:

(i) **Option (i)** - In order to provide for and assure availability of funds necessary to pay expenses for those items outlined in Section 2 herein, the Board of Directors, within sixty (60) days of recording of the Declaration in the public record of the County, shall establish the approximate amount of the deficiencies on a semi-annual basis ("Semi-Annual Deficiencies") at which time the Board of Directors shall issue a supplemental estimate of the Semi-Annual Deficiencies for each six month period to the Declarant and the Builders at the last known address provided by Declarant and Builders to the Association. The Declarant shall pay fifty percent (50%) of the Semi-Annual Deficiencies of the Association and the Builders shall each pay twenty-five percent (25%) of any Semi-Annual Deficiencies of the Association until such time that Class "B" membership in the Association shall cease to exist. The Semi-Annual Deficiencies shall be due and payable to the Association within thirty (30) days of receipt of same. The Semi-Annual Deficiencies shall not include funding for any Association reserves for repair and/or replacement as described in Section 2(g) hereinabove and consequently, the Declarant and the Builders shall not be responsible for funding for any Association reserves for repair and/or replacement as part of the Semi-Annual Deficiencies.

(b) **Single Lot Special Assessments.** In addition to the annual assessments authorized herein, the Association may levy in the manner hereinafter set forth a single lot special assessment ("Single Lot Special Assessment") applicable only to a specific Lot that has failed to meet its maintenance obligations set forth in Article VI hereof. In the event an Owner of any Lot in the Property shall fail to maintain his Lot and the exterior improvements situated thereon in accordance with the maintenance obligations set forth in Article VI hereof, then the Association,

after approval by two-thirds (2/3rds) vote of the Board of Directors and thirty (30) days' written notice to the Owner, shall have the right, through its agents and employees, to enter upon said Lot and to repair, clear, trim, maintain and restore the Lot and the exterior of the buildings and any other exterior improvements erected thereon. The cost of such Lot clearing and exterior maintenance shall be added to and become part of the assessment to which such Lot is subject, which shall be due and payable thirty (30) days from the date said assessment is made. Such Single Lot Special Assessment shall be treated as a Special Assessment applicable only to such Lot and the Association shall have the rights and powers of collection as provided in this Article. The provisions of Sections 6 (a) of this Article shall not be applicable to any Single Lot Special Assessments.

**Section 7. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance or dedication of the Common Areas to the Association; provided, however, that Declarant may elect to defer the commencement of the annual assessments in which case the Declarant and Builders shall be obligated to pay all expenses incurred by the Association during the period of deferment. 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 annual assessment period in an amount not in excess of the maximum annual assessment set forth in Section 3 above. Written notice of the annual assessment shall be sent to every Owner subject thereto. An invoice from the Association shall constitute satisfactory written notice. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed Certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.** If any assessments are not paid on the date when due, then said assessments shall become delinquent and shall, together with such interest thereon and cost of collection thereon as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, and assigns. The personal obligations of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them, or unless the Association causes a lien to be recorded in the public records of the County giving notice to all persons that the Association is asserting a lien upon the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas, Common Facilities or abandonment of his Lot.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, 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 there shall be added to the amount of such assessment the interest above stated, the cost of the action, including reasonable attorneys' fees whether or not judicial proceedings are involved, and including reasonable attorneys' fees and cost incurred on any appeal of a lower court decision.

**Section 9. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 10. Exempt Property.** The following property subject to this Declaration shall be exempt from assessments, charges and liens created herein; (i) all property to the extent of any easement or other interest therein dedicated and accepted by local public authority and devoted to public use; (ii) all Common Areas, conservation areas and dedicated areas; and (iii) all property exempt from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemptions. Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

**Section 11. City of Ocoee.** The City of Ocoee has the right, but not the obligation, to levy, collect and enforce assessments in the same manner as the Association, and in any other manner provided by law, in the event the Association fails to maintain the Common Areas and the City of Ocoee desires to do so. Any amendment which affects the rights of the City of Ocoee provided for in this Section 11 shall require the prior written approval of the City of Ocoee.

## **ARTICLE V ARCHITECTURAL CONTROL**

**Section 1. Review by Architectural Review Committee.** No building or modification or addition thereto, fence, wall, pool, landscaping or other structure shall be commenced, constructed, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made to the Lot or Dwelling Unit unless it is in compliance with the planned development commitments and other applicable regulations and unless and 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 as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Review Committee.

**Section 2. Procedure for Review.** Any Owner needing the approval of the ARC shall deliver an application or request for action to the ARC by pre-paid postage mail with return receipt requested or by hand delivery with signed receipt, together with a floor plan, landscaping plan, site plan and abbreviated specifications, including exterior material and colors. As soon as reasonably possible, but not later than thirty (30) days after receipt, the ARC shall indicate its approval or disapproval of the matters required to be acted upon by them by a written instrument, and served personally or by pre-paid postage mail upon the Owner and all interested parties, identifying the proposed building or structure and either stating approval or giving and making recommendations for changes to gain approval. In the event the ARC takes no action on the application or request within the thirty (30) day period, then the application or request shall be deemed to be approved.

**Section 3. Composition of Architectural Review Committee.**

(a) The ARC shall have three (3) members who shall initially be appointed by the Builders. The members appointed to the ARC do not need to be Owners. So long as the Declarant or Builders maintain a controlling vote of the membership of the Association under the terms of Article III hereof, the Builders shall be entitled to appoint all members of the ARC and any successor members; provided, however, the Builders shall at any time have the right to waive its right to appoint the members of the ARC. The members of the ARC shall be appointed for staggered three (3) year terms; provided, however, the initial members of the ARC appointed by the Builders shall serve so long as Builders have the right to appoint all members of the ARC. In the event of death, resignation, inability to serve, or other vacancy in office of any member of the ARC, the Builders shall promptly appoint a successor member of the ARC who shall serve at the pleasure of the Builders.

(b) After the end of the term during which the Builders may appoint all the members of the ARC, the Board of Directors of the Association shall have the right to appoint the members of the ARC. In the event the Board of Directors fails to appoint members to the ARC, the Board of Directors itself shall comprise the ARC. Members of the ARC shall serve at the pleasure of the Board of Directors.

**Section 4. Powers.** The Architectural Review Committee shall have the following duties and powers:

(a) To review and approve or disapprove all buildings, fences, walls, pools or other structures which shall be commenced, erected or maintained upon the Property and to approve any exterior additions to or changes or alterations therein. For any of the above, the ARC shall be furnished plans and specifications showing the nature, kind, shape, height, materials and location in relation to surrounding structures and topography;

(b) To review and approve or disapprove any such building plans and specifications, Lot grading plans, landscaping plans, and other materials submitted pursuant to Article V, Section 2 above. The ARC may disapprove the proposed improvement if, in its sole discretion, the ARC determines that the proposed improvement is inconsistent with the development plan formulated by the Declarant, Developer or Builders for the Property or Additional Property. Such decision of the Committee may be made upon purely aesthetic reasons;

(c) To require to be submitted to it for approval any samples of proposed building materials or any other data or information necessary to reach its decision.

**Section 5. Exemption for Declarant and Builders.** Notwithstanding anything contained herein, for as long as Declarant or Builders own fee title to any Lot, this Article V shall not apply to or bind either Declarant or Builders.

## **ARTICLE VI** **GENERAL RESTRICTIONS**

**Section 1. General Restrictive Covenants.** The general restrictive covenants contained in this Article shall apply uniformly to all Lots and Dwelling Units on the Property. All references in this Article VI to the Owner shall be deemed to include the invitees, guests, lessees,

tenants and renter's of the Owner (including short term renters) unless the context clearly indicates otherwise.

**Section 2. Residential Use Only.** No Lot shall be used for any purpose except residential. The term "residential" is intended to prohibit any commercial use, including professional office use of any portion of any Lot or Dwelling Unit, but shall not prohibit use as a rental unit. No building shall be erected, altered, placed or permitted to remain on any Lot other than Dwelling Units designed for residential use and private attached garages. The foregoing shall not prohibit the Declarant and/or the Builders from using Dwelling Units as models or offices, provided such use as models or offices is in furtherance of the construction and sale or lease of Lots and Dwelling Units on the Property.

**Section 3. Dwelling Unit Size and Maximum Building Height.** No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family Dwelling Unit not to exceed thirty-five (35) feet in height with a private attached two (2) car or three (3) car garage. Dwelling Units shall have a minimum square footage of 1,500 square feet of enclosed living area, exclusive of garages and patios, except the minimum square footage for the Dwelling Units on Lots 123, 124, 125 and 126 as shown on the Plat of the Property shall have a minimum square footage of 2,500 square feet of enclosed living area, exclusive of garages and patios.

**Section 4. Dwelling Unit Setbacks.** All buildings and other structures shall comply with all front, rear and side yard setback requirements established by the planned development commitments for the Property as follows:

Front Lot Setback:	25 Feet
Rear Lot Setback:	25 Feet for Lots 1 through 31 as shown on the Plat 30 Feet for Lots 32 through 126 as shown on the Plat
Side Yard Setbacks:	7.5 Feet on each side
Side Street Setbacks:	25 Feet
Ocoee-Apopka Road Setback:	50 Feet
McCormick Road Setback:	35 Feet

**Section 5. No Temporary Structures.** No structure of a temporary nature or character, including, but not limited to, a trailer, house trailer, mobile home, camper, tent, shack, shed, boat, barn, clothes lines (unless clothes lines are screened from view) or other similar structure or vehicle, shall be used or permitted to remain on any Lot as a storage facility or residence, or other living quarters whether temporary or permanent, unless approved by the ARC; provided, however, that this prohibition shall not apply to shelters used by Declarant and/or the Builders during the development of the Property and the construction of any Dwelling Unit. In addition, the structures existing on Lot

123 as shown on the Plat of the Property which exist at the time of recording of this Declaration may remain so long as the Owner of Lot 123 maintains said existing structures in good repair.

**Section 6. Parking and Storage Restrictions.** Each Owner has the right to exclusive use of the parking spaces which are located within that Owner's property lines. No vehicles may be parked on any grassed area of the Lots. No vehicles which extend beyond the length of the Owner's parking spaces may be parked in such spaces. Permission must be obtained in writing from the ARC for the parking of any commercial or recreational vehicles, trailers, boats, trucks, boat trailers, campers or other similar vehicles on any Lot or in any driveway, except in a closed garage attached to a Dwelling Unit. Parking in the Common Areas shall be regulated by the rules of the Association together with local governmental ordinances. Parking on the streets or the street right of way area, if any, overnight or for a continuous period of time in excess of ten (10) consecutive hours, shall be ruled by local governmental ordinances. The provisions of this Section shall not apply to the parking or storage of any vehicles used by any contractor, subcontractor, supplier, laborers, Declarant and/or Builders during the construction of any Dwelling Unit or development of the Property.

**Section 7. Livestock and Animal Restrictions.** No livestock, poultry, reptiles or animals of any kind or size shall be raised, bred or kept on any Lot or in any Dwelling Unit; provided, however, that dogs, cats and other common domesticated household pets may be raised and kept, provided such pets are not kept, bred or maintained for any commercial purposes. Such permitted pets shall be kept on the Owner's Lot and shall not be allowed off the premises of Owner's Lot except on a leash. No permitted pet shall be allowed to make noise in a manner or such volume as to annoy or disturb other Owners. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of the keeping of such pet. The keeping of pets by an Owner shall be subject to all governmental animal ordinances and any rules or regulations promulgated by the Association or the Board of Directors in regard thereto. All owners of pets shall be responsible for immediately picking up and properly discarding of any and all excrement from the pet in a safe and sanitary manner. Any owner of pets not abiding by these regulations may be reported by any Owner to the local Department of Animal Control, whereby the pet owner may be cited and fined according to local law ordinance.

**Section 8. Restrictions on Activity.** No noxious or offensive activity shall be conducted or permitted to exist upon any Lot, or in any Dwelling Unit, nor shall anything be done or permitted to exist on any Lot or in any Dwelling Unit that may be or may become an annoyance or private or public nuisance. No Lot, driveway or Common Area shall be used for the purpose of vehicle repair or maintenance. No unregistered, non-licensed, expired lease or inoperable vehicles of any kind shall be permitted to remain on any Lot (unless parked inside the garage of a Dwelling Unit) or Common Area.

**Section 9. Restrictions on Fixed Game and Play Structures.** If permitted by the ARC, all basketball goals and other unfixed game and play structures shall be stored when not in immediate use or shall be located at the side or rear of the Dwelling Unit or on the inside portion of the corner lots within the setback lines. No permanent basketball or like goals will be allowed on driveways or on the front of any house. Treehouses or platforms of a like kind or nature shall not be constructed on any part of any Lot.

**Section 10. Restrictions on Walls, Fences and Hedges.** No boundary wall, fence or hedge shall be constructed or grown with a height of more than six (6) feet above the ground level of adjoining property. No wall or fence of any height shall be placed or constructed on any Lot until after the height, type, design and location thereof shall have been approved in writing by the Architectural Review Committee. The heights or elevations of any wall or fence shall be measured from the existing Lot elevations. Any questions as to such heights shall be conclusively determined by the ARC. No boundary wall, fence or hedge or part thereof may be placed any closer to a street than a dwelling could be placed on the same Lot, except as may be required by FHA/VA or other governmental regulation. Notwithstanding anything contained herein to the contrary, on Lots which abut or are adjacent to any development screening wall ("Screening Wall") constructed around the perimeter of the Property absolutely no fence structure shall be built parallel to said Screening Wall regardless of the distance between the Screening Wall and the fence on any Lot. Moreover, on said Lots which are adjacent to the Screening Wall, the last eight (8) foot section of a wall or fence structure which is constructed by the Owner perpendicular to or in any way adjacent to or leading to the Screening Wall shall be tapered down in such a manner so that the top of said wall or fence is no higher than the top of the Screening Wall as measured at the point of contact between said wall or fence and the Screening Wall. No chain link fencing shall be permitted on any Lot at any time. No fence is to be installed within the limits of the Conservation Area Property.

Privacy fencing on any Lot must be approved by the ARC. It shall, however, be accepted and understood that all privacy fencing approvals shall be only for a "shadowbox" style wooden or vinyl fence and, in the case of wooden fences, said approval will in all cases include that the Owner will stain all outside surfaces of his fence which faces or can be seen from any street, Common Area or entry of the subdivision. Said stain will consist of a water repellent/resistant clear stain and will be applied to the wood privacy fence immediately after a 90-day curing period and will be repeated as needed in order to keep the fence in good appearance.

Notwithstanding anything contained herein to the contrary, the chain link fence existing at the time of recording of this Declaration which is located east of Lots 123, 124, 125 and 126 and north of Lot 126 shall be allowed to remain so long as the Owner of Lots 123, 124, 125 and 126 remain responsible, both jointly and severally, for the repair and maintenance, removal and/or replacement of this chain link fence at all times.

**Section 11. Private Swimming Pools and Screening.** Plans and specifications for any private swimming pool, including screening, to be constructed on any Lot shall be subject to the prior approval of the ARC. In no event, however, shall above ground swimming pools be permitted on any Lot.

**Section 12. Garbage and Litter.** It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkempt conditions of any Lot or Dwelling Unit located on any Lot which tends to substantially decrease the beauty of the community as a whole or the specific area. The restriction shall apply before, during and after construction. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All trash, garbage and other waste shall be kept in permanent plastic sanitary containers and, unless required to be placed at the curb for scheduled pick-ups, all containers shall be kept at the rear of all Dwelling Units or out of sight from the street. Such permanent plastic containers shall be retrieved from the curb and stored out of sight as immediately soon as possible after the scheduled pickup, but in no

circumstances are to remain at the curb overnight. No burying of trash or other waste materials shall be permitted, except by the Declarant and/or the Builders, who after securing all applicable permits, shall, during development, have the right to burn trash or other waste materials on the Property. All oil tanks and bottled gas containers shall be placed underground, or shall be situated so as to not be visible from the street or objectionable to adjacent residences.

**Section 13. Alteration of Lots.** No Owner, without the express prior written consent of the ARC, shall construct any improvements or make any changes to a Lot which shall have the result of changing, altering or affecting the natural or artificial water courses, canals, ditches, swales, ponds or drainage of the Property. All construction, grading and landscaping shall conform to the drainage swale requirements set forth on the City and County approved engineering and construction plan of the Property.

**Section 14. Storage of Materials.** Except for the Declarant and/or the Builders, no Owner may store construction materials on a Lot for a period exceeding thirty (30) days without commencing construction, and if construction does not commence within said thirty (30) day period the Declarant, Builders or the Association may remove such stored materials. Costs incurred in such removal by the Declarant, the Builders or the Association will become a lien on said Lot, accruing interest at the highest rate permitted by law. Construction, once commenced, shall be diligently pursued to completion. No building, material or refuse shall be placed or stored on any Lot within twenty (20) feet of any park or edge of any open water or drainage course except that clean fill may be placed nearer provided that the water or drainage course is not altered or blocked by such fill.

**Section 15. Destruction By Fire or Other Casualty.** No building or improvement which has been partially or totally destroyed by fire or other casualty shall be allowed to remain in such condition for more than six (6) months from the time of destruction. If reconstruction or repair of any such Dwelling Unit is not commenced within said six (6) month period, the Owner thereof shall raze or remove the same promptly from the Owner's Lot.

**Section 16. Completion of Development and Dwelling Units.** Nothing contained in this Declaration shall be interpreted or construed to prevent Declarant, its express successors or assigns, Builders, or the Declarant's or Builders' contractors or subcontractors, from doing or performing on all or any part of the Property owned or controlled by them whatever they deem reasonably necessary in connection with completion of the development, including without limitation; (a) erecting, constructing and maintaining such structures as may be reasonably necessary for the conduct of their business of completing the development and establishing the Property as a residential community and disposing of the same in Lots and Dwelling Units by sale, lease or otherwise; or (b) conducting thereon its or their business.

**Section 17. Waiver of Violations of Covenants and Restrictions.** When a building or other structure has been erected, its construction commenced and the building is located on any Lot in a manner so as to constitute a violation or violations of this Declaration, the Declarant or Builder shall have the right, but not the obligation, at any time to release the Lot, or portions of it, from any part of the covenants and restrictions as may be violated, so long as the violation or violations do not conflict with local governmental ordinances or regulations.



**Section 18. Air Conditioners.** Window and wall installed air conditioning units are prohibited.

**Section 19. Installation of Walls or Fences by Declarant.** The Declarant and/or the Builders may place, build, erect and/or install such walls or fences upon such easements as may exist or which may be established along the Lot lines, and adjacent to water retention and/or detention areas located on the Property, which the Declarant and/or the Builders deem necessary or desirable. No Owner, without the express written consent of the Declarant, shall paint, deface, change or renovate such walls or fences in any manner whatsoever, nor shall any attachment be made thereto.

**Section 20. Garages.** Each home shall have a minimum attached two (2) car garage or a maximum attached three (3) car garage. No garage shall be enclosed permanently or converted to another use. All garages must have overhead garage doors, which shall be maintained in a useful and operating condition and shall be kept closed when not in use. Carports are not permitted.

**Section 21. Signs.** No commercial signs or other signs shall be erected or maintained on any Lot or Dwelling Unit except with the written permission of the Association or except as may be required by legal proceedings, it being understood that the Association will not grant permission for said signs unless their erection is reasonably necessary to avert serious hardship to the property Owner. Such prohibition shall not apply to common commercial real estate signs advertising that a particular Lot or Dwelling Unit is for sale provided that such signs are not illuminated and do not exceed four (4) square feet. If permission is granted for any other signage, the Association shall have the right to restrict size, color and content of such signs. Property identification and like signs exceeding a combined total of more than two (2) square feet may not be erected without the written permission of the Association. These restrictions shall not apply to restrict the Declarant, the Builders or the Declarant's or the Builder's agents from erecting such signs as the Declarant or the Builders deem in their sole discretion to be necessary to assist the Declarant or the Builders in selling, leasing or renting any Lot or Dwelling Unit, or other portion of the Property.

**Section 22. Allowable Trim.** No Owner or tenant of a Dwelling Unit shall install shutters, awnings or other decorative exterior trim without the prior approval of the ARC.

**Section 23. Window Coverings.** No reflective foil, tinted glass, sheets, newspapers or any other similar material shall be permitted on any windows except for tinted bronze glass and any such installation shall require approval of the ARC.

**Section 24. Access at Reasonable Hours.** For the sole purpose of performing any maintenance or repairs authorized agents, contractors or employees shall have a license which shall be exercisable after reasonable notice to the Owner to enter upon any Lot or exterior of any Dwelling Unit.

**Section 25. Tree Removal Restrictions.** No person shall undertake land clearing or the removal of any protected tree within the Subdivision without first obtaining a permit from the City building department and the removal of protected trees shall be minimized to the maximum extent possible. Removal of existing protected trees are limited to clearing road right-of-way, drainage easements and retention areas. All existing protected trees on each Lot will remain until

the time a building permit is issued for each Lot. All trees to be preserved shall be clearly marked with tree protection barriers prior to any clearing or construction.

**Section 26. Street Trees.** A street tree shall be provided on the front of each Lot within 5' of the road right-of-way line (2 trees on corner Lots, with one of each street) prior to the issuance of a certificate of occupancy for the house constructed on each Lot. Each street tree shall be a minimum of 2" DBH (diameter breast high) and 10' tall at the time of planting.

**Section 27. Antenna Restrictions.** No one shall be permitted to install or maintain on any Lot, Dwelling Unit or structure, any outside television or radio antenna, disc larger than one meter in diameter, mast aerial, or any size satellite dish larger than one meter in diameter or any other tower for the purpose of audio or visual reception unless the same is approved by the ARC. Any and all of these devices are to be installed at the rear of the unit, out of sight from the street. This restriction shall not serve to prohibit Declarant, Builders or the Association from installing an antenna or satellite antenna disc, or contracting with a third party to install such antenna, for the purpose of providing master or cable television, radio or other electronic service to the Owners in the subdivision.

**Section 28. Exterior Paint.** All exterior paint colors shall be subject to prior approval of the ARC.

**Section 30. Streetside Mail or Other Delivery Boxes.** No freestanding streetside mailboxes or other delivery boxes or receptacles of any kind, including those for newspapers, milk and other home deliveries, shall be constructed on any Lot or within the street right-of-way adjacent to any Lot unless and until (if ever) the Association and the ARC shall affirmatively determine that the same shall be permitted within the Subdivision. If such affirmative determination is made, the ARC shall have the right to require that all streetside mailboxes or other delivery boxes or receptacles shall be of one particular type or design specified by the ARC so long as such designated type or design, in the case of mailboxes, meets the rules and regulations of the United States Post Office Department.

**Section 31. Additional Rules and Regulations.** The Association or Board of Directors may, from time to time, adopt rules and regulations relating to any one or all of the restrictive covenants contained in this Declaration. No Owner, its successors or assigns, tenants, lessees, renters, guests or invitees shall violate the rules and regulations adopted from time to time by the Association or the Board of Directors, whether relating to the use of the Lots, the use of the Common Areas and Common Facilities, or otherwise. No rules or regulations shall violate or change the rights or obligations of Declarant, Developer or Builders as set forth herein.

**Section 32. Canal Front, Lakefront Property.** As to portions of the Property which have a boundary contiguous to any lake or other body of water, the following restrictions shall be applicable:

- (a) All activities within the limits of the Conservation Easements outlined in Article X, Section 2, herein must be conducted in compliance with the provisions of said Conservation Easements and the covenants set forth therein.

- (b) No solid or liquid waste, litter or other materials may be discharged into/onto or thrown into/onto any lake, canal, pond or other body of water or on the banks thereof.

**ARTICLE VII  
COVENANTS AGAINST PARTITION AND  
SEPARATE TRANSFER OF MEMBERSHIP RIGHTS**

Recognizing that the full use and enjoyment of any Lot is dependent upon the right to the use and enjoyment of the Common Areas and the Common Facilities, and that it is in the interest of all of the Owners that the right to the use and enjoyment of the Common Areas and Common Facilities is retained by the Owners of Lots, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Areas and Common Facilities is appurtenant to title to each of the Lots. In addition there shall exist no right to transfer the right to use and enjoyment of the Common Areas and Common Facilities in any manner other than as an appurtenance to and in the same transaction with, a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to use and enjoyment of the Common Areas and Common Facilities appurtenant to such Lot subject to reasonable rules and regulations promulgated by the Declarant, Builders or the Association for such use and enjoyment, whether or not such rights shall have been described or referred to in the deed by which said Lot is conveyed.

**ARTICLE VIII  
LENDER'S RIGHTS**

**Section 1. Information.** Upon written request, the Association shall make available for inspection during normal business hours by each Owner, and each lender, holder, insurer or guarantor of any first mortgage on a Lot, a current copy of this Declaration, the Articles of Incorporation and By-Laws of the Association, and the records, books and financial statements of the Association.

**Section 2. Financial Statements.** Upon written request, each holder of a first mortgage on a Lot shall be entitled to receive a financial statement of the Association for the immediately preceding fiscal year.

**Section 3. Lender's Notices.** Upon written request to the Association, identifying the name of the holder, insurer or guarantor and the Lot and address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

(a) any condemnation or casualty loss that affects either a material portion of the Property or the Lots securing this mortgage;

(b) any delinquency notice in the payment of assessments or charges owned by the Owner of any Lot on which it holds the mortgage;

(c) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) any proposed action that requires the consent of a specified percentage of mortgage holders.

**ARTICLE IX  
GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, the Declarant, the Developer, the Builders or each Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Declarant, the Developer, the Builders or by any Owner to enforce any covenant or restriction herein contained shall be in no event deemed a waiver of the right to do so thereafter. If the Declarant, the Developer, the Builders or Association shall seek to enforce the provisions of this Declaration, then the Declarant, the Developer, the Builders or the Association, as the case may be, shall be entitled to collect its fees and costs, including reasonable attorneys' fees, whether incurred before trial, at trial or upon appeal. The St. Johns River Water Management District (the "District") shall have the right to enforce any provisions of this Declaration relating to the operation or maintenance of the stormwater management system for the Property in a proceeding at law or in equity.

**Section 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 3. Binding Effect; Amendment by Owners.**

(a) The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, and after which time they shall be automatically extended for successive periods of ten (10) years.

(b) Subject to the provisions of Section 9 of this Article, this Declaration may be amended during the first thirty (30) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by not less than seventy-five percent (75%) of the Lot Owners. Notwithstanding the foregoing, any amendment to this Declaration which adversely affects any lender, holder, insurer or guarantor of any first mortgage on the Property as of the date of recording of this Declaration, shall not become effective unless joined in and consented to by such lender, holder, insurer or guarantor if such first mortgage affects the Property on the effective date of any such amendment.

(c) All amendments thereto shall be recorded in the Public Records of the County and shall not be valid until recorded.

(d) Any amendment to this Declaration which would alter the surface water or stormwater management system for the Property, beyond maintenance thereof in its original condition, including the water management of the Common Areas, must receive approval of both the District and the City of Ocoee prior to taking effect.

**Section 4. Amendment by Declarant.**

(a) Notwithstanding any provision contained herein to the contrary and so long as there exists a Class B Membership in the Association, and except as set forth in Section 9 of this Article IX and elsewhere in this Section 4, the Declarant shall have the right to amend this Declaration at any time and from time to time upon the execution and recording of an instrument executed by the Declarant, for so long as it holds title to any Lot affected by this Declaration, provided, however, that it shall first obtain the express written consent of the Developer and provided further that such amendment shall be subject to the approval of the Federal Housing Administration ("FHA") or the Veterans Administration ("VA"), provided that such approval of the FHA or VA is required by the rules and regulations promulgated by FHA or VA.

(b) As long as there exists a Class B membership in the Association, the Declarant shall have the right, subject to the provisions of Section 9 of this Article, to amend this Declaration to correct any omission or error, or to effect any other amendment, except that this procedure for amendment cannot be used if such an amendment would, in the reasonable opinion of the Declarant, materially and adversely affect substantial property rights of Lot Owners unless the affected Lot Owners consent thereto in writing.

(c) The amendment of this Declaration, pursuant to this Section 4 need be signed and acknowledged only by the Declarant and shall contain a certification that the provisions of this Section have been complied with. Any such amendment need not be approved or signed by any Member, the Association, Lot Owner, or any lienors or mortgagees of Lots, or by any other person, whether or not elsewhere required for an amendment to the Declaration.

(d) Any amendment to this Declaration which would alter any provision relating to the surface water or stormwater management system for the Property, beyond maintenance in its original condition, including the water management portions of the Common Areas, must have the prior approval of both the District and the City of Ocoee prior to taking effect.

(e) All amendments hereto, which must have affixed thereto the express written consent of the Developer, shall be recorded in the Public Records of the County and shall not be valid until recorded as herein provided for.

**Section 5. Encroachments.** In the event that any Lot shall encroach upon any Common Area, conservation area or dedicated area or upon any other Lot for any reason other than the intentional or negligent act of the Owner, or in the event any Common Area, conservation area or dedicated area shall encroach upon any Lot, then an easement shall exist to the extent of that encroachment for as long as the encroachment shall exist.

**Section 6. Notices.** Any notice required to be sent to any Owner or the Association, under the provisions of this Declaration, shall be deemed to have been sent when hand delivered or mailed, postage prepaid, to the last known address of the person or person who appear as the Owner of the Lot in the records of the Association at the time of such mailing.

**Section 7. Assignment of Declarant's Rights and Obligations.** Any and all rights, powers and reservations of the Declarant may be assigned, in whole or in part, to any person,

corporation or association which will assume the duties of the Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing its consent in writing to accept such assignment and assuming such duties, the assignee shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Declarant herein. Further, the Declarant may from time to time delegate any and all to its rights, powers, discretion and duties hereunder to such agent or agents as it may nominate. The Declarant may designate as a Class B member of the Association an express successor or assign who acquires a Lot or Lots, provided that such designation shall be only as to those Lots acquired by such express successor or assign.

**Section 8. Contracts.** Prior to the termination or conversion of Class B membership, the Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) unless the contract or lease contains a right of termination, without cause, which is exercisable without penalty at any time upon not more than ninety (90) days' notice to the other party.

**Section 9. FHA/VA Approval.** Notwithstanding any provision contained herein to the contrary, as long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration ("FHA") or the Veterans Administration ("VA"): Annexation of Additional Property; mortgaging of Common Areas; dedication of Common Areas; merger; amendment of this Declaration; and amendments of the Articles of Incorporation and By-Laws of the Association.

**Section 10. Annexation.** Developer may, from time to time, subject the Additional Property, or portions thereof, to the provisions of this Declaration, without the consent of the then existing Owners, the Builders or the Association, or any mortgagee, by recording a supplemental declaration in the Public Records of the County. Nothing herein, however, shall obligate or require the Developer to add to the initial portion of the Property, to subject the Additional Property or any portion thereof to the Declaration, or to develop the Additional Property under a common or similar scheme. Nothing herein shall prohibit the Developer from changing the development plans with respect to the Additional Property. All Owners, by acceptance of a deed to their Lots, thereby automatically consent to any such addition, or change hereafter made by Developer and shall evidence such consent in writing if requested to do so by the Developer at any time. Additional residential property or common areas which are not included within the boundaries of the Additional Property, may be annexed to the Property with the consent of two thirds (2/3rds) of each class of the Members.

Upon annexation of any portion of the Additional Property, the Developer shall succeed to and be the Declarant for such Additional Property entitled to rights and privileges of the Declarant as set forth in the Declaration as though originally named as the Declarant of such Additional Property, subject to the Declarant's obligations but only with respect to such Additional Property as may be annexed from time to time by the Developer. In the event the Developer expressly assigns its Developer's rights to any portion of the Additional Property which is annexed, whether by Developer or its assignee, the assignee shall be deemed the Declarant of the Additional Property to which the assignment applies and the Developer shall not be the Declarant as to such Additional Property.

**Section 11. Waiver of Violations.** Declarant, its express successor or assigns, reserves the right to waive any violations of the covenants contained in this Declaration, in the event Declarant shall determine, in its sole discretion, that such violations are minor or dictated by the peculiarities of a particular Lot configuration or topography.

**Section 12. Liability of Lot Owners for Damages.** Nothing in this Declaration shall be construed to impose absolute liability on the Owner of any Lot for damage or injury to the Common Areas or Lots and such Owners shall only be responsible for damage or injury caused by the negligent or intentional acts of the Owner.

**Section 13. Paragraph Headings.** Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way define, limit or describe the scope and intent of the particular paragraph to which they refer.

**Section 14. Effective Date.** This Declaration will become effective upon recordation of the same in the Public Records of the County.

**Section 15. Construction Notice and Acceptance.** Every person or entity that owns or acquires any right, title or interest in or to any portion of the Property, or any portion thereof, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquires such right, title or interest.

**Section 16. Insurance.**

(a) The Association shall keep (i) the Common Facilities and any other buildings or improvements in the Common Areas insured against loss by fire and the risks covered by a Standard All Risk of Loss Perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurance replacement value thereof, and (ii) all personal property owned by the Association insured with coverage in the maximum insurable fair market value of such personal property as determined annually by an insurance carrier selected by the Association. Insurance proceeds for the Common Facilities, any other improvements in the Common Areas and any personal property owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction, the Association shall cause the same to be replaced, repaired or rebuilt if it occurred in the Common Areas. In the event the cost of such replacement repair or rebuilding of the Common Facilities or any other improvements in the Common Areas (i) exceeds the insurance proceeds available therefore, or (ii) no insurance proceeds are available therefore, the deficiency of full costs thereof shall be assessed to the Owners as a special assessment.

(b) The Association shall procure and keep in force public liability insurance in the name of the Association and the Owners against any liability for personal injury or property damage resulting from any one occurrence in or about the Common Areas, in an amount not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for damage to one (1) or more persons in one (1) accident or event and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for damage to property in one (1) accident or event. The Association,

at its discretion, shall obtain Director and Officer liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00).

(c) Copies of all such insurance policies (or certificates thereof showing premiums thereon to have been paid) shall be retained by the Association and open for inspection by the Owners at any reasonable time. All such insurance policies shall (i) provide that they shall not be cancelable by the insurer without first giving at least ten (10) days prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.

(d) Notwithstanding any provision contained herein to the contrary, the Association shall maintain such insurance coverage as may be required by the Veterans Administration ("VA"), the Federal Housing Administration ("FHA"), or Federal National Mortgage Association ("FNMA") so long as VA, FHA, or FNMA holds a mortgage on or owns any Lot.

**Section 17. Mortgaging of Common Areas.** The Common Areas shall not be mortgaged or conveyed by the Association without the consent of at least two-thirds (2/3rds) of each class of Members; provided, however, that if there has ceased to be any Class B Members, then the consent of at least two-thirds (2/3rds) of the Class A Members excluding the Declarant shall be required.

**ARTICLE X**  
**SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM;**  
**DRAINAGE SWALES; CONSERVATION EASEMENTS AND UPLAND BUFFER**

**Section 1. Surface Water or Stormwater Management System: Drainage Swales.** The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management systems. Maintenance of the surface water or stormwater management systems shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District (the "District"). The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified as approved, by the District.

The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the District Permits. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the District.

The Developer may have constructed a drainage swale upon Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lots from time to time. Each Lot Owner, including Builders, shall be responsible for the maintenance, operation



and repair of the swales on their respective Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities required under the District Permits. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swales shall be authorized and any damage to any portion or part of the drainage swales, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swales returned to its former condition as soon as possible by the Owner of the Lot upon which the damaged swale is located.

The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system which relate to provisions outlined in St. Johns River Water Management District Permit Number 40-095-81312-1 and District Permit Number 40-095-81312-2 (collectively, the "District Permits"). Any amendment to this Article X, Section 1 of these Covenants and Restrictions which alter any provisions relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas required by the District Permits, must have the prior approval of the District.

The City of Ocoee shall have the same rights as the District to enforce the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system in the event the Association fails to maintain the surface water or stormwater management system and the City of Ocoee desires to do so. In such event, the Association shall be responsible for reimbursement of any costs incurred by the City of Ocoee to maintain the surface water or stormwater management system. Any amendment which affects the rights of the City of Ocoee provided for in this Section 11 shall require the prior written approval of the City of Ocoee.

**Section 2. Conservation Easements.** There are hereby granted two (2) conservation easements to the District which are shown on the Plat of the Property (the "Upland Buffer Conservation Easement" and the "Drainage Canal Conservation Easement") (the Upland Buffer Conservation Easement and the Drainage Canal Conservation Easement are sometimes collectively referred to herein as the "Conservation Easements"). All activities within the limits of the Conservation Easements must be conducted in accordance with the provisions set forth on the Plat of the Property as well as the provisions set forth in this Section 2.

The Upland Buffer Conservation Easement lies within an area which is hereby created, declared and granted to and for the benefit of the District as a non-exclusive perpetual vegetative natural upland buffer as shown on the Plat of the Property (the "Upland Buffer"). The purpose of such Upland Buffer is to manage, control and treat the flow of stormwater to the adjoining drainage canal to Lake Apopka and to Lake Apopka and to protect the stormwater retention, detention and treatment capacity of the Upland Buffer, as designated in and required by the District Permits and Upland Buffer Conservation Easement. The Association shall be responsible for the operation, maintenance and repair of the Upland Buffer as required by the aforesaid District Permit and Upland Buffer Conservation Easement.

The Drainage Canal Conservation Easement lies within an area which is hereby created, declared and granted to and for the benefit of the District as a non-exclusive perpetual drainage canal as shown on the Plat of the Property (the "Drainage Canal"). The Association shall be responsible for the maintenance, operation and repair of the Drainage Canal in accordance with the District Permits and Drainage Canal Conservation Easement and in the same manner as the Association is responsible for the maintenance, operation and repair of the surface water or stormwater management systems referred to in Section 1 hereinabove.

**Additional Conservation Easement.** It is intended that an additional conservation easement will be placed of record within the Additional Property ("Additional Conservation Easement"). The Association shall have the right to conduct limited clearing and excavation related to maintenance of drainage structures within the Additional Conservation Easement which service the stormwater management system for the Property and/or the Additional Property. All activities within the limits of the Additional Conservation Easement outlined in this Article X, Section 2, must be conducted in compliance with the provisions of the Additional Conservation Easement and the covenants set forth therein.

The Conservation Easements and the Additional Conservation Easement are granted to the District as a condition of the District Permits solely to off-set adverse impacts to natural resources, fish and wildlife and wetland functions. The purpose of the Conservation Easements and the Additional Conservation Easement are to assure that the property under which the Conservation Easements and the Additional Conservation Easement lie (collectively, the "Conservation Area Property") will be retained forever in their existing natural condition and to prevent any use of the Conservation Area Property that will impair or interfere with the environmental value of the Conservation Area Property. Any activity on or use of the Conservation Area Property inconsistent with the purpose of the Conservation Easements and the Additional Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited within the Conservation Area Property (except in the case of maintenance of drainage structures within the Additional Conservation Easement as described above and as described in the Additional Conservation Easement):

- (a) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
- (b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
- (c) Removing or destroying trees, shrubs or other vegetation, except for the removal of exotic or nuisance plant species and the revegetation with natural plant species in accordance with a plan submitted to and approved by the District
- (d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
- (e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- (f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (g) Acts or uses detrimental to such retention of land or water areas.

- (h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

The Associations reserve unto itself or its successors and assigns (collectively, the "Association") all rights accruing from its ownership of the Conservation Area Property, including the right to engage in or permit or invite others to engage in all uses of the Conservation Area Property, that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easements and the Additional Conservation Easement.

The District has the right to enter upon and inspect the Conservation Area Property in a reasonable manner and at reasonable times to determine if the Association is complying with the covenants and prohibitions contained in this Section 2. The District has the right to proceed at law or in equity to enforce the provisions of the Conservation Easements and the Additional Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Area Property that may be damaged by any activity inconsistent with the Conservation Easements and the Additional Conservation Easement.

The District may enforce the terms of the Conservation Easements at the District's discretion, but if the Association breaches any term of the Conservation Easements, and the District does not exercise its rights under the Conservation Easements, the District's forbearance shall not be construed to be a waiver by the District of such term, or of any subsequent breach of the same, or any other term or right of the District set forth herein. No delay or omission by the District in the exercise of any right or remedy upon any breach by the Association shall impair such right or remedy to be construed as a waiver. The District shall not be obligated to the Association, or to any other person or entity, to enforce the provisions of the Conservation Easements and the Additional Conservation Easement. The Association will assume all liability for any injury or damage to the person or property of third parties which may occur on the Conservation Area Property arising from the Association's ownership of the Conservation Area Property and the Association shall not hold the District liable for any damage or injury to person or personal property which may occur on the Conservation Area Property. Nothing contained in the Conservation Easement and the Additional Conservation Easement shall be constructed to entitle the District to bring any action against the Association for any injury to or change in the Conservation Area Property resulting from natural causes beyond the Association's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by the Association under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Area Property or to persons resulting from such causes.

The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the Conservation Easements and the Additional Conservation Easement. Any amendment to the Covenants and Restrictions which alter any provisions relating to the Conservation Easements and the Additional Conservation Easement outlined in this Article X, Section 2 of these Covenants and Restrictions must have the prior approval of the District.

**ARTICLE XI  
SPECIAL PROVISIONS**

**Section 1. Private Roads.** The Property shall be developed into a gated community and the streets (and drainage facilities therein), therefore, shall be privately owned and maintained by the Association. As a result, a perpetual non-exclusive easement for access over all internal roadways and paved areas shall be granted in favor of all Owner's of those Lots and properties abutting same (and their guests and invitees), the City, representatives of the County utilities department and other applicable authorities for law enforcement, fire and other emergency medical services. The entryway gates shall be equipped with an opti-com system override device to allow emergency access to the subdivision by fire/rescue, police and other emergency response personnel per fire chief requirements.

**Section 2. Common Areas and Tracts Shown on Plat.**

The following Common Areas and Tracts shall be shown on the Plat of the Property and their respective use, ownership and maintenance are as follows:

1. Tract A is the East Entrance Park and shall include an informational kiosk that will be used for community information, notices for special neighborhood events and for upcoming Association meetings. Tract A shall be dedicated to and maintained by the Association.
2. Tracts B, E, I and Q are drainage/retention tracts and are dedicated to and maintained by the Association with an easement dedicated to the City.
3. Tracts C, D, F and G are reserved for signage and landscaping and are dedicated to and maintained by the Association. All areas within Tracts C, D, F and G shall be maintained by the Association, except that all grass and landscaping on the house side of any wall shall be maintained by the respective Owner of each Lot.
4. Tract H is the West Entrance Park and shall include an informational kiosk that will be used for community information, notices for special neighborhood events and for upcoming Association meetings. Tract H shall be dedicated to and maintained by the Association.
5. Tract J and N are conservation areas to be owned and maintained by the City.
6. Tract K is a lift station to be owned and maintained by the County.
7. Tracts L and M are buffer tracts and are subject to the provisions outlined in Article X, Section 2 herein. Tracts L and M shall be dedicated to and maintained by the Association.
8. Tract O is park access to Tract P which is the Lake Apopka Park. Tracts O and P shall be dedicated to and maintained by the Association.
9. Tracts R and S are internal streets and are subject to the provisions of Article XI, Section 1 herein. Tracts R and S shall be dedicated to and maintained by the Association.
10. Tracts T and U are areas to be conveyed to the City and maintained by the City once roadway improvements are constructed thereon. Until such time

as roadway improvements are constructed thereon, the Association shall maintain Tracts T and U.

11. Tract W is a future access road and is to be conveyed to the City and maintained by the City once roadway improvements constructed thereon. Until such time as roadway improvements are constructed thereon, the Association shall maintain Tract W.

**Section 3.** All on-site utilities including electrical, cable tv and telephone shall be placed below ground.

**Section 4.** Unless otherwise noted on the Plat, a 5' utility and drainage easement will be platted along all side Lot lines, and a 10' utility, drainage and sidewalk easement adjacent to the street right-of-way. Sidewalks will only be placed in the street right-of-way easement if necessary to run them around existing protected trees to be preserved. All utility and drainage easements and pedestrian access easements upon individual Lots shall be maintained by each respective Owner of each Lot and the land burdened by such easements shall be owned by each respective Owner of each Lot. The easements referenced in this Section 8 shall be dedicated to the City at recording of the Plat for the Property.

**Section 5. City of Ocoee.** The City of Ocoee ("City") shall have the right to enforce the following provisions:

- (a) The City shall have the right to levy, collect, and enforce assessments for maintenance of Common Areas if the Association fails to do so or fails to maintain assessments at a level allowing for adequate maintenance.
- (b) The City shall have the right, but not the obligation, to maintain/repair the Stormwater Management System and obtain reimbursement from the Association, or from the Declarant if (i) turnover of control to the members has not occurred, or (ii) if the Declarant is still responsible for maintenance of the Stormwater Management System.
- (c) That the Stormwater Management System shall be transferred to a responsible operation/maintenance entity acceptable to the City in the event of dissolution of the Association and that if dissolution occurs without such approval, then the City may continue to levy and collect assessments and impose liens with respect thereto notwithstanding the dissolution of the Association.
- (d) The Association shall at all times be in a good standing with the Florida Secretary of State.
- (e) That at the time of turnover of control of the Association to the Members, the Declarant shall deliver to the new Board of Directors the maintenance plan for the Stormwater Management System accompanied by an engineer's certification that the Stormwater Management System is functioning in accordance with all approved plans and permits. To the extent that any such engineer's report indicates any corrective action is required, the Declarant

shall be required to diligently undertake such corrective action at the Declarant's expense and to post a cash bond with the Association for the estimated costs of such corrective action.


- (f) That no property owned by the City or any other governmental entity shall be subject to assessments levied by the Association.
- (g) That any amendment to any provision affecting the City requires the consent of the City in an instrument recorded with the amendment.

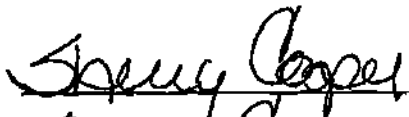
IN WITNESS WHEREOF, Declarant has caused these presents to be executed on the day and year first above written.

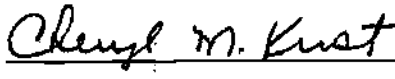
Signed, sealed and delivered  
in the presence of


"DECLARANT"  
FORESTBROOKE VENTURE,  
a Florida general partnership

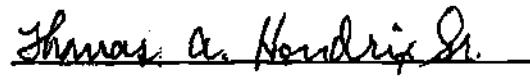
By: Keewin ForestBrooke LLC, a Florida limited liability company, its managing general partner

By:   
Allan E. Keen, Manager

  
\_\_\_\_\_  
Sherry Cooper  
Print Name

  
\_\_\_\_\_  
Cheryl M. Kirst  
Print Name

  
\_\_\_\_\_  
Reba VARNADO  
Print Name

  
\_\_\_\_\_  
THOMAS A. Hendrix, Sr.  
Print Name

  
\_\_\_\_\_  
T. Milton West

STATE OF FLORIDA )

COUNTY OF ORANGE )

BEFORE ME, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared Allan E. Keen, Manager of Keewin ForestBrooke LLC, managing general partner of ForestBrooke Venture a Florida general partnership, who is personally known to me, and who acknowledged that he signed and sealed the same on behalf of said partnership as his voluntary act and deed for the uses and purposes therein contained and without taking an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 18<sup>th</sup> day of February, 2003.

(NOTARY SEAL)



Cheryl M. Kirst  
MY COMMISSION # CC985792 EXPIRES  
January 21, 2005  
BONDED THRU TROY FAH INSURANCE, INC

Cheryl M. Kirst  
(Notary Signature)  
Cheryl M. Kirst  
(Notary Name Printed)  
NOTARY PUBLIC  
Commission No. CC985792

STATE OF FLORIDA )

COUNTY OF ORANGE )

BEFORE ME, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared T. Milton West, who is personally known to me, and who acknowledged that he signed and sealed the same on behalf of said partnership as his voluntary act and deed for the uses and purposes therein contained and without taking an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 19<sup>th</sup> day of February, 2003.

(NOTARY SEAL)

Reba F. Varnadoe  
(Notary Signature)  
REBA F. VARNADOE  
(Notary Name Printed)  
NOTARY PUBLIC  
Commission No. DD012894



Reba F. Varnadoe  
MY COMMISSION # DD012894 EXPIRES  
July 15, 2005  
BONDED THRU TROY FAH INSURANCE, INC





JOINDER AND CONSENT OF MORTGAGEE

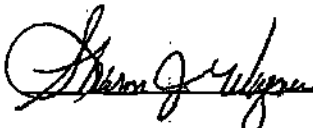
Project: ForestBrooke  
Plat Book: 53

Page(s): 124-129

THE UNDERSIGNED HEREBY CERTIFIES, that it is the owner and holder of a deed, mortgage, lien or other encumbrance upon the above described property, which encumbrance or mortgage is recorded in Official Records Book 6571, Page 6388 together with the Subordination Agreement recorded in Official Records Book 6602, Page 3371; Modification Agreement, recorded in Official Records Book 6604, Page 6521 and Assignment thereof, recorded in official Records Book 6620, Page 4455 all of the Public Records of Orange County, Florida and that the undersigned hereby joins in and consents to the dedication of the lands described above by the Declarant thereof, and agrees that its mortgage, lien or other encumbrance shall be subordinated to the above dedication.


Witnesses:

Donald E. Brown, Trustee and Donald E. Brown, Trustee of the Land Trust dated the 17<sup>th</sup> day of April 2002.

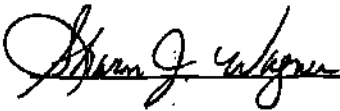
  
\_\_\_\_\_  
SHARON J. WAGNER

Print Name


By:   
\_\_\_\_\_  
Donald E. Brown, Trustee

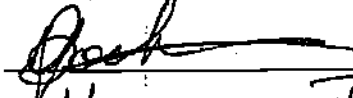
  
\_\_\_\_\_  
YVONNE VAN BEEKHOVEN

Print Name

  
\_\_\_\_\_  
SHARON J. WAGNER

Print Name

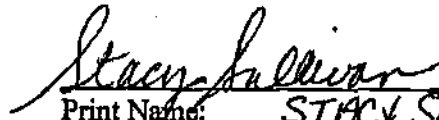
By:   
\_\_\_\_\_  
Donald E. Brown, Trustee of the Land Trust dated the 17<sup>th</sup> day of April 2002

  
\_\_\_\_\_  
YVONNE VAN BEEKHOVEN

Print Name

STATE OF FLORIDA     )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of February 2003, by Donald E. Brown, Trustee and Donald E. Brown, Trustee of the Land Trust dated the 10<sup>th</sup> day of July, 2002. He is personally known to me or produced \_\_\_\_\_ as identification and did/did not take an oath.

  
Print Name: STACY SULLIVAN  
Notary Public, State of Florida  
My Commission Expires: 4/27/03



JOINDER AND CONSENT OF MORTGAGEE

0005386958

Project: ForestBrooke  
Plat Book: 53

Page(s): 124-129

THE UNDERSIGNED HEREBY CERTIFIES, that it is the owner and holder of a Mortgage upon the above described property, which encumbrance or mortgage is recorded in Official Records Book 4744, Page 720 as modified in Loan Modification Agreement recorded in Official Records Book 5735, at Page 1102 and that certain Commercial Variable Rate Balloon Mortgage recorded in Official Records Book 5235, Page 3259 as modified in Mortgage Modification/Extension Agreement records in Official Records Book 5452, Page 2541 all in the Public Records of Orange County, Florida and that the undersigned hereby joins in and consents to the dedication of the lands described above by the Declarant thereof, and agrees that its mortgage, lien or other encumbrance shall be subordinated to the above dedication.

Witnesses:

SUN TRUST BANK OF CENTRAL FLORIDA, N.A.

Terry Thompson

By: Kathryn A Pedon

Terry Thompson  
Print Name

Print Name: Kathryn A Pedon  
Its: Vice President

Michelle Jennings

Michelle Jennings  
Print Name

STATE OF <sup>Virginia</sup> ~~FLORIDA~~ )  
City of Richmond ) SS.  
COUNTY OF Richmond )

The foregoing instrument was acknowledged, before me this 29 day of March, 2003, by Kathryn A Pedon as Vice President of Sun Trust Bank of Central Florida, N.A.. He/She is personally known to me or produced as identification and did/did not take an oath.

Deborah J. Steinmann  
Print Name: Deborah J. Steinmann  
Notary Public, State of Florida VA  
My Commission Expires: 9/30/03





EXHIBIT "A"  
LEGAL DESCRIPTION OF THE PROPERTY  
(Page 1 of 2)

ForestBrooke Phase 1

Parcel lying East of State Road 437

A parcel of land being a portion of the North  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida lying East of State Road 437. Being more particularly described as follows:

COMMENCE at the Northeast Corner of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida and run North  $89^{\circ}27'30''$  West, along the North line of said Southeast  $\frac{1}{4}$ , for a distance of 418.15 feet to the POINT OF BEGINNING; thence departing said North line run South  $00^{\circ}32'30''$  West for a distance of 175.00 feet; thence run North  $89^{\circ}27'30''$  West for a distance of 61.98 feet; thence run South  $00^{\circ}50'42''$  West for a distance of 205.64 feet; thence run South  $09^{\circ}34'34''$  West for a distance of 80.94 feet; thence run South  $06^{\circ}26'15''$  West for a distance of 35.99 feet; thence run South  $00^{\circ}50'42''$  West for a distance of 204.18 feet; thence run South  $17^{\circ}52'10''$  West for a distance of 299.10 feet; thence run South  $00^{\circ}42'14''$  West for a distance of 234.70 feet; thence run South  $03^{\circ}34'11''$  West for a distance of 50.00 feet to a point on a non-tangent curve concave Southerly and having a radius of 276.25 feet, a central angle of  $03^{\circ}52'44''$ ; thence from a tangent bearing of North  $85^{\circ}48'46''$  West run Westerly along the arc of said curve 18.70 feet to a point on a non-tangent line; thence, departing said curve, run South  $00^{\circ}29'58''$  West for a distance of 132.14 feet; thence run South  $80^{\circ}35'00''$  East for a distance of 18.43 feet; thence run South  $89^{\circ}30'02''$  East for a distance of 587.50 feet to the East line of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 31; thence run South  $00^{\circ}42'14''$  East, along said East line of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 31, for a distance of 30.00 feet to the Southeast Corner of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 31; thence run North  $89^{\circ}30'02''$  West, along the South line of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 31, for a distance of 1193.65 feet to a point on the East right-of-way line of State Road 437 (Apopka-Vineland Road); thence run North  $11^{\circ}39'44''$  East, along said right-of-way line, for a distance of 1463.06 feet to the North line of said Southeast  $\frac{1}{4}$ ; thence run South  $89^{\circ}27'30''$  East, along said North line, for a distance of 497.38 feet to the POINT OF BEGINNING.

Parcel lying West of State Road 437

A parcel of land being a portion of the North  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  and a portion of the Southwest  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida lying West of State Road 437. Being more particularly described as follows:

COMMENCE at the Northeast Corner of the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida and run North  $89^{\circ}27'30''$  West, along the North line of said Northeast  $\frac{1}{4}$ , for a distance of 961.39 feet to a point on the West right-of-way line of State Road 437 (Apopka-Vineland Road) and the POINT OF BEGINNING; thence departing said North line run South  $11^{\circ}39'44''$  West, along said

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF THE PROPERTY**  
(Page 2 of 2)

West right-of-way line, for a distance of 1379.51 feet to a point on the North line of the South 82.00 feet of the North ½ of the Southeast ¼ of said Section 31; thence run North 89°30'02" West, along said North line, for a distance of 90.23 feet to a point on the West line of the Northeast ¼ of the Southeast ¼ of said Section 31; thence run North 00°30'53" East, along said West line, for a distance of 38.00 feet to a point on the North line of the South 120.00 feet North ½ of the Southeast ¼ of said Section 31; thence run North 89°30'02" West, along said North line, for a distance of 1313.99 feet to a point on the West line of the Southeast ¼ of said Section 31; thence run North 00°19'35" East, along said West line, for a distance of 686.65 feet; thence run North 89°27'30" West, along the South line of the North 630 feet of the Southwest ¼ of said Section 31, for a distance of 210.00 feet; thence run North 00°19'35" East for a distance of 420.00 feet; thence run North 89°27'30" West for a distance of 210.00 feet; thence run North 00°19'35" East for a distance of 210.00 feet to a point on the North line of the Southwest ¼ of said Section 31; thence run South 89°27'30" East, along said North line, for a distance of 420.00 feet to the Northwest corner of the Southeast ¼ of said Section 31; thence continue South 89°27'30" East, along the North line of the Southeast ¼ of said Section 31, for a distance of 1675.25 feet to the POINT OF BEGINNING.

AND

Lots 40 and 41 of GEORGE W. ANDERSON'S SUBDIVISION, as recorded in Plat Book "A", Page 6 in the Public Records of Orange County, Florida.



EXHIBIT "B"  
LEGAL DESCRIPTION OF THE ADDITIONAL PROPERTY  
(Page 1 of 4)

ForestBrooke Phase 2

A parcel of land being a portion of the Northwest 1/4 and a portion of the Southwest 1/4 of Section 32, Township 21 South, Range 28 East, Orange County, Florida and a portion of the Southeast 1/4 of Section 31, Township 21 South, Range 28 East, Orange County, Florida.

More particularly described as follows:

BEGIN at the Northeast Corner of the Southeast 1/4 of Section 31, Township 21 South, Range 28 East, Orange County, Florida, point also being the Southwest corner of the Northwest 1/4 Section 32, Township 21 South, Range 28 East, Orange County, Florida; thence run North 00°50'42" East, along the West line of the Northwest 1/4 of said Section 32, for a distance of 1313.03 feet to the South right-of-way line of McCormick Road (a 60 foot wide right-of-way); thence run South 89°35'03" East, along said South right-of-way line, for a distance of 1321.38 feet to the East line of the Southwest 1/4 of the Northwest 1/4 of said Section 32; thence run South 00°46'53" West, along said East line, for a distance of 619.49 feet; thence run North 89°13'07" West for a distance of 171.70 feet; thence run South 81°40'04" West for a distance of 76.79 feet; thence run South 66°56'26" West for a distance of 99.35 feet; thence run South 58°51'21" West for a distance of 131.17 feet; thence run South 46°31'48" West for a distance of 122.20 feet; thence run South 66°35'54" West for a distance of 96.48 feet; thence run South 14°40'26" East for a distance of 176.51 feet to a point on a non-tangent curve concave Northerly, having a radius of 390.00 feet; thence, from a tangent bearing of South 75°19'34" West, through a central angle of 04°25'24", run Westerly along the arc of said curve for a distance of 30.11 feet to a point on a non-tangent line; thence, departing said curve, run South 00°50'18" West for a distance of 129.61 feet; thence run North 59°27'36" East for a distance of 23.47 feet; thence run South 33°26'30" East for a distance of 91.59 feet; thence run South 45°09'11" East for a distance of 32.46 feet; thence run South 27°32'03" West for a distance of 203.22 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 350.00 feet; thence, from a tangent bearing of South 64°07'07" East, through a central angle of 01°39'10", run Southeasterly along the arc of said curve for a distance of 10.10 feet to a point of tangency; thence run South 82°27'57" East for a distance of 30.12 feet; thence run South 27°32'03" West for a distance of 50.00 feet; thence run North 82°27'57" West for a distance of 19.42 feet; thence run South 27°32'03" West for a distance of 126.25 feet; thence run South 08°36'47" West for a distance of 73.92 feet; thence run North 84°33'33" West for a distance of 175.72 feet; thence run North 63°52'25" West for a distance of 50.00 feet to a point on a non-tangent curve concave Southeasterly, having a radius of 205.00 feet; thence, from a tangent bearing of North 26°07'35" East, through a central angle of 12°38'50", run Northeasterly along the arc of said curve for a distance of 45.25 feet to a point of reverse curvature with a curve concave Westerly, having a radius of 25.00 feet; thence run Northerly, through a central angle of 89°02'44", along the arc of said curve for a distance of 36.85 feet to a point of tangency; thence run North 50°16'19" West for a distance of 64.86 feet to a point of curvature of a curve concave Southerly, having a radius of 175.00 feet; thence run Westerly, through a central angle of 39°11'11", along the arc of said curve for a distance of 119.89 feet to a point of tangency; thence run North 89°27'30" West for a distance of 156.88 feet; thence run South 00°32'30" West for a distance of 92.50 feet; thence run North 89°27'30" West for a distance of 142.30 feet; thence run South 00°50'42" West for a distance of 24.98 feet; thence run North 89°09'18" West for a distance of 50.00 feet; thence run North 00°50'42" East for a distance of 17.21 feet; thence run North 89°27'30" West for a distance of 120.00 feet; thence run South 00°50'42" West for a distance of 59.39 feet; thence run South 08°36'37" West

**EXHIBIT "B"**  
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**ForestBrooke Phase 2 (Continued)**

for a distance of 18.29 feet; thence run North 89°27'30" West for a distance of 121.20 feet; thence run South 08°36'37" West for a distance of 30.05 feet; thence run North 81°23'23" West for a distance of 50.00 feet; thence run North 08°36'37" East for a distance of 31.82 feet; thence run North 89°09'18" West for a distance of 126.19 feet; thence run North 00°50'42" East for a distance of 168.36 feet; thence run South 89°27'30" East for a distance of 81.98 feet; thence run North 00°32'30" East for a distance of 175.00 feet to the North line of the Southeast 1/4 of said Section 31; thence run South 89°27'30" East, along said North line, for a distance of 418.15 feet to the POINT OF BEGINNING.

Contains 39.142 acres, more or less.

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LEGAL DESCRIPTION OF THE ADDITIONAL PROPERTY  
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ForestBrooke Phase 3

A parcel of land being a portion of the Northwest  $\frac{1}{4}$  and a portion of the Southwest  $\frac{1}{4}$  of Section 32, Township 21 South, Range 28 East, Orange County, Florida and a portion of the Southeast  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida.

More particularly described as follows:

COMMENCE at the Northeast Corner of the Southeast  $\frac{1}{4}$  of Section 31, Township 21 South, Range 28 East, Orange County, Florida and run North  $89^{\circ}27'30''$  West, along the North line of said Northeast  $\frac{1}{4}$ , for a distance of 418.15 feet; thence departing said North line run South  $00^{\circ}32'30''$  West for a distance of 175.00 feet; thence run North  $89^{\circ}27'30''$  West for a distance of 61.98 feet; thence run South  $00^{\circ}50'42''$  West for a distance of 168.36 feet to the POINT OF BEGINNING; thence continue South  $00^{\circ}50'42''$  West for a distance of 37.28 feet; thence run South  $09^{\circ}34'34''$  West for a distance of 80.94 feet; thence run South  $06^{\circ}26'15''$  West for a distance of 35.99 feet; thence run South  $00^{\circ}50'42''$  West for a distance of 204.18 feet; thence run South  $17^{\circ}52'10''$  West for a distance of 299.10 feet; thence run South  $00^{\circ}42'14''$  West for a distance of 234.70 feet; thence run South  $03^{\circ}34'11''$  West for a distance of 50.00 feet to a point on a non-tangent curve concave Southerly and having a radius of 276.25 feet, a central angle of  $03^{\circ}52'44''$ ; thence from a tangent bearing of North  $85^{\circ}48'46''$  West run Westerly along the arc of said curve 18.70 feet to a point on a non-tangent line; thence, departing said curve, run South  $00^{\circ}29'58''$  West for a distance of 132.14 feet; thence run South  $80^{\circ}35'00''$  East for a distance of 18.43 feet; thence run South  $89^{\circ}30'02''$  East for a distance of 587.50 feet to the East line of the Southeast  $\frac{1}{4}$  of said Section 31 and the West line of the Southwest  $\frac{1}{4}$  of said Section 32; thence run North  $00^{\circ}42'14''$  East, along the West line of the Southwest  $\frac{1}{4}$  of said Section 32, for a distance of 328.68 feet; thence run North  $88^{\circ}20'13''$  East, along the South line of the North  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said Section 32, for a distance of 1323.85 feet to the East line of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said Section 32; thence run North  $00^{\circ}42'37''$  East, along said East line, for a distance of 1033.65 feet to the Northeast corner of the Northwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of said Section 32; thence run North  $00^{\circ}46'53''$  East, along the East line of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 32, for a distance of 687.88 feet; thence run North  $89^{\circ}13'07''$  West for a distance of 171.70 feet; thence run South  $81^{\circ}40'04''$  West for a distance of 76.79 feet; thence run South  $66^{\circ}56'26''$  West for a distance of 99.35 feet; thence run South  $56^{\circ}51'21''$  West for a distance of 131.17 feet; thence run South  $46^{\circ}31'48''$  West for a distance of 122.20 feet; thence run South  $66^{\circ}35'54''$  West for a distance of 96.48 feet; thence run South  $14^{\circ}40'26''$  East for a distance of 176.51 feet to a point on a non-tangent curve concave Northerly, having a radius of 390.00 feet; thence, from a tangent bearing of South  $75^{\circ}19'34''$  West, through a central angle of  $04^{\circ}25'24''$ , run Westerly along the arc of said curve for a distance of 30.11 feet to a point on a non-tangent line; thence, departing said curve, run South  $00^{\circ}50'18''$  West for a distance of 129.61 feet; thence run North  $59^{\circ}27'36''$  East for a distance of 23.47 feet; thence run South  $33^{\circ}26'30''$  East for a distance of 91.59 feet;

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ForestBrooke Phase 3 (Continued)

thence run South 45°09'11" East for a distance of 32.46 feet; thence run South 27°32'03" West for a distance of 203.22 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 350.00 feet; thence, from a tangent bearing of South 64°07'07" East, through a central angle of 01°39'10", run Southeasterly along the arc of said curve for a distance of 10.10 feet to a point of tangency; thence run South 62°27'57" East for a distance of 30.12 feet; thence run South 27°32'03" West for a distance of 50.00 feet; thence run North 62°27'57" West for a distance of 19.42 feet; thence run South 27°32'03" West for a distance of 126.25 feet; thence run South 08°36'47" West for a distance of 73.92 feet; thence run North 84°33'33" West for a distance of 175.72 feet; thence run North 63°52'25" West for a distance of 50.00 feet to a point on a non-tangent curve concave Southeasterly, having a radius of 205.00 feet; thence, from a tangent bearing of North 26°07'35" East, through a central angle of 12°38'50", run Northeasterly along the arc of said curve for a distance of 45.25 feet to a point of reverse curvature with a curve concave Westerly, having a radius of 25.00 feet; thence run Northerly, through a central angle of 89°02'44", along the arc of said curve for a distance of 38.85 feet to a point of tangency; thence run North 50°16'19" West for a distance of 64.86 feet to a point of curvature of a curve concave Southerly, having a radius of 175.00 feet; thence run Westerly, through a central angle of 39°11'11", along the arc of said curve for a distance of 119.69 feet to a point of tangency; thence run North 89°27'30" West for a distance of 156.88 feet; thence run South 00°32'30" West for a distance of 92.50 feet; thence run North 89°27'30" West for a distance of 142.30 feet; thence run South 00°50'42" West for a distance of 24.98 feet; thence run North 89°09'18" West for a distance of 50.00 feet; thence run North 00°50'42" East for a distance of 17.21 feet; thence run North 89°27'30" West for a distance of 120.00 feet; thence run South 00°50'42" West for a distance of 59.39 feet; thence run South 08°36'37" West for a distance of 18.29 feet; thence run North 89°27'30" West for a distance of 121.20 feet; thence run South 08°36'37" West for a distance of 30.05 feet; thence run North 81°23'23" West for a distance of 50.00 feet; thence run North 08°36'37" East for a distance of 31.52 feet; thence run North 89°09'18" West for a distance of 126.19 feet to the POINT OF BEGINNING.

Contains 49.462 acres, more or less.