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Add Rec \$	<u>41.00</u>	Orange County
Doc Tax \$	<u>          </u>	Comptroller
Int Tax \$	<u>          </u>	By <u>[Signature]</u>
Total \$	<u>366.00</u>	Deputy Clerk

DECLARATION OF PROTECTIVE COVENANTS  
AND  
RESTRICTIONS FOR FAIRWAY COVE

THIS INSTRUMENT PREPARED BY:

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DECLARATION OF PROTECTIVE COVENANTS

AND

RESTRICTIONS FOR FAIRWAY COVE

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DECLARATION OF PROTECTIVE  
COVENANTS AND RESTRICTIONS FOR FAIRWAY COVE

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Protective Covenants and Restrictions for FAIRWAY COVE (the "Declaration"), is made and entered into as of the 11th day of March, 1988, by DEBRA, INC., a Florida corporation, hereinafter referred to as the "DEVELOPER."

RECITALS

A. The DEVELOPER is the owner of the Property (as defined in Article I) and desires to create thereon a residential community with an entrance feature and open spaces, and other common facilities for the benefit of the community.

B. The DEVELOPER desires to provide for the preservation of the values and amenities in the community and for the maintenance of the open spaces and other common facilities; 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 OWNER (as defined in Article I) thereof.

C. The DEVELOPER has deemed it desirable for the efficient preservation of the values and amenities in the community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created.

D. The DEVELOPER has incorporated under the laws of the State of Florida, as a corporation not-for-profit, FAIRWAY COVE HOMEOWNERS' ASSOCIATION, INC., the purpose of which shall be to exercise the functions aforesaid.

E. The Property is also subject to and encumbered by the Master Declaration (as defined in Article I). The Property and each Lot (as defined in Article I) shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges set forth in the Master Declaration. Wherever the provisions of this Declaration are in conflict with the Master Declaration, the provisions of the Master Declaration shall be considered superior to and shall overrule this Declaration.

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## DECLARATION

NOW, THEREFORE, the DEVELOPER declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

### ARTICLE I

#### DEFINITIONS

Unless prohibited by the context in which they are used, the following words, when used in this Declaration, shall be defined as set out below:

Section 1. Assessed Value. "Assessed Value" shall mean and refer to the tax assessed valuation (total assessment for Land and improvements without reduction for homestead exemption, if any) of a Lot as shown on the most recent assessment rolls prepared by the Orange County Property Appraiser.

Section 2. Assessment. "Assessment" shall mean and refer to those charges made by the ASSOCIATION from time to time against each Lot within the Property for the purposes set forth herein, and shall include, but not be limited to Annual Assessment for Common Expenses, Transfer Assessment and Special Assessment for Capital Improvements.

Section 3. ASSOCIATION. "ASSOCIATION" shall mean the FAIRWAY COVE HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not-for-profit. Copies of the Articles of Incorporation and Bylaws of the ASSOCIATION are attached to this Declaration as Exhibits "A" and "B", respectively.

Section 4. BOARD. "BOARD" shall mean the Board of Directors of the ASSOCIATION.

Section 5. Common Expenses. "Common Expenses" shall mean and refer to all expenses incurred by the ASSOCIATION in connection with its ownership and/or maintenance of the Common Property and other obligations set forth herein, or as may be otherwise determined by the BOARD, including, but not limited to, the amount collected by the ASSOCIATION to pay the Assessments for Common Expenses imposed by the Master Association.

Section 6. Common Property. "Common Property" shall mean and refer to Tracts "C", "D" and "E", which the ASSOCIATION has the obligation to maintain for the common use, benefit and enjoyment of all OWNERS. Tracts "C" and "D" comprise the entrance feature into FAIRWAY COVE and Tract "E" is the detention/retention area for FAIRWAY COVE.

Section 7. Covenants. "Covenants" shall mean and refer to the covenants, restrictions, reservations, conditions, easements, charges and liens hereinafter set forth. All Covenants constitute "covenants running with the land" and shall run perpetually unless terminated or amended as provided herein, and shall be binding on all OWNERS.

Section 8. Declaration. "Declaration" shall mean this instrument, DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR FAIRWAY COVE, and all amendments or Supplements made to this instrument.

Section 9. DEVELOPER. "DEVELOPER" shall mean DEBRA, INC., a Florida Corporation, and its successors or assigns as designated in writing by the DEVELOPER.

Section 10. Governing Documents. "Governing Documents" shall mean this Declaration, any Supplement to the Declaration and the Articles of Incorporation and Bylaws of the ASSOCIATION, as the same may be amended from time to time and filed in the Public Records of Orange County, Florida. In the event of conflict or inconsistency among Governing Documents, to the extent permitted by law, the Declaration and any Supplement to the Declaration, the Articles of Incorporation, and the Bylaws, in that order, shall control. One Governing Document's lack of a provision with respect to a matter for which provision is made in another Governing Document shall not be deemed a conflict or inconsistency between such Governing Documents.

Section 11. Improvements. "Improvements" shall mean and refer to all structures of any kind including, without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, recreational facility, landscaping, exterior lighting or landscape device or object.

Section 12. Lot. "Lot" shall mean and refer to each portion of the Property under separate ownership, or which is capable of separate ownership, including all Lots shown on the plat, and all Improvements located thereon. Each portion of the Property which is considered a separate parcel for real property tax purposes shall be considered a Lot.

Section 13. Master Association. "Master Association" shall mean and refer to the MetroWest Master Association, Inc., the Florida not-for-profit corporation formed by DEBRA, INC., to carry out the intent of the Master Declaration. The relationship between the ASSOCIATION and the Master Association is more fully described in Article IV. The OWNERS are not members of the

Master Association, but the ASSOCIATION is a member with the voting rights described in Section 3.08 of Master Declaration and Article IV of this Declaration.

Section 14. Master Association Assessments. "Master Association Assessments" shall mean and refer to those charges made by the Master Association from time to time against FAIRWAY COVE and the Lots therein for the purposes set forth in the Master Declaration, and shall include, but not be limited to "Master Association Annual Assessments" for common expenses and "Master Association Special Assessments".

Section 15. Master Documents. "Master Documents" shall mean and refer to the Master Declaration, any Supplement to the Master Declaration and the Articles of Incorporation and Bylaws of the Master Association, as the same may be amended from time to time and filed in the Public Records of Orange County, Florida.

Section 16. MEMBER. "MEMBER" shall mean and refer to all those OWNERS who are MEMBERS of the ASSOCIATION as provided in Article III. The term "MEMBER" shall not mean or refer to any builder or developer who in its normal course of business purchases any Lot for the purpose of constructing an Improvement thereon for resale, but shall mean and refer to those persons who (1) purchase a Lot to have a residence built for them, or (2) purchase a Lot and the Improvements thereon during or after completion of construction.

Section 17. METROWEST. "METROWEST" shall mean and refer to mixed use real estate development located in Orange County, Florida, also developed by the DEVELOPER, of which the Property is a part.

Section 18. OWNER. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property but, notwithstanding any applicable theory of mortgage, shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. No OWNER shall be a member of the Master Association. The ASSOCIATION shall be a member of the Master Association as more fully described in Article IV.

Section 19. Person. "Person" shall mean and include an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity.

Section 20. Property. "Property" shall mean and refer to FAIRWAY COVE, as per the plat thereof, recorded in Plat Book 21,

Pages 59-61, Public Records of Orange County, Florida, being all real property which has become subject to this Declaration.

Section 21. Resident. "Resident" shall mean and refer to the legal occupant of any Lot. The term "Resident" shall include the OWNER of the Lot and any tenant, lessee or licensee of the OWNER.

Section 22. FAIRWAY COVE. "FAIRWAY COVE" shall mean the real estate development located within METROWEST, in the City of Orlando, Orange County, Florida, developed by the DEVELOPER.

Section 23. Street. "Street" shall mean and refer to any street or other thoroughfare within FAIRWAY COVE, whether same is designated as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, land, walk or other similar designation.

Section 24. Supplement. "Supplement" shall mean a document and the exhibits thereto which when recorded in the Public Records of Orange County, Florida, shall subject additional real property to the provisions of this Declaration.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO THE PROPERTY

Section 1. Property Subject to Declaration. The Property is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration. The Property is part of the approximate 1,800 acre development located within the City limits of the City of Orlando, being developed by DEBRA, INC., and known as METROWEST. To effectuate the orderly development of METROWEST and to establish, protect and preserve the quality of METROWEST, DEBRA, INC., recorded the Master Declaration which encumbers, or will encumber, all real property within METROWEST.

Section 2. Other Additions to the Property. The DEVELOPER reserves the right to add, or may cause to be added, other real property not now included within the plat of FAIRWAY COVE to the provisions of this Declaration. Each commitment of additional property to this Declaration shall be made by a recitation to that effect in a Supplement which need be executed only by the DEVELOPER, and the OWNER of such real property if not the DEVELOPER, and does not require the execution or consent of the ASSOCIATION, or any OWNERS. The Supplement shall describe the real property which is being committed to this Declaration and made subject to the terms of this Declaration and shall contain such other terms and provisions as the DEVELOPER deems proper. Upon the recordation of a Supplement, such real property described

therein shall be committed to the Covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated herein as Property.

Section 3. Mergers. Upon a merger or consolidation of the ASSOCIATION with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the ASSOCIATION as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration within the Property together with the covenants and restrictions established by Supplemental Declaration upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants within the Property, except as hereinafter provided.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Except as is set forth in this Section 1, every Person who is a record titleholder of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the ASSOCIATION shall be a MEMBER of the ASSOCIATION, provided that any such Person which holds such interest merely as a security for the performance of any obligation shall not be a MEMBER. A builder or developer who in its normal course of business purchases a Lot for the purpose of constructing an Improvement thereon for resale shall not become a MEMBER of the ASSOCIATION so long as such builder or developer does not occupy the Improvement as a residence. Only those Persons who purchase a Lot to have a residence built for them or a Lot and the Improvement during or after completion of construction and the DEVELOPER shall be MEMBERS. Notwithstanding the previous sentence, if a builder or developer does occupy an Improvement as his primary personal residence and so notifies the ASSOCIATION in writing, thereafter such builder or developer shall be considered a MEMBER of the ASSOCIATION. The DEVELOPER shall retain the rights of membership including, but not limited to, the Voting Rights, to all Lots owned by Persons not entitled to Membership as herein defined.

Section 2. MEMBER's Voting Rights. The votes of the MEMBERS shall be established and exercised as provided in the Articles and Bylaws.

Section 3. Board of Directors. The ASSOCIATION shall be governed by the BOARD which shall be appointed, designated or elected, as the case may be, as follows:

(a) Appointed by the DEVELOPER. The DEVELOPER shall have the right to appoint all members of the BOARD until the DEVELOPER holds less than five percent (5%) of the total number of votes of MEMBERS as determined by the Articles.

(b) Majority Appointed by the DEVELOPER. Thereafter, the DEVELOPER shall have the right to appoint a majority of the members of the BOARD so long as the DEVELOPER owns Lots within FAIRWAY COVE.

(c) Election of the BOARD. After the DEVELOPER no longer has the right to appoint all members of the BOARD under subsection 3(a) of this Article III, or earlier if the DEVELOPER so elects, then, and only then, shall any member of the BOARD be elected by the MEMBERS of the ASSOCIATION.

(d) Vacancies. A member of the BOARD may be removed and vacancies on the BOARD shall be filled in the manner provided by the Bylaws. However, any member of the BOARD appointed by the DEVELOPER may only be removed by the DEVELOPER, and any vacancy on the BOARD of a member appointed by the DEVELOPER shall be filled by the DEVELOPER.

#### ARTICLE IV

##### RELATIONSHIP WITH THE MASTER ASSOCIATION

Section 1. Creation of the Master Association. The DEVELOPER has also formed the Master Association for the purpose of holding title to the Common Area within METROWEST (as defined in the Master Declaration) and enforcing the Master Declaration and the covenants set forth therein in accordance with the rights of enforcement provided in the Master Declaration or which may be assigned to it from time to time by the DEVELOPER.

Section 2. Rights and Duties of the ASSOCIATION. The ASSOCIATION shall be a "Community Association" as defined in the Master Declaration. The ASSOCIATION shall:

(a) abide by the Master Declaration and the covenants set forth therein;

(b) enforce this Declaration;

(c) maintain the Common Property and other real property under its control or jurisdiction;

*MR*

(d) administer the affairs of the ASSOCIATION; and

(e) perform such other duties as are prescribed by the Governing Documents or which may be assigned to it from time to time by the Master Association or the DEVELOPER.

Section 3. Power of the Master Association Over the ASSOCIATION. The Master Association shall have the absolute power to veto any action taken or contemplated to be taken, and shall have the absolute power to require specific action to be taken, by the ASSOCIATION. The Master Association shall receive the same notification of each meeting of the MEMBERS of the ASSOCIATION or board or committee thereof required by the Governing Documents of the ASSOCIATION and a representative of the Master Association shall have the unrestricted right to attend any such meeting. If proper notice is not given to the Master Association, any action taken at such meeting shall be considered null and void to the same effect as if proper notice had not been given to the MEMBERS of the ASSOCIATION.

By way of illustration and not as limitation, the Master Association may:

(a) veto any decision or action of the ASSOCIATION;

(b) require specific maintenance, repair, replacement, removal or aesthetic changes to be performed to the Property, or any portion thereof; or

(c) require that a proposed budget of the ASSOCIATION include certain items and that expenditures be made therefor. In the event that the ASSOCIATION should fail or refuse to properly exercise its responsibility with respect to any matter (as determined by the Master Association, in its sole discretion), the Master Association may have, and may exercise, the ASSOCIATION's right of approval, disapproval or enforcement as to the matter. If the ASSOCIATION fails to comply with any requirements set forth by the Master Association, the Master Association shall have the right to take action on behalf of the ASSOCIATION and shall levy an Assessment in an amount adequate to recover the Master Association's costs and expenses (including administrative, legal and accounting costs and expenses) associated with the taking of the action. The Assessment shall be levied against all or any portion of the Property and each OWNER within FAIRWAY COVE shall be liable for his pro rata share of the Assessment unless the Assessment is levied against a specific Lot. The Assessment will be levied as a Special Assessment as provided in Article VII of the Master Declaration.

Section 4. Membership in the Master Association. The ASSOCIATION shall be a Member of the Master Association. No OWNER shall be a Member of the Master Association.

Section 5. Current List of OWNERS. The ASSOCIATION shall provide the Master Association with the names and addresses of all OWNERS and shall notify the Master Association in writing each time there is a change in the name and/or mailing address of an OWNER.

Section 6. Representative. The votes of the ASSOCIATION shall be cast at meetings of the Members of the Master Association by the President of the ASSOCIATION. The President of the ASSOCIATION shall be the Representative to act on behalf of the ASSOCIATION at all meetings of the Members of the Master Association. The Officers of the ASSOCIATION shall be designated by a certificate signed by the Secretary of the ASSOCIATION, and filed with the Secretary of the Master Association prior to the time all proxies are due. The President, in the absence of a revocation of same, shall conclusively be deemed to be the person entitled to cast the votes of the ASSOCIATION at any meeting of the Members of the Master Association. In the event the President does not appear in person or by proxy at any meeting of the Members of the Master Association, the votes of the ASSOCIATION may be cast at the meeting by the Vice President, Secretary or Treasurer in that order, of the ASSOCIATION.

Section 7. Voting Rights. The ASSOCIATION shall have one (1) vote in the Master Association for each Lot within FAIRWAY COVE.

Section 8. Assignment of Rights and Responsibilities. The BOARD, upon majority vote, may assign to the Master Association all, or any portion of, the rights and obligations of the ASSOCIATION set forth herein, including, but not limited to, billing and collection of Annual Assessments, enforcement of Planning Criteria, duties of the ARB (see Article VIII) and enforcement of nonmonetary defaults. After an assignment, the BOARD, upon majority vote, may rescind such assignment and assume the rights and responsibilities previously assigned to the Master Association.

## ARTICLE V

### PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. MEMBERS' Easement of Enjoyment. Subject to the provisions of Section 3, every MEMBER shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Property. The DEVELOPER may retain the legal title to the Common Property until such time as



he has completed improvements thereon and until such time as, in the opinion of the DEVELOPER, the ASSOCIATION is able to maintain the same. The DEVELOPER may convey or turn over certain items of the Common Property and retain others. Notwithstanding any provision herein to the contrary, the DEVELOPER hereby covenants, for itself, its successors and assigns, that it shall convey all Common Property located within the Property when ninety-five percent (95%) of the Lots within FAIRWAY COVE are owned by MEMBERS.

Section 3. Extent of MEMBERS' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the DEVELOPER and of the ASSOCIATION, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Property and in aid thereof, to mortgage the Common Property, except that the DEVELOPER and the ASSOCIATION shall not have the right to mortgage the streets and easements shown on any recorded subdivision plat. In the event of a default upon any such mortgage the lender shall have a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the MEMBERS and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the ASSOCIATION and all rights of the MEMBERS hereunder shall be fully restored; and

(b) the right of the ASSOCIATION to take such steps as are reasonably necessary to protect the Common Property against foreclosure; and

(c) the right of the ASSOCIATION, as provided in its Articles and By-Laws, to suspend the right of any MEMBER to use any portion of the Common Property for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(d) the right of the ASSOCIATION to charge reasonable admission and other fees for the use of the Common Property; and

(e) the right of the ASSOCIATION to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the MEMBERS, provided, however, that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by MEMBERS entitled to cast two-thirds (2/3) of the votes irrespective of class of membership has

been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every MEMBER at least ninety (90) days in advance of any action taken.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each OWNER of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees to pay to the ASSOCIATION: (1) the Original Assessment; (2) Annual Assessments for Common Expenses; and (3) Special Assessments for Capital Improvements, such Assessments to be fixed, established, and collected from time to time as hereinafter provided. The Original, Annual, Transfer and Special Assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the OWNER of such Lot at the time when the Assessment fell due.

Section 2. Purpose of Assessments. The Assessments levied by the ASSOCIATION shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of properties, services, and facilities which are devoted to the purpose and related to the use and enjoyment of the Common Property and of the homes situated upon the Property, including, but not limited to:

- (a) Payment of operating expenses of the ASSOCIATION;
- (b) Payment of amounts due the Master Association in accordance with Section 8 of this Article VI;
- (c) Improvement and beautification of access ways and easement areas, and the acquisition, maintenance, repair and replacement of directional markers and signs and traffic control devices, and costs of controlling and regulating traffic on the access ways;
- (d) Maintenance, improvement and operation of drainage easements and systems;

(e) Management, maintenance, improvement and beautification of parks, entrance features, lakes, ponds, buffer strips, and recreation areas and facilities;

(f) Garbage collection and trash and rubbish removal but only when and to the extent specifically authorized by the ASSOCIATION;

(g) Repayment of deficits previously incurred by the ASSOCIATION (or the DEVELOPER), if any, in making capital improvements to or upon the Common Property, and/or in furnishing the services and facilities provided herein to or for the OWNERS and the MEMBERS of the ASSOCIATION;

(h) Providing police protection and/or night watchmen, but only when and to the extent specifically authorized by the ASSOCIATION;

(i) Doing any other thing necessary or desirable, in the judgment of the ASSOCIATION, to keep the Property neat and attractive or to preserve or enhance the value of the Property, or to eliminate fire, health or safety hazards, or which, in the judgment of the ASSOCIATION, may be of general benefit to the OWNERS and/or Residents of lands included in the Property;

(j) Repayment of funds and interest thereon, borrowed by the ASSOCIATION; and

(k) Maintenance and repair of easements shown on any recorded subdivision plat.

### Section 3. Original and Annual Assessments.

(a) Original Assessment. The Original Assessment shall be Three Hundred and No/100 Dollars (\$300.00) per Lot to be paid at the time of closing on the purchase of the Lot by the OWNER. The ASSOCIATION may use any part or all of said sum for the purposes set forth in Article VI, Section 2.

(b) Annual Assessment. Until changed by the BOARD in accordance with the terms hereof, the Annual Assessment shall be Two Hundred and No/100 Dollars (\$200.00) per Lot, payable quarterly, in advance, on January 1, April 1, July 1, and October 1 of each year. This Annual Assessment shall be in addition to the above mentioned Original Assessment and shall be prorated in the year of initial purchase of the Lot. The Annual Assessment shall be paid directly to the ASSOCIATION to be held in accordance with the above provisions.

(c) Adjustment to Annual Assessment. Prior to the beginning of each fiscal year, the BOARD shall adopt a budget for

such fiscal year which shall estimate all of the Common Expenses to be incurred by the ASSOCIATION during the fiscal year. The total Common Expenses shall be divided by the number of Lots to establish the Annual Assessment for Common Expenses per Lot. The ASSOCIATION shall then promptly notify all OWNERS in writing of the amount of the Annual Assessment for Common Expenses for each Lot. From time to time during the fiscal year, the BOARD may revise the budget for the fiscal year. Pursuant to the revised budget the BOARD may, upon written notice to the OWNERS, change the amount, frequency and/or due dates of the Annual Assessments for Common Expenses for each Lot. If the expenditure of funds is required by the ASSOCIATION in addition to funds produced by the Annual Assessments for Common Expenses, the BOARD may make Special Assessments for Common Expenses, which shall be levied in the same manner as provided for regular Annual Assessments for Common Expenses and shall be payable in the manner determined by the BOARD as stated in the notice of any Special Assessment for Common Expenses.

Section 4. Special Assessments for Capital Improvements. In addition to the Assessments for Common Expenses authorized by Section 3 hereof, the BOARD may levy in any assessment year a Special Assessment for Capital Improvements, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Property, including the necessary fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of the MEMBERS, other than the DEVELOPER and the votes attributable to the DEVELOPER, who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all MEMBERS at least thirty (30) days in advance and shall set forth the purpose of the meeting. The Special Assessment for Capital Improvements shall be levied against all Lots, including Lots owned by the DEVELOPER and Lots owned by OWNERS who are not MEMBERS.

Section 5. Certificate of Payment. The ASSOCIATION shall upon demand at any time, furnish to any OWNER liable for any Assessment a certificate in writing signed by an officer of the ASSOCIATION, setting forth whether the Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 6. Payment of Assessments for Common Expenses. Each MEMBER shall be required to and shall pay to the ASSOCIATION an amount equal to the Assessment, or installment, for each Lot within the Property then owned by and/or under the jurisdiction of such OWNER on or before the date each Assessment, or installment, is due. In the event any Assessments are made payable in

equal periodic payments as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency as indicated in the notice, unless and/or until: (1) the notice specifically provides that the periodic payments will terminate upon the occurrence of a specified event or the payment of a specified amount; or (2) the ASSOCIATION notifies the OWNER in writing of a change in the amount and/or frequency of the periodic payments. Notwithstanding the foregoing, in no event shall any Assessment payable by any OWNER be due less than ten (10) days from the date of the notification of such Assessment.

Section 7. Assessments for Common Expenses For Lots Owned by the DEVELOPER. Notwithstanding anything contained in this Article V to the contrary, the DEVELOPER shall pay Assessments for any Lots owned by the DEVELOPER in the same manner as all other OWNERS.

Section 8. Monetary Defaults and Collection of Assessments.

(a) Interest. If any OWNER is in default in the payment of any Assessment for more than ten (10) days after same is due, or in the payment of any other monies owed to the ASSOCIATION for a period of more than ten (10) days after written demand by the ASSOCIATION, the ASSOCIATION may charge such OWNER interest at the highest rate permitted by the laws of Florida, on the amount owed to the ASSOCIATION. Such interest shall accrue from the due date of the Assessment, or the monies owed.

(b) Acceleration of Assessments. If any OWNER is in default in the payment of any Assessment or any other monies owed to the ASSOCIATION for more than ten (10) days after written demand by the ASSOCIATION, the ASSOCIATION shall have the right to accelerate and require such defaulting OWNER to pay to the ASSOCIATION Assessments for Common Expenses for the next twelve (12) month period, based upon the then existing amount and frequency of Assessments for Common Expenses. In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular Assessments for Common Expenses, for all Special Assessments, and/or all other Assessments and monies payable to the ASSOCIATION.

(c) Collection. In the event any OWNER fails to pay any Assessment, Special Assessment or other monies due to the ASSOCIATION within ten (10) days after written demand, the ASSOCIATION may take any action deemed necessary in order to collect such Assessments, Special Assessments or monies including, but not limited to, retaining the services of a collection agency or attorney to collect such Assessments, Special Assessments or monies, initiating legal proceedings for the collection of such Assessments, Special Assessments or monies, recording a claim of

lien as hereinafter provided, and foreclosing same in the same fashion as mortgage liens are foreclosed, or any other appropriate action. The OWNER shall be liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION incident to the collection of any Assessment, Special Assessment or other monies owed to it, and the enforcement and/or foreclosure of any lien for same, including, but not limited to, reasonable attorneys' fees, and attorneys' fees and costs incurred on the appeal of any lower court decision, reasonable administrative fees of the DEVELOPER and/or the ASSOCIATION, and all sums paid by the ASSOCIATION for taxes and on account of any mortgage lien and encumbrance in order to preserve and protect the ASSOCIATION's lien. The ASSOCIATION shall have the right to bid in the foreclosure sale of any lien foreclosed by it for the payment of any Assessments, Special Assessments or monies owned to it; and if the ASSOCIATION becomes the OWNER of any Lot by reason of such foreclosure, it shall offer such Lot for sale within a reasonable time and shall deduct from the proceeds of such sale all Assessments, Special Assessments or monies due it. All payments received by the ASSOCIATION on account of any Assessments, Special Assessments or monies owed to it by any OWNER shall be first applied to payments and expenses incurred by the ASSOCIATION, then to interest, then to any unpaid Assessments, Special Assessments or monies owed to the ASSOCIATION in the inverse order that the same were due.

(d) Lien for Assessment, Special Assessment and Monies Owed to ASSOCIATION. The ASSOCIATION shall have a lien on all property owned by an OWNER for any unpaid Assessments (including any Assessments which are accelerated pursuant to this Declaration), Special Assessments or other monies owed to the ASSOCIATION by such OWNER, and for interest, reasonable attorneys' fees incurred by the ASSOCIATION incident to the collection of the Assessments, Special Assessments and other monies, or enforcement of the lien, for reasonable administrative fees incurred by the DEVELOPER and/or the ASSOCIATION, and for all sums advanced and paid by the ASSOCIATION for taxes and on account of superior mortgages, liens or encumbrances in order to protect and preserve the ASSOCIATION's lien. To give public notice of the unpaid Assessment, Special Assessment or other monies owed, the ASSOCIATION may record a claim of lien in the Public Records of Orange County, Florida, stating the description of the Lot(s), and name of the OWNER, the amount then due, and the due dates. The lien is in effect until all sums secured by it (including sums which became due after the recording of the claim of lien) have been fully paid. The claim of lien must be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

(e) Transfer of a Lot after Assessment. The ASSOCIATION's lien shall not be affected by the sale or transfer of any Lot. In the event of any such sale or transfer, both the new OWNER and the prior OWNER shall be jointly and severally liable for all Assessments, Special Assessments, interest, and other costs and expenses owed to the ASSOCIATION which are attributable to any Lot purchased by or transferred to such new OWNER.

(f) Subordination of the Lien to Mortgages. The lien of the ASSOCIATION for Assessments or other monies shall be subordinate and inferior to the lien of any mortgage in favor of an Institutional Lender recorded prior to the recording of a Claim of Lien by the ASSOCIATION. For purposes of this Declaration, "Institutional Lender" shall mean and refer to the DEVELOPER, a bank, savings bank, savings and loan association, insurance company, real estate investment trust, or any other recognized lending institution. If the ASSOCIATION's lien or its rights to any lien for any such Assessments, Special Assessments, interest, expenses or other monies owed to the ASSOCIATION by any OWNER is extinguished by foreclosure of a mortgage held by an Institutional Lender, such sums shall thereafter be Common Expenses, collectible from all OWNERS including such acquirer, and its successors and assigns.

Section 9. Certificate as to Unpaid Assessments or Default. Upon request by any OWNER, or an Institution Lender holding a mortgage encumbering any Lot, the ASSOCIATION shall execute and deliver a written certificate as to whether or not such OWNER is in default with respect to the payment of any Assessments, Special Assessments or any monies owed in accordance with the terms of this Declaration.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Property; and (c) all properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from Assessments, charges or liens.

## ARTICLE VII

### MASTER ASSOCIATION ASSESSMENTS

The ASSOCIATION shall include in its budget each year an amount sufficient to pay all Master Association Annual Assess-

ments for the Common Expenses of the Master Association ("Master Association Annual Assessments") levied by the Master Association against FAIRWAY COVE. The ASSOCIATION shall have the duty to collect assessments it imposes which includes the Master Association Annual Assessments. The Master Association Annual Assessments for the Lots shall be timely remitted to the Master Association.

If the ASSOCIATION has not collected its assessments from a MEMBER(S), it shall notify the Master Association of the name and address of such MEMBER(S). The Master Association shall be entitled to rely upon the information given by the ASSOCIATION regarding delinquencies, and may impose a lien upon such delinquent OWNER's Lot in accordance with the Master Declaration. However, the Master Association may, in its sole discretion, elect to collect Master Association Annual Assessments and other charges directly from any MEMBER in accordance with subsection 7.6 of the Master Declaration.

Section 1. Determination of Master Association Annual Assessments. Prior to the beginning of each fiscal year, the Board of Directors of the Master Association (the "Master Association Board") shall adopt a budget for such fiscal year which shall estimate all of the Common Expenses to be incurred by the Master Association during the fiscal year. The Master Association Board shall then establish the Master Association Annual Assessment for FAIRWAY COVE based on the total Assessed Value of the Lots and Improvements thereon, if any, in FAIRWAY COVE. The total Master Association Common Expenses shall be divided by the total Assessed Value of all portions of the real property within METROWEST, including all residential property, commercial property and institutional properties (so long as the OWNER of a particular institutional property has previously agreed to pay Assessments). The resulting fraction shall be multiplied by the total Assessed Value of the Lots and Improvements thereon, if any, in FAIRWAY COVE to determine the Master Association Annual Assessment for FAIRWAY COVE. The Master Association shall then promptly notify the ASSOCIATION in writing of the amount, frequency, and due dates of the Master Association Annual Assessment for FAIRWAY COVE. From time to time during the fiscal year, the Master Association Board may revise the budget for the fiscal year. Pursuant to the revised budget, the Master Association Board may, upon written notice to the ASSOCIATION, change the amount, frequency and/or due dates of the Master Association Annual Assessments for FAIRWAY COVE. If the expenditure of funds is required by the Master Association in addition to funds produced by the regular Master Association Annual Assessments, the Master Association Board may make Master Association Special Assessments, which shall be levied in the same manner as provided for regular Master Association Annual Assessments and shall be payable in the manner determined by the Master Association Board



as stated in the notice of any Master Association Special Assessment.

Section 2. Payment of Master Association Annual Assessments. The ASSOCIATION shall be required to and shall pay to the Master Association the Master Association Annual Assessment, or installment, for FAIRWAY COVE on or before the date each Master Association Annual Assessment, or installment, is due. In the event any Master Association Annual Assessments are made payable in equal periodic payments as provided in the notice from the Master Association, such periodic payments shall automatically continue to be due and payable in the same amount and frequency as indicated in the notice, unless and/or until: (1) the notice specifically provides that the periodic payments will terminate upon the occurrence of a specified event or the payment of a specified amount; or (2) the Master Association notifies the ASSOCIATION in writing of a change in the amount and/or frequency of the periodic payments. Notwithstanding the foregoing, in no event shall any Master Association Annual Assessment payable by the ASSOCIATION be due less than thirty (30) days from the date of the notification of such Master Association Annual Assessment.

Section 3. Master Association Special Assessments. The Master Association Board may levy Master Association Assessments other than annual operating assessments (referred to as "Master Association Special Assessments") at any time to exercise its responsibilities as provided in the Master Declaration. The Master Association Special Assessment may be levied: in the event that the Master Association Annual Assessment is insufficient to pay the Master Association Common Expenses for the fiscal year; or in the event that the Master Association reserves are insufficient to cover necessary expenditures for Improvements or replacement; or to retire indebtedness incurred to improve the Common Area of METROWEST; or any other purposes that relate to the members of the Master Association. Contrary to the method of collecting Master Association Annual Assessments for Common Expenses, a Master Association Special Assessment shall be collected directly from each OWNER and not from the ASSOCIATION. When the Master Association levies a Master Association Special Assessment, the ASSOCIATION shall assist the Master Association in collecting such Master Association Special Assessment directly from each OWNER. Also a Master Association Special Assessment may be levied by the Master Association against an individual Lot of an OWNER for any violation of the Master Declaration, as authorized in the Master Declaration.

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## ARTICLE VIII

### ARCHITECTURAL REVIEW BOARD

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made 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 Board as hereinafter defined.

Section 1. Composition. The DEVELOPER, upon the recording of this Declaration, shall form a committee known as the "Architectural Review Board", hereinafter referred to as the "ARB", which shall initially consist of three (3) persons. The ARB shall maintain this composition until the first meeting of the MEMBERS of the ASSOCIATION. At such meeting, the ARB shall be appointed by the BOARD and shall serve at the pleasure of the BOARD. Provided, however, that in its selection, the BOARD shall be obligated to appoint the DEVELOPER or his designated representative, to the ARB for so long as the DEVELOPER owns any Lots in the Property. The BOARD shall also be obligated to appoint at least one (1) architect to the ARB and one (1) MEMBER of the ASSOCIATION. Neither the ASSOCIATION, the BOARD, nor the MEMBERS of the ASSOCIATION, shall have the authority to amend or alter the number of members of the ARB which is irrevocably herein set forth as three (3). No decision of the ARB shall be binding without at least a 2/3 affirmative approval by the members.

Section 2. Planning Criteria. The DEVELOPER, in order to give guidelines to the OWNERS concerning construction and maintenance of Lots and Improvements, hereby promulgates the ARCHITECTURAL REVIEW BOARD PLANNING CRITERIA ("Planning Criteria") for the Property, set forth as Section 4 of this Article VIII. The DEVELOPER declares that the Property, and additions thereto, shall be held, transferred, sold, conveyed and occupied subject to the Planning Criteria, as amended from time to time by the ARB.

Section 3. Duties. The ARB shall have the following duties and powers:

(a) to amend from time to time the Planning Criteria. Any amendments shall be set forth in writing, shall be made known to all MEMBERS and shall be recorded in the Public Records of Orange County, Florida. Any amendment shall include any and all matters considered appropriate by the ARB not inconsistent with the provisions of this Declaration;

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(b) to approve all buildings, fences, walls 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 ARB shall be furnished plans and specifications showing the nature, type, shape, height, materials, and location of the same and shall approve in writing as to the harmony of the external design and location in relation to surrounding structures and topography;

(c) to approve any such building plans and specifications and Lot grading and landscaping plans, and the conclusion and opinion of the ARB shall be binding, if in its opinion, for any reason, including purely aesthetic reasons, the ARB should determine that said improvement, alteration, etc. is not consistent with the planned development of the Property;

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

(e) The BOARD may, at any time hereafter, assign all duties, responsibilities and powers of the ARB to the Board of Directors of the Master Association and thereafter, upon written notification to all OWNERS, the DRB of the Master Association shall assume all duties, responsibilities and powers of the ARB.

(f) If at any time hereafter, the Board of Directors of the Master Association believes, in its sole discretion, that the ARB is not properly carrying out its duties, the Board of Directors of the Master Association, upon written notice to the BOARD and the OWNERS, may assume all duties and responsibilities of the ARB and assign such duties and responsibilities to the DRB of the Master Association. The BOARD may thereafter petition the Board of Directors of the Master Association to reassume such duties and responsibilities and if granted by the Board of Directors of the Master Association, the ARB shall have the powers and duties set forth herein.

#### Section 4. Architectural Review Board Planning Criteria.

(a) Building Type. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family residence of not less than 2,200 square feet of heatable living area, not to exceed 35 feet in height, a private and closed garage for not less than two nor more than four cars, and storage room or tool room attached to the ground floor of such garage. Unless approved by the ARB as to use, location and architectural design, no garage, tool or storage room may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior

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to the main residence. No guest house is to be constructed on any Lot unless the location, use and architectural design is approved by the ARB.

(b) Layout. No foundation for an Improvement can be poured until the layout for the Improvement is approved by the ARB. It is the purpose of this approval to assure that no trees are disturbed and that the Improvement is placed on the Lot in its most advantageous position.

(1) Front yards shall not be less than 25 feet in depth measured from the front property line to the front of the Improvement.

(2) Rear yards shall not be less than 25 feet in depth measured from the rear property line to the rear of the Improvement, exclusive of pool or patio.

(3) Side yards shall be provided on each side of the Improvement of not less than 7.5 feet from side Lot lines, except on a corner Lot, where setbacks from all streets or roads shall be a minimum of 15 feet on the side.

(c) Exterior Color Plan. The ARB shall have final approval of all exterior color plan and each builder must submit to the ARB a color plan showing the color of the roof, exterior walls, shutters, trim, etc.

(d) Roofs. All roofs shall have a pitch of at least 6/12. Flat roofs shall not be permitted unless approved by the ARB. Such areas where flat roofs may be permitted are Florida rooms, porches and patios. There shall be no flat roofs on the entire main body of an Improvement. The ARB shall have discretion to approve such roofs on part of the main body of an Improvement, particularly if modern or contemporary in design. No built up roofs shall be permitted, except on approved flat surfaces.

The composition of all pitched roofs shall be architectural shingle with a weight of at least 240 pounds, or other composition approved by the ARB.

(e) Garages. In addition to the requirements stated in paragraph one, all garages must have a minimum width of twenty-two (22) feet for a two car garage; thirty-three (33) feet for a three car garage; or forty-four (44) feet for a four car garage, measured from inside walls of garage. All garages must have either a single overhead door with a minimum door width of sixteen (16) feet for a two car garage or two (2) sixteen (16) foot doors for a four car garage, or two (2), three (3), or four (4) individual overhead doors, each a minimum of eight (8) feet in

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width, and a service door, if feasible, said service door facing to either the side or the rear of the Lot. No carports will be permitted.

(f) Driveway Construction. All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. Unless prior approval is obtained from the ARB, all driveways must be constructed of concrete. When curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be acceptable to the ARB.

(g) Dwelling Quality. The ARB shall have final approval of all exterior building materials. Eight inch (8") concrete block shall not be permitted on the exterior of any house or detached structure. The ARB shall discourage the use of imitation brick and encourage the use of materials such as brick, stone, wood and stucco, or a combination of the foregoing.

(h) Walls, Fences and Shelters. No wall or fence shall be constructed with a height of more than six (6) feet above the ground level of an adjoining Lot, and no hedge or shrubbery abutting the Lot boundary line shall be permitted with a height of more than six (6) feet without the prior written approval of the ARB. No wall or fence shall be constructed on any Lot until its height, location, design, type, composition and material shall have first been approved in writing by the ARB. The height of any wall or fence shall be measured from the existing property elevations. Wood and chain link fences will not be permitted. Any dispute as to height, length, type, design, composition or material shall be resolved by the BOARD, whose decision shall be final. Hurricane or storm shutters may be used on a temporary basis, but shall not be stored on the exterior of any Improvement unless approved by the ARB.

(i) Lighting. All exterior lighting of a Lot shall be accomplished in accordance with a lighting plan approved in writing by the ARB.

(j) Swimming Pools and Tennis Courts. Any swimming pool or tennis court to be constructed on any Lot shall be subject to requirements of the ARB, which include, but are not limited to, the following:

(1) Composition of the tennis court to be of material thoroughly tested and accepted by the industry for such construction.

(2) There shall be no lights on a tennis court(s) of the type that would normally be used for tennis play after dark. All other lighting around a tennis court(s) shall be so

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placed and directed that it does not unreasonably interfere with any neighbors' quiet enjoyment of their Lot.

(3) The outside edge of any pool wall may not be closer than four (4) feet to a line extended and aligned with the side walls of the Improvement.

(4) No screening of pool area may stand beyond a line extended and aligned with the side walls of the Improvement unless approved by the ARB.

(5) Pool screening may not be visible from the street in front of the Improvement.

(6) Location and construction materials of tennis court(s) to be approved by ARB.

(k) Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently.

(l) Removal of Trees. In reviewing the building plans, the ARB shall take into account the natural landscaping such as trees, shrubs, palmettos, and encourage the builder to incorporate them in his landscaping plan. No trees of six inches in diameter at one foot above natural grade can be cut or removed without approval of the ARB, which approval may be given when such removal is necessary for the construction of an Improvement.

(m) Landscaping. A landscaping plan for each Lot must be submitted to and approved by the ARB. Unless extenuating circumstances can be demonstrated to the ARB, the ARB will not approve any landscaping plan that does not show a minimum expenditure of Three Thousand and No/100 Dollars (\$3,000.00) exclusive of irrigation system and sodding. Sodding must be improved bitter blue Floratam St. Augustine grass and will be required on all yards. Sodding on side yards will extend to the rear of the property line and the width will be the same as the side setback of the house. Each Improvement must have shrubs on front and side yards. Each Improvement shall be required to have the front and side yards irrigated by a sprinkler system approved by the ARB.

(n) Air Conditioning and Heating Equipment. All air conditioning and heating units shall be shielded and hidden so that they shall not be readily visible from any adjacent Street or Lot. Wall air conditioning units may be permitted only upon the prior written approval of the ARB. No window air conditioning units shall be permitted.

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(o) Mailboxes. No mailbox or paperbox or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected on any Lot unless and until the size, location, design and type of material for said boxes or receptacles shall have been approved by the ARB. If and when the United States mail service or the newspaper or newspapers involved shall indicate a willingness to make delivery to wall receptacles attached to the Improvement, each OWNER, on the request of the ARB, shall replace the boxes or receptacles previously employed for such purpose or purposes with wall receptacles attached to the Improvement.

(p) Windows. No casement windows shall be permitted.

(q) Land Near Parks and Water Courses. No building shall be placed nor shall any material or refuse be placed or stored on any Lot within 20 feet of the property line of any park or edge of any open water course, except that clean fill may be placed nearer provided that the natural water course is not altered or blocked by such fill. Notwithstanding the above, the location of any improvement on a Lot is also subject to all appropriate governmental regulations.

(r) Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in case of a rounded property corner from the intersection of the property lines extended. The same sight line limitations shall apply on any Lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(s) Utility Connections. All connections for all utilities including, but not limited to, water, sewerage, electricity, gas, telephone and television shall be run underground from the proper connecting points to the Improvement in such manner to be acceptable to the governing utility authority.

## ARTICLE IX

### ENFORCEMENT OF NONMONETARY DEFAULTS

Section 1. Nonmonetary Defaults. In the event of a violation by any MEMBER or OWNER (other than the nonpayment of any Assessment, Special Assessment or other monies) of any of the

provisions of this Declaration (including the Planning Criteria), or the Governing Documents, the ASSOCIATION shall notify the MEMBER or OWNER of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after the receipt of such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the MEMBER or OWNER fails to commence and diligently proceed to completely cure as soon as practical, the ASSOCIATION may, at its option:

(a) Specific Performance. Commence an action to enforce the performance on the part of the MEMBER or OWNER, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

(b) Damages. Commence an action to recover damages; and/or

(c) Corrective Action. Take any and all action reasonably necessary to correct such violation, which action may include, but is not limited to, removing any building or Improvement for which architectural approval has not been obtained, or performing any maintenance required to be performed by this Declaration, including the right to enter upon the Lot to make such corrections or modifications as are necessary, or remove anything in violation of the provisions of this Declaration or the Planning Criteria.

(d) Expenses. All expenses incurred by the ASSOCIATION in connection with the correction of any violation, or the commencement of any action against any OWNER, including administrative fees and costs and reasonable attorneys' fees and costs, and attorneys' fees and costs incurred on the appeal of any lower court decision, shall be a Special Assessment assessed against the applicable OWNER, and shall be due upon written demand by the ASSOCIATION and collectible as any other Special Assessment under this Article or Article VI.

Section 2. No Waiver. The failure of the ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by this Declaration or the Governing Documents shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provisions, covenant or condition in the future.

Section 3. Rights Cumulative. All rights, remedies and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this Declaration or the Governing Documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION thus exercising the same from executing such additional remedies,



rights or privileges as may be granted or as it might have by law.

Section 4. Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration may be enforced by the DEVELOPER, or the ASSOCIATION, by any procedure at law or in equity against any Person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the Person against whom enforcement is sought, provided such proceeding results in a finding that such Person was in violation of this Declaration. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this Declaration against any Person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any Person. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees and costs, including reasonable attorneys' fees and costs incurred on the appeal of any lower court decision.

Section 5. Certificate as to Default. Upon request by any MEMBER, or OWNER, or an Institution Lender holding a mortgage encumbering any Lot, the ASSOCIATION shall execute and deliver a written certificate as to whether or not such MEMBER or OWNER is in default with respect to compliance with the terms and provisions of this Declaration.

Section 6. Enforcement by the Master Association. In the event the ASSOCIATION should fail or refuse to properly exercise its responsibility with respect to any matter (as determined by the Master Association, in its sole discretion), the Master Association may have, and may exercise, the ASSOCIATION's right of approval, disapproval or enforcement as to the matter.

## ARTICLE X

### INDEMNIFICATION

Section 1. Indemnification of Officers, Members of the BOARD or Agents. The ASSOCIATION shall indemnify any Person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a member of the BOARD, employee, Officer or agent of the ASSOCIATION or the Master Association, against expenses (including attorneys' fees and appellate attor-

neys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION and/or the Master Association; and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful; or matter as to which such Person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the ASSOCIATION and/or the Master Association unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such Person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the ASSOCIATION and/or the Master Association; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

(a) To the extent that a member of the BOARD, Officer, employee or agent of the ASSOCIATION or the Master Association is entitled to indemnification by the ASSOCIATION in accordance with this Article VIII, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

(b) Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the ASSOCIATION in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member of the BOARD, Officer, employee or agent of the ASSOCIATION or the Master Association to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the ASSOCIATION as authorized in this Article.

(c) The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of MEMBERS or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the BOARD, Officer, employee or agent of the ASSOCIATION or the Master Association shall inure to the benefit of the heirs, executors and administrators of such a Person.

(d) The ASSOCIATION shall have the power to purchase and maintain insurance on behalf of any Person who is or was a member of the BOARD, Officer, employee or agent of the ASSOCIATION or the Master Association, or is or was serving at the request of the ASSOCIATION as a member of the BOARD, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether or not the ASSOCIATION would have the power to indemnify him against such liability under the provisions of this Article.

## ARTICLE XI

### RESTRICTIVE COVENANTS

The Property shall be subject to the following Restrictions, reservations and conditions, which shall be binding upon the DEVELOPER and upon each and every OWNER who shall acquire hereafter a Lot or any portion of the Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns.

Section 1. Mining or Drilling. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise undertaken within any portion of the Property. Excepted from the foregoing shall be activities of the DEVELOPER or the ASSOCIATION, or any assignee of the DEVELOPER or the ASSOCIATION, in dredging the water areas, creating land areas from water areas or creating, excavating or maintaining drainage or other facilities or easements, the installation of wells or pumps in compliance with applicable governmental requirements, or for sprinkler systems for any portions of the Property.

Section 2. Clothes Drying Areas. No portion of the Property shall be used as a drying or hanging area for laundry of any kind unless approved in writing by the DEVELOPER or the ASSOCIATION.

Section 3. Antennas, Aerials, Discs and Flagpoles. No outside antennas, antenna poles, antenna masts, satellite television reception devices, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved in writing by the ASSOCIATION. A flagpole for display of the American flag or any other flag shall be permitted only if first approved in writing by the ASSOCIATION, both as to its design, height, location and type of flag. No flagpole shall be used as an antenna.

Section 4. Games and Play Structures. All basketball backboards and any other fixed games and play structures shall be

located at the side or rear of the Improvement, or on the inside portion of the corner lots within the set back lines. Treehouse or platforms of a like kind or nature shall not be constructed on any part of the Lot located in front of the rear line of the Improvement constructed thereon.

Section 5. Litter. In order to preserve the beauty of the Property, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept upon any part of the Property except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the ASSOCIATION. All containers, dumpsters and other garbage collection facilities shall be screened, to the extent reasonable under the circumstances, from view from outside the Lot upon which same are located and kept in a clean condition with no noxious or offensive odors emanating therefrom.

Section 6. Subdivision or Partition. No portion of the Property shall be subdivided except with the DEVELOPER's prior written consent. After the DEVELOPER no longer owns any portion of the Property, written consent must be obtained from the ASSOCIATION.

Section 7. Casualty Destruction to Improvements. In the event an Improvement is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, the OWNER thereof shall either commence to rebuild or repair the damaged Improvement and diligently continue such rebuilding or repairing activities to completion or, upon a determination by the OWNER that the Improvement will not be repaired or replaced promptly, shall clear the damaged Improvement and grass over and landscape such Lot in a sightly manner consistent with the DEVELOPER's plan for beautification of the Property. A destroyed Improvement shall only be replaced with an Improvement of an identical size, type and elevation as that destroyed unless the prior written consent of the ARB is obtained.

Section 8. Common Property. Nothing shall be stored, constructed within or removed from the Common Property other than by the DEVELOPER, except with the prior written approval of the BOARD.

Section 9. Insurance Rates. Nothing shall be done or kept on the Common Property which shall increase the insurance rates of the ASSOCIATION without the prior written consent of the BOARD.

Section 10. Drainage Areas.

(a) No structure of any kind shall be constructed or erected, nor shall an OWNER in any way change, alter, impede,

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revise or otherwise interfere with the flow and the volume of water in any portion of any drainage areas without the prior written permission of the ASSOCIATION.

(b) An OWNER shall in no way deny or prevent ingress and egress by the DEVELOPER or the ASSOCIATION to any drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of the DEVELOPER, the ASSOCIATION, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(c) No Parcel shall be increased in size by filling in any drainage areas on which it abuts. No OWNER shall fill, dike, rip-rap, block, divert or change the established drainage areas that have been or may be created by easement without the prior written consent of the ASSOCIATION or the DEVELOPER.

(d) Any wall, fence, paving, planting or other improvement which is placed by an OWNER within a drainage area or drainage easement including, but not limited to, easements for maintenance or ingress and egress access, shall be removed, if required by the ASSOCIATION, the cost of which shall be paid for by such OWNER as a Special Assessment.

Section 11. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept within the Property, other than household pets provided they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any other OWNER. No pet shall be allowed outside a Lot except on a leash. No pets shall be permitted to place or have excretions on any portion of the Property other than the Lot of the owner of the pet unless the owner of the pet physically removes any such excretions from that portion of the Property. For purposes hereof, "household pets" shall mean dogs, cats, domestic birds and fish. Pets shall also be subject to applicable Rules and Regulations of the ASSOCIATION and their owners shall be held accountable for their actions.

Commercial activities involving pets shall not be allowed. The ASSOCIATION or the DEVELOPER may establish limits on the number and kind of pets that may be kept or permitted to be kept on any Lot.

Section 12. Signs. No signs, including "for sale" or "for rent", freestanding or otherwise installed, shall be erected or displayed to the public view on any Lot. Notwithstanding the foregoing, the DEVELOPER specifically reserves the right for itself, its successors, nominees and assigns and the ASSOCIATION to place and maintain signs in connection with construction,

marketing, sales and rental of Lots and identifying or informational signs anywhere on the Property. After the sale of the Improvement by the builder who constructed it, no "for sale" or "for rent" signs of any kind shall be displayed to the public view on any Lot for whatever purpose, including the resale of the Lot by the then OWNER.

Section 13. Garbage Containers, Oil and Gas Tanks, Pool Equipment, Outdoor Equipment. All garbage and trash containers, oil tanks, bottled gas tanks, and swimming pool equipment and housing must be underground or placed in walled-in areas or landscaped areas so that they are not visible from any adjoining Lot or any Street. Adequate landscaping shall be installed and maintained by the OWNER. No Lot shall be used or maintained as a dumping grounds for rubbish, trash or other waste. There shall be no burning of trash or any other waste material, except within the confines of an incinerator, the design and location of which shall be approved by the ARB.

Section 14. Solar Collectors. Solar collectors shall not be permitted without the prior written consent of the ARB. Any approval of the ARB shall require that the solar collectors be so located on the Lot that they are not visible from any Street and that their visibility from surrounding Lots is restricted.

Section 15. Maintenance of the Property. In order to maintain the standards of FAIRWAY COVE, no weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any portion of the Property, and no refuse or unsightly objects shall be allowed to be placed or permitted to remain anywhere thereon. All Improvements shall be maintained in their original condition as approved by the ARB. All lawns, landscaping and sprinkler systems shall be kept in a good, clean, neat and attractive condition. If an OWNER has failed to maintain a Lot as aforesaid to the satisfaction of the DEVELOPER, the ASSOCIATION, the ARB, or the Master Association, the DEVELOPER, the ASSOCIATION and/or the Master Association shall give such OWNER written notice of the defects (which written notice does not have to be given in the case of emergency, in which event, the DEVELOPER, the ASSOCIATION and/or the Master Association may without any prior notice directly remedy the problem). Upon the OWNER's failure to make such improvements or corrections as may be necessary within fifteen (15) days of mailing of written notice, the DEVELOPER, the ASSOCIATION or the Master Association may enter upon such property and make such improvements or correction as may be necessary, the cost of which may be paid initially by the ASSOCIATION or the Master Association. If the OWNER fails to reimburse the ASSOCIATION or the Master Association (as the case may be) for any payment advanced, plus administrative and legal costs and fees, plus interest on all such amounts at the highest interest rate allowed by the laws of Florida, within fifteen (15)

days after requested to do so by the ASSOCIATION or the Master Association, the ASSOCIATION or the Master Association shall levy a Special Assessment against the Lot as provided in Article VI. Such entry by the DEVELOPER or the ASSOCIATION or the Master Association or its agents shall not be a trespass.

Section 16. Vehicles and Recreational Equipment. No truck or commercial vehicle, or mobile home, motor home, house trailer or camper, boat, boat trailer or other recreational vehicle or equipment, horse trailers or vans, or the like, including disabled vehicles, shall be permitted to be parked or to be stored at any place on any portion of the Property unless they are parked within a garage, or unless the DEVELOPER has specifically designated certain spaces for some or all of the above. This prohibition on parking shall not apply to temporary parking of trucks and commercial vehicles used for pick-up, delivery and repair and maintenance of a Lot, nor to any vehicles of the DEVELOPER. No on-street parking shall be permitted unless for special events approved in writing by the DEVELOPER or the ASSOCIATION.

Any such vehicle or recreational equipment parked in violation of these or other regulations contained herein or in the Rules and Regulations adopted by the ASSOCIATION and/or the Master Association may be towed by the ASSOCIATION and/or the Master Association at the sole expense of the owner of such vehicle or recreational equipment if it remains in violation for a period of twenty-four (24) consecutive hours or for forty-eight (48) nonconsecutive hours in any seven (7) day period. Neither the ASSOCIATION nor the Master Association shall be liable to the owner of such vehicle or recreational equipment for trespass, conversion or otherwise, nor guilty of any criminal act by reason of such towing and neither its removal or failure of the owner of such vehicle or recreational equipment to receive any notice of said violation shall be grounds for relief of any kind.

Section 17. Repairs. No maintenance or repairs shall be performed on any vehicles upon any portion of the Property except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the Property must be completed within two (2) hours from its immobilization or the vehicle must be removed.

Section 18. Prohibited Structures. No structure of a temporary character including, but not limited to, trailer, tent, shack, shed, barn, tree house or out building shall be parked or erected on the Property at any time without the express written permission of the ARB.

Section 19. Underground Utility Lines. All electric, telephone, gas and other utility lines must be installed underground.

Section 20. Nuisances. No obnoxious, unpleasant, unsightly or offensive activity shall be carried on, nor may anything be done, which can be reasonably construed to constitute a nuisance, public or private in nature. Any questions with regard to the interpretation of this section shall be decided by the BOARD, whose decision shall be final.

Section 21. Compliance with Documents. Each OWNER (including each Resident) and his family members, guests, invitees; lessees and their family members, guests, and invitees; and his or its tenants, licensees, guests, invitees and sub-tenants shall be bound and abide by this Declaration. The conduct of the foregoing parties shall be considered to be the conduct of the OWNER responsible for, or connected in any manner with, such individual's presence within FAIRWAY COVE. Such OWNER shall be liable to the ASSOCIATION for the cost of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness, or by that of any other of the foregoing parties (but only to the extent that such expense is not met by the proceeds of insurance carried by the ASSOCIATION) which shall be paid for by the OWNER as a Special Assessment as provided in Article VI. Failure of an OWNER to notify any Person of the existence of the covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right to enforcement of these provisions against the OWNER or such other Person.

Section 22. Exculpation of the DEVELOPER, the BOARD, the ASSOCIATION and the Master Association. The DEVELOPER, the BOARD, the ASSOCIATION and the Master Association may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without liability of any nature to the OWNER or any other Person for any reason whatsoever, and any permission or approval granted shall be binding upon all Persons.

Section 23. Other Restrictions. The ARB shall have the authority, as hereinabove expressed, from time to time to include within its promulgated residential planning criteria other restrictions as it shall deem appropriate. Said restrictions shall be governed in accordance with the criteria hereinabove set forth for residential planning criteria promulgated by the ARB. However, once the ARB promulgates certain restrictions, same shall become as binding and shall be given the same force and effect as the restrictions set forth herein until the ARB modifies, changes or promulgates new restrictions or the ASSOCIATION or the Master Association modifies or changes restrictions set forth by the ARB.



Section 24. No Implied Waiver. The failure of the ASSOCIATION or the DEVELOPER to object to an OWNER's or other party's failure to comply with these Covenants or any other Governing Documents (including any Rules and Regulations promulgated) shall in no event be deemed a waiver by the DEVELOPER or the ASSOCIATION or the Master Association, or any other Person having an interest therein, of that OWNER's or other party's requirement and obligation to abide by these Covenants.

Section 25. Imposition of Fines for Violations. It is acknowledged and agreed among all OWNERS that a violation of any of the provisions of this Article XI by an OWNER or Resident may impose irreparable harm to the other OWNERS or Residents. All OWNERS agree that a fine not to exceed One Hundred and No/100 Dollars (\$100.00) per day may be imposed by the DEVELOPER or ASSOCIATION or the Master Association for each day a violation continues after notification by the DEVELOPER or the ASSOCIATION or the Master Association. All fines collected shall be used for the benefit of the ASSOCIATION. Any fine levied shall be paid within fifteen (15) days after mailing of notice of the fine. If not paid within said fifteen (15) days the amount of such fine shall accrue interest at the highest interest rate allowed by the laws of Florida, and shall be treated as a Special Assessment as provided in Article VI.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

Section 1. Assignment of Rights and Duties to ASSOCIATION. The DEVELOPER may at any time assign and delegate to the ASSOCIATION all or any portion of the DEVELOPER's rights, title, interest, duties or obligations created by this Declaration. It is understood that the ASSOCIATION has been formed as a property owners association in order to effectuate the intent of the DEVELOPER for the proper development, operation and management of the Property. Wherever herein the DEVELOPER or the ASSOCIATION, or both, are given the right, the duty or the obligation to approve, enforce, waive, collect, sue, demand, give notice or take any other action or grant any relief or perform any task, such action may be taken by the DEVELOPER or the ASSOCIATION or the Master Association until such time as the DEVELOPER has recorded a Certificate of Termination of Interest in the Property. Thereafter, all rights, duties and obligations of the DEVELOPER shall be administered solely by the ASSOCIATION and/or the Master Association in accordance with procedures set forth herein, in the Governing Documents and in the Master Declaration.

Section 2. Certificate of Termination of Interest in FAIRWAY COVE. Notwithstanding anything in this Declaration, the Articles of Incorporation or the Bylaws to the contrary, the DEVELOPER

may, in its sole discretion and at any time hereafter, elect to give up and terminate any and all rights reserved to the DEVELOPER in this Declaration, the Articles of Incorporation and the Bylaws. The rights relinquished shall include, but not be limited to, (1) the right to appoint any member of the BOARD; (2) the right to amend this Declaration, the Articles of Incorporation or the Bylaws; (3) the right to require its approval of any proposed amendment to this Declaration, the Articles of Incorporation or the Bylaws; and (4) all veto powers set forth in this Declaration. Such election shall be evidenced by the execution by the DEVELOPER and the recording in the Public Records of Orange County, Florida, of an instrument entitled Certificate of Termination of Interest in FAIRWAY COVE. Immediately upon the recording of such Certificate, and so long as the DEVELOPER does own at least one (1) Lot, the DEVELOPER shall become a MEMBER with no more rights or obligations in regards to FAIRWAY COVE than those of any other OWNER of a Lot. The number of votes attributable to the DEVELOPER shall be calculated in accordance with the Governing Documents in the same manner as the number of votes would be calculated for any other OWNER.

Section 3. Waiver. The failure of the DEVELOPER or the ASSOCIATION to insist upon the strict performance of any provision of this Declaration shall not be deemed to be a waiver of such provision unless the DEVELOPER or the ASSOCIATION has executed a written waiver of the provision. Any such written waiver of any provision of this Declaration by the DEVELOPER or the ASSOCIATION may be canceled or withdrawn at any time by the party giving the waiver.

Section 4. Covenants to Run with the Title to the Land. This Declaration and the Covenants, as amended and supplemented from time to time as herein provided, shall be deemed to run with the title to the land, and shall remain in full force and effect until terminated in accordance with the provisions set out herein.

Section 5. Term of this Declaration. All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their successors, heirs or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of this Declaration, unless within such time, one hundred percent (100%) of the MEMBERS of the ASSOCIATION execute a written instrument declaring a termination of this Declaration and the MEMBERS establish a method of taking care of the Common Property which is acceptable to the City of Orlando. After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods of ten (10) years each, until a majority of

the votes of the entire membership of the ASSOCIATION execute a written instrument declaring a termination of this Declaration and such termination is approved by the City of Orlando. Any termination of this Declaration shall be effective on the date the instrument of termination is recorded in the Public Records of Orange County, Florida, provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by the DEVELOPER so long as the DEVELOPER owns any portion of the Property.

Section 6. Amendments of this Declaration. Until the DEVELOPER no longer owns any portion of the Property, including any portion of the Property owned by the DEVELOPER as a result of any reconveyance of such portion of the Property, or until the date when the DEVELOPER records a Certificate of Termination of Interest in FAIRWAY COVE, whichever shall first occur, the DEVELOPER may amend this Declaration by the recordation of an amendatory instrument in the Public Records of Orange County, Florida, executed by the DEVELOPER only. This Declaration may also be amended at any time upon the approval of at least two-thirds (2/3) of the members of the BOARD as evidenced by the recordation of an amendatory instrument executed by the President and Secretary of the ASSOCIATION; provided, however, that so long as the DEVELOPER owns any portion of the Property and has not recorded the Certificate of Termination, no amendment shall be effective without the DEVELOPER's express written joinder and consent.

No amendment to this Declaration shall be effective without the Master Association's express written joinder and consent.

Section 7. Disputes. In the event there is any dispute as to the interpretation of this Declaration or whether the use of the Property or any portion thereof complies with this Declaration, such dispute shall be referred to the BOARD. A determination by the BOARD with respect to any dispute shall be final and binding on all parties concerned. However, any use by the DEVELOPER and its successors, nominees and assigns of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a determination to the contrary by the BOARD.

Section 8. Governing Law. The construction, validity and enforcement of this Declaration shall be determined according to the laws of the State of Florida. The venue of any action or suit brought in connection with this Declaration shall be in Orange County, Florida.

Section 9. Invalidation. The invalidation of any provision or provisions of this Declaration by lawful court order shall not affect or modify any of the other provisions of this Declaration, which other provisions shall remain in full force and effect.

Section 10. Usage. Whenever used herein, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

Section 11. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the ASSOCIATION and the Articles of Incorporation shall take precedence over the Bylaws.

Section 12. Notice. Any notice required to be sent to any MEMBER or OWNER under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as MEMBER or OWNER on the records of the ASSOCIATION at the time of such mailing.

IN WITNESS WHEREOF, the DEVELOPER, DEBRA, INC., has caused this instrument to be executed in its name as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

DEBRA, INC.

Barbara J. Coad

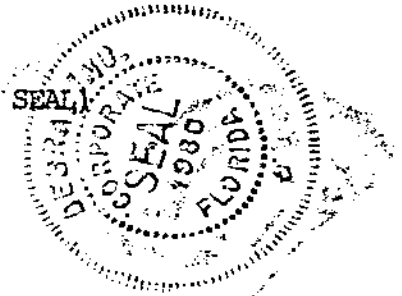
By: Aaron H. Dowd  
Aaron H. Dowd, Vice President

Carole D. Mitchell

Attest:

J. Lindsay Builder, Jr.  
J. Lindsay Builder, Jr.,  
Assistant Secretary

(CORPORATE SEAL)



OR3978 PG0475

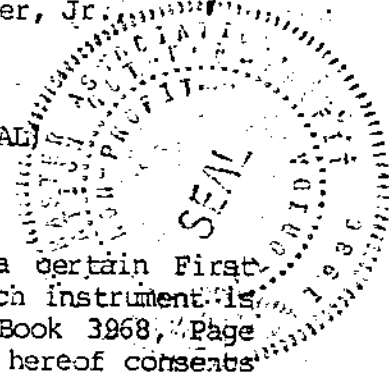
The METROWEST MASTER ASSOCIATION, INC., causes this DECLARATION to be executed in its name to acknowledge its approval of and agreement to the terms, conditions, covenants and restrictions set forth herein.

METROWEST MASTER ASSOCIATION, INC.

By: *Aaron H. Dowd*  
Aaron H. Dowd, President

Attest: *J. Lindsay Builder, Jr.*  
J. Lindsay Builder, Jr.  
Secretary

(CORPORATE SEAL)



CENTRAL NATIONAL BANK OF WINTER PARK, the holder of a certain First Mortgage and Security Agreement encumbering the Property, which instrument is dated March 25, 1988, and is recorded in Official Records Book 3968, Page 1284, Public Records of Orange County, Florida, by execution hereof consents to the placing of these covenants and restrictions on the Property and further covenants and agrees that the lien of the Mortgage shall be and stand subordinate to such covenants and restrictions as if said covenants and restrictions had been executed and recorded prior to the recording of the Mortgage.

Signed, sealed and delivered  
in the presence of:

*Artie J. Haskins Jr.*  
*J. Lindsay Builder, Jr.*

CENTRAL NATIONAL BANK OF WINTER PARK

By: *[Signature]*

(CORPORATE SEAL)

OR3978 PG0476

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of April, 1988, by AARON H. DOWD and J. LINDSAY BUILDER, JR., as Vice President and Assistant Secretary, respectively, of DEBRA, INC., a Florida corporation, on behalf of the corporation.

*Donald Mitchell*  
NOTARY PUBLIC

My Commission Expires:

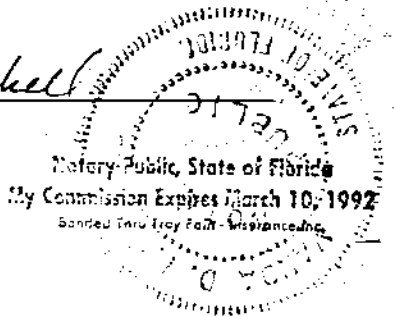


STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of April, 1988, by AARON H. DOWD and J. LINDSAY BUILDER, JR., as President and Secretary, respectively, of METROWEST MASTER ASSOCIATION, INC., a Florida corporation, on behalf of the corporation.

*Donald Mitchell*  
NOTARY PUBLIC

My Commission Expires:

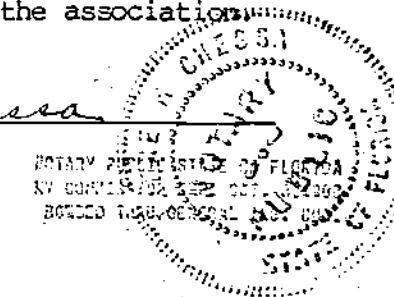


STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of April, 1988, by Dick D. Mahaffey, Jr., as President of CENTRAL NATIONAL BANK OF WINTER PARK, a national banking association, on behalf of the association.

*Mese M Chessa*  
NOTARY PUBLIC

My Commission Expires:



OR3978 PG0477

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