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DECLARATION OF MASTER COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
DEBARY PLANTATION

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BOOK PAGE
3417 0703
VOLUSIA CO., FL

DECLARATION OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS
OF
DEBARY PLANTATION

TABLE OF CONTENTS

ARTICLE I

DEFINITIONS 2

ARTICLE II

PROPERTY SUBJECT TO DECLARATION 4

2.01 Declaration 4

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS 5

3.01 Membership..... 5

3.02 Voting Rights 6

a. Class "A" 6

b. Class "B" 6

c. Class "C" 6

d. Class "D" 7

3.03 Voting Members 7

3.04 Change of Membership 7

3.05 Declarant Rights in Association 8

3.06 Veto 9

3.07 Membership in Association not in Country Club. 10

ARTICLE IV

ASSESSMENTS 11

4.01 Creation of Lien and Personal Obligations for Assessments 11

4.02 Purpose of Annual Assessment 11

4.03 Computation of Annual Assessment 12

4.04 Maximum Annual Assessment 12

4.05 Special Assessment 13

4.06 Date of Commencement of Annual Assessment;
Due Dates 13

4.07 Effect of Non-Payment of Assessment 13

4.08 Subordination of the Lien to First Mortgages . 14

4.09 Effect on Declarant 14

BOOK PAGE
3417 0704
VOLUSIA CO., FL

ARTICLE V

INSURANCE AND CASUALTY LOSSES	15
5.01 Association Insurance	15
5.02 Reconstruction/Site Clearance	17
5.03 Disbursements of Proceeds	17
5.04 Damage and Destruction	18
5.05 Repair and Reconstruction	18

ARTICLE VI

NO PARTITION	19
--------------------	----

ARTICLE VII

CONDEMNATION	19
--------------------	----

ARTICLE VIII

ADDITIONS TO PROPERTIES	20
8.01 Addition Without Approval of Membership	20
8.02 Addition With Approval of Membership	20
8.03 Use Restriction in Addition Property	21
8.04 Additional Common Area	21
8.05 Withdrawal of Property Without Consent	21
8.06 Amendment	21

ARTICLE IX

FUNCTION OF MASTER ASSOCIATION	21
9.01 Common Area and Rights-of-Way	21
9.02 Lakes and Water System	22
9.03 Management Agreements	22
9.04 Personal Property and Real Property for Common Use	22
9.05 Rules and Regulations	22
9.06 Guards	23

ARTICLE X

MAINTENANCE	23
10.01 Association's Responsibility	23
10.02 Owner's Responsibility	23

TSH06
XTJI301-A

BOOK PAGE
3417 0705
VOLUSIA CO.,FL

ARTICLE XI

PROPERTY RIGHTS 23

11.01 Easement of Enjoyment to Common Area..... 23

11.02 Limitation on Access to Golf Course
Property24

ARTICLE XII

EASEMENTS 24

12.01 Appurtenant Easements 24

12.02 Utility Easements 24

12.03 Declarant Easements 25

12.04 Drainage Easements 25

12.05 Golf and Recreation Easements 25

12.06 Extent of Easements 26

12.07 Discharge into Water Bodies 27

ARTICLE XIII

ARCHITECTURAL STANDARDS 27

13.01 New Construction 28

13.02 Modifications 28

13.03 Commercial Modifications..... 28

13.04 Design and Development Standards 28

13.05 Liability 29

13.06 Submittal Process 29

13.07 Waivers, Exceptions and Variances
by Declarant 29

ARTICLE XIV

USE RESTRICTIONS AND RESTRICTIVE COVENANTS 31

14.01 Use Restrictions 31

14.02 Restrictive Covenants for Residential Units. 31

a. ARC Approval 31

b. Building Location 32

c. Dwelling Size 32

d. Temporary Structures 32

e. Motor Vehicles and Repair 32

f. Vehicle Removal 33

g. Mail Boxes 33

h. Animals 33

i. Signs 33

j. Nuisances 33

k. Weeds and Refuse 34

l. Upkeep 34

m. Driveways and Garages 34

TSH06
XTJI301-A

	n. Fences	34
	o. Sod and Irrigation	35
	p. Septic Tanks	35
	q. Water Supply System	35
	r. Mechanical Features	35
	s. Trees	35
	t. Television and Radio Towers	36
	u. Garbage and Trash Receptacles	36
	v. Laundry	36
	w. Building Materials	36
	x. Roofs	36
	y. Lakes	36
	z. Golf Carts	36
14.03	Restrictive Covenants for Commercial Units .	36
	a. ARC Approval	37
	b. Temporary Structures	37
	c. Animals	37
	d. Nuisances	37
	e. Weeds and Refuse	37
	f. Driveways	38
	g. Trash and Garbage Receptacles	38
	h. Signs	38
14.04	Restrictive Covenants for Residential and Commercial Units	38
	a. Maintenance of Units.....	38
	b. Easements	38
	c. Reconstruction of Damaged Improvements .	38
	d. Enforcement	39
14.05	Precedence over Less Stringent Governmental Regulations	39

ARTICLE XV

	TURNOVER	39
15.01	Time of Turnover	39
15.02	Procedure for Calling Turnover Meeting	40
15.03	Procedure for Meeting	40
15.04	Declarant's Rights	40

ARTICLE XVI

	GENERAL PROVISIONS	40
16.01	Duration	40
16.02	Amendments by Members	41
16.03	Amendments by Declarant	41
16.04	Assignment of Rights and Duties	42

BOOK PAGE
3417 0707
VOLUSIA CO., FL

16.05	Enforcement	42
16.06	Severability	42
16.07	Interpretation	42
16.08	Authorized Action	43
16.09	Prohibited Actions	43
16.10	Singular, Plural and Gender	43
16.11	Construction	43
16.12	Enforceability	43

BOOK PAGE
3417 0708
VOLUSIA CO., FL

DECLARATION OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS
OF
DEBARY PLANTATION

This Declaration of Master Covenants, Conditions and Restrictions ("Declaration") of DEBARY PLANTATION is made this 8th day of December, 1989 by MAGNOLIA SERVICE CORPORATION, a Florida corporation, hereinafter referred to as "Declarant" or "Developer".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, Declarant by this Declaration does impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvements for the benefit of all owners of real property within the Properties made subject to this Declaration by the recording of this Declaration and amendments thereto, and

WHEREAS, Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties and the interrelationship of residential and commercial developments, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or may hereafter be subjected to this Declaration;

NOW, THEREFORE, Declarant hereby declares that all of the Properties described in Exhibit "A" and any additional property as may by Amendment or Supplemental Declaration be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the real property described therein or in any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0709
VOLUSIA CO., FL

ARTICLE I

DEFINITIONS

The following words and terms when used in this Declaration or any Supplemental Declaration hereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.01 "Architectural Review Committee" or ARC shall refer to the committee(s) established by the Board of Directors and described in Article XIII hereof.

1.02 "Articles" and "By-Laws" shall mean and refer to the Articles of Incorporation and the By-Laws of the Association as they may exist from time to time.

1.03 "Association" shall mean and refer to DEBARY PLANTATION COMMUNITY ASSOCIATION, INC., a Florida non-profit corporation, and its successors or assigns.

1.04 "Board of Directors" or "Board" shall be the governing body of the Association having its normal meaning under Florida law.

1.05 "Commercial Point" shall mean and refer to the basic unit used for determining memberships and assessments for a Commercial Unit. Each Commercial Unit shall be assigned one Commercial Point for each acre of land, or portion thereof, as shown on a plat or site plan (excluding streets and common areas), and one Commercial Point for each one thousand (1,000) square feet of gross floor area (rounded to the nearest one thousand (1,000) square feet). Commercial Points for gross floor area shall be assigned to Commercial Units when the improvements intended for use and occupancy have been erected and either a notice of completion has been filed or a certificate of occupancy has been obtained from the appropriate governmental agency.

1.06 "Commercial Unit" shall mean and refer to a portion of the properties located within the area designated as a Commercial Area in the Planned Unit Development, as amended from time to time, and intended for any type of independent ownership use and occupancy as an office, or business establishment, including rental apartments, as may be developed, used, and defined as herein provided or provided in Amendments or Supplemental Declarations covering all or a part of the Properties; provided, further the term shall include all portions of the property owned including any structure thereon. The inclusion of rental apartments as Commercial Units for this purpose shall not be deemed to make them a commercial development within the meaning of any zoning ordinance.

TSH06
XTJI301
12/05/89

BOOK PAGE

3417 0710

VOLUSIA CO., FL.

1.07 "Common Area" shall mean and refer to those tracts of land, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association and designated in said dedication, deed or lease as "Common Area", or tracts of land identified as "Common Area" on a final plat recorded by the Declarant. The Common Area is specifically reserved for the use and benefit of Owners.

1.08 "Common Expenses" shall mean and include the actual and estimated expenses for maintenance, operation and other services required or authorized to be performed by the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Articles of Incorporation and By-Laws of the Association.

1.09 "DeBary Plantation Golf Club", "golf club" or "golf course property" shall mean and refer to the golf course, related property and improvements which are a part of Exhibit "B" of the Declaration and as may be described or renamed in the future.

1.10 "General Assessment" shall mean and refer to assessments levied to fund expenses applicable to all Members of the Association.

1.11 "Lot" shall mean any parcel of land shown upon any recorded subdivision map of the Properties upon which an attached or detached single family residential dwelling is or will be located.

1.12 "Member" shall mean and refer to all those Owners who are Members of the Association as provided herein.

1.13 "Notice" shall mean delivery of any document by mail with postage prepaid to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association. If available from the records of the Association, notices to an Owner will be sent to a tenant of Owner occupying the Residential Unit. Notice to one of two or more Owners shall constitute notice to all Owners.

1.14 "Owner" shall mean and refer to one or more persons or entities who hold the record title to any Residential Unit or Commercial Unit, or the DeBary Plantation Golf Club, which are part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. Owner shall also be deemed to include the Declarant.

1.15 "Planned Unit Development" shall mean and refer to the proposed development of the real property described in Exhibits "A"

TSH06
XTJI301
12/05/89A

BOOK PAGE
3417 0711
VOLUSIA CO. FL

and "B" hereto which is most recently approved by Volusia County, Florida, as may be amended from time to time.

1.16 "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto and shall further refer to such additional property as may hereafter be added by Amendment or Supplemental Declaration to this Declaration or which is owned or acquired by the Association.

1.17 "Residential Unit" shall mean a portion of the properties located within the area designated as a Residential Area in the Planned Unit Development, as amended from time to time, and intended for use as a residential dwelling, including, but not limited to, a condominium unit, a patio or zero lot line home, and a single family home on a separately platted lot, as may be developed, used, and defined as herein provided or as provided in Amendments or Subsequent Declarations; provided, further, the term shall also include all portions of the lot owned including any structure thereon.

Apartments which are converted to the condominium form of ownership shall, upon recording of a Declaration of Condominium, automatically cease to be a Commercial Unit and shall become Residential Units.

1.18 "Special Assessments" shall mean and refer to assessments levied in accordance with Section 4.05 of this Declaration.

1.19 "Surface Water Management System" shall mean and refer to the plan and system for the flow, retention and drainage of surface water on and over the Properties approved by St. Johns Water Management District, together with all drainage easements and improvements constructed as a part of such system.

1.20 "Turnover" shall mean the transfer of operation of the Association by the Declarant as described in Article XV of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.01 Declaration. The real property subject to this Declaration is described in Exhibit "A" attached hereto and made a part hereof by reference. The Declarant intends to develop the Properties and its adjoining lands described in Exhibit "B" in accordance with the Planned Unit Development agreement, but hereby reserves the right to modify the Planned Unit Development (with

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0712
VOLUSIA CO., FL

respect to the Properties and other lands included in the Planned Unit Development) from time to time in its sole discretion and at its option. Additional real property (including Common Property) shown or encompassed by Exhibit "B" as amended from time to time may be added to the Properties by an Amendment or Supplemental Declaration which will include the description of such additional real estate, and which submits the additional lands to the provisions of this Declaration. Additions shall occur within twenty (20) years from the date that this Declaration is recorded. The Amendment or Supplemental Declaration shall be executed by the Declarant without requiring the joinder or consent of any Owner, other person or entity. The Amendment or Supplemental Declaration when recorded in the Public Records of Volusia County, Florida, shall bring the additional property under the provisions of this Declaration.

The Declarant is not obligated to bring all or any part of the remaining real estate covered by Exhibit "B" into the Association.

The Declarant shall not be required to follow any predetermined order of improvement and development within the Planned Unit Development or Properties and it may bring within this Declaration additional lands and develop them before completing the development of the Properties. The Declarant shall have the full power to add to, subtract from or make changes in the Planned Unit Development regardless of the fact that such actions may alter the relative voting strength of the membership of the Association and the maximum annual assessments levied by the Association.

Covenants and restrictions applicable to additions to the Properties shall be compatible with, but need not be identical to, the covenants and restrictions set forth in this Declaration. Such a condition is retained by Declarant in recognition that within DeBary Plantation there will be a variety of land uses and housing types, thereby necessitating differing restrictive covenants.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.01 Membership. Every Owner, including the Declarant, shall be a Member of the Association, and by acceptance of a deed or other instrument evidencing ownership interest, each Owner accepts membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. In addition to the foregoing, the family guests, invitees and tenants of said Owners shall, while in or on the

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0713
VOLUSIA CO. FL

property, abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association.

3.02 Voting Rights. The Association shall have four (4) classes of membership, Class "A", Class "B", Class "C" and Class "D" as follows:

(A) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B", Class "C" and Class "D" members, if any.

Class "A" Members shall be entitled to one (1) vote in the Association for each membership as set forth in Section 3.01 hereof for which a full assessment is being paid.

There shall be only one vote per membership. When more than one person is the Owner of any Residential Unit, the vote for such Residential Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the member's vote shall be suspended in the event more than one person seeks to exercise it.

Any Owner of a Residential Unit which is leased may, in the lease or other written instrument, assign the voting right pertinent to that Residential Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary prior to any meeting.

(B) Class "B" Members shall be Owners of a Commercial Unit and shall be deemed to have one (1) Membership in the Association for every three (3) Commercial Points assigned to the Commercial Unit, regardless of the number of persons who constitute the Owner. Each Membership shall be entitled to one (1) vote in the Association. When calculating the number of memberships for any Commercial Unit, the Commercial Points assigned to that Unit shall be totaled and rounded to the nearest whole number divisible by three (3). In no event shall an Owner of a Commercial Unit be assigned a fraction of a membership. The membership rights of a Commercial Unit shall be exercised by the Owner or, in the case of a corporate or partnership Owner, by the individual designated in a written instrument provided to the Secretary of the Association.

(C) Class "C". Class "C" Member shall be the Declarant, or its specifically designated (in writing) successor. The Class "C" member shall be allocated a number of votes equal to five (5) times the total number of Class "A", Class "B" and Class "D" votes at any time; provided, that the Class "C" membership shall cease

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0714
VOLUSIA CO. FL

and become converted to Class "A" membership on the happening of the following events, whichever occurs earlier:

(1) January 1, 2010.

(2) Upon voluntary conversion to Class "A" membership by Declarant.

(3) When the total votes outstanding in Class "A", Class "B" and Class "D" Membership equals the total votes outstanding in Class "C" Membership, at which time Class "C" Membership shall be terminated and the Class "C" membership shall be entitled and required to vote as a Class "A" Member.

Within six (6) months after the happening of the earliest of the foregoing events (1), (2) or (3), the Declarant shall (pursuant to Article XV) conduct a turnover meeting for the purpose of electing directors.

(D) Class "D". The Class "D" member shall be the Declarant or its successors, or its assigns holding fee simple title to the DeBary Plantation Golf Club. The Class "D" Member shall always be entitled to the equivalent of 10 Class "A" votes and to an equivalent number of memberships for assessment purposes under Article IV below.

3.03 Voting Members. Only Voting Members shall be entitled to cast votes at Association meetings on matters pertaining to the Association, including the election of members of the Board of Directors, amending the Declaration, the Articles of Incorporation and the By-Laws of the Association, and all other matters which may be brought before the Association membership.

3.04 Change of Membership. Change of Membership in the Association shall be established by recording in the Public Records of Volusia County, Florida, a deed or other instrument conveying record fee title to any Residential Unit, Commercial Unit, or the DeBary Plantation Golf Club and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall be terminated. In the event that a copy of said instrument is not delivered to the Association, said Owner shall become a Member, but shall not be entitled to voting privileges enjoyed by its predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Residential Unit acquired; provided, however,

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0715
VOLUSIA CO., FL

that if an Owner constructs Residential or Commercial Units that the Owner intends to rent to tenants, the Owner shall become liable for and shall pay all fees and assessments attributable to such Residential or Commercial Units on the date of receipt of the certificate of occupancy therefor. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his interest in the real Property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall automatically be appurtenant to, run with, and shall not be separated from the real property interest on which membership is based.

3.05. Declarant Rights in the Association. The Declarant shall be entitled to appoint one (1) member of the Board of Directors of the Association ("Board") for as long as the Declarant is the owner of any of the Properties, as expanded by additions of land pursuant to Section 3.01 and 8.01. While the Declarant is entitled to representation on the Board, whether the Declarant exercises that right to appointment or not, the Board or the Association shall have no authority to, and shall not, undertake any action which shall:

(a) except for the hereinafter provided signage restrictions, prohibit or restrict in any manner the sales and marketing program of the Declarant or any Residential Property Owner;

(b) decrease the level of maintenance services of the Association performed by the initial Board as specified in the Articles of Incorporation of the Association;

(c) make any special or individual assessment against or impose any fine upon the Declarant's property within DeBary Plantation or upon the Declarant;

(d) authorize or undertake any litigation against the Declarant;

(e) change the membership of the ARC or diminish its powers as stated herein:

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0716
VOLUSIA CO., FL

(f) alter or amend any Declaration, any Subsequent Declaration or Amendment thereto, the Articles of Incorporation or By-Laws of the Association;

(g) modify, amend or alter the Planned Unit Development;

(h) terminate or cancel any contracts of the Association entered into while the initial Board was in office.

(i) terminate or waive any rights of the Association under this Declaration;

(j) convey, lease, mortgage, alienate or pledge any easements of Common Area of the Association;

(k) accept the conveyance, lease, mortgage, alienation or pledge of any real or personal Property to the Association;

(l) terminate or cancel any easements granted hereunder or by the Association;

(m) terminate or impair in any fashion any easements, powers or rights of the Declarant hereunder;

(n) restrict the Declarant's right of use, access and enjoyment of any of the Properties, or

(o) cause the Association to default on any obligation of it under any contract or this Declaration,

unless the Declarant consents in writing to the prohibited action. The Declarant's consent shall be exercised by its appointee on the Board or other person designated to so act by the Declarant.

3.06 Veto. Section 3.05 may not be amended without the express, written consent of the Declarant until Declarant no longer owns any land described in Exhibit "A" or Exhibit "B" to the Declaration or until January 1, 2010, whichever first occurs.

From the termination of the Class "C" membership, the Declarant shall have a veto power over all actions of the Board and Architectural Review Committee, as is more fully provided in this Section 3.06. This power shall expire when the Class "A", Class "B" and Class "C" votes, other than those Owners formerly owning Class "C" votes, equal one hundred percent (100%) of the outstanding membership votes or January 1, 2010, whichever occurs first, unless earlier surrendered. This veto power shall be exercisable only by Declarant, its successors, and assigns who

BOOK PAGE
3417 0717
VOLUSIA CO., FL

specifically take this power in a recorded instrument. The veto shall be as follows:

No action authorized by the Board of Directors or Architectural Review Committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Board of Directors or Architectural Review Committee by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time; and

(b) Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, Architectural Review Committee or the Association. Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the Architectural Review Committee, the Association and/or the Board. At such meeting, Declarant shall have and is hereby granted a veto power over any such action, policy, or program authorized by the Architectural Review Committee or the Board of Directors and to be taken by said Committee or Board or the Association or any individual member of the Association if Board, Committee or Association approval is necessary for said action. Said veto may be exercised by Declarant, its representatives, or agents within ten (10) days after the meeting held pursuant to the terms and provisions hereof. Any veto power shall not extend to the requiring of any action or counteraction on behalf of any Committee, or the Board or the Association.

3.07 Membership in Association Not Membership in Country Club. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from this Declaration, the Articles of Incorporation, By-Laws or Rules and Regulation of the Association neither membership in the Association nor ownership of any Residential Unit or Commercial Unit in DeBary Plantation shall confer upon any such member or owner any rights to membership in or any rights or privileges with respect to the use or enjoyment of any of the property or facilities of the DeBary Plantation Golf Club from time to time operated on the golf course and country club property, as membership in and the right and privilege to use and enjoy the property or facilities of the DeBary Plantation Golf Club shall be conferred only by and within the sole and absolute discretion of the owner, lessee or manager from time to time of the DeBary Plantation Golf Club operated on the golf course and country club property.

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0718
VOLUSIA CO., FL

ARTICLE IV

ASSESSMENTS

4.01 Creation of Lien and Personal Obligations for Assessments. The Declarant covenants, and each Owner of any Residential Unit, Commercial Unit or the Golf Club shall by acceptance of a deed therefor, regardless of whether it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay the Association: (1) annual assessments (2) special assessments fixed, established and collected from time to time as hereinafter provided, and (3) reasonable monetary fines passed pursuant to Section 9.05. The annual assessments, special assessments, late charge determined by the Board of Directors, and monetary fines together with such interest thereon and costs of collection therefor shall be a charge and continuing lien as provided herein on the real property and improvements of the owner against whom each assessment is made. Each such assessment, late charge or fine, together with such interest thereon and cost of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment or fine first became due and payable. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Area or by the abandonment of the property against which the assessment was made. In the case of co-ownership of a Residential Unit, Commercial Unit or Golf Club, all of such Co-Owners shall be jointly and severally liable for the entire amount of the assessment.

The Association, acting through its Board of Directors, shall have authority to assess late charges on all assessments not paid within ten (10) days after said assessments are due.

4.02 Purpose of Annual Assessment. The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement and operation of the Parks, Lakes, Surface Water Management Systems and Common Area and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance thereon, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions. The Association may establish reserve funds to be held in reserve in an interest drawing account or investments as a reserve for (a) major

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0719
VOLUSIA CO., FL

rehabilitation or major repairs to Common Area that must be replaced on a periodic basis, (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss and (c) insurance premiums or taxes.

4.03 Computation of Annual Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Voting Members, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Unit for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessments shall become effective upon approval by the Board.

If the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget has been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year.

4.04 Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Residential Unit to an Owner, the maximum annual assessment shall be THREE
HUNDRED AND NO/100 DOLLARS (\$300.00) per Residential Unit, Commercial Unit or equivalent golf course property membership, plus any amounts that may be assessed under Sections 4.05 and 9.05 of this Declaration.

(a) From and after January 1 of the year immediately following the conveyance of the first improved Residential Unit to an Owner, the maximum annual assessment may be increased each year without a vote of the Members by a sum not more than 15% above the maximum assessment for the previous year.

(b) From and after January 1 of the year immediately following the conveyance of the first Residential Unit to an Owner, the maximum annual assessment may be increased above the provisions as described in Section 4.04(a) by a vote of two-thirds (2/3) of each class of Members, at a meeting duly called for the purpose.

(c) The Board shall fix the annual assessment at an amount not in excess of the maximum above described.

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0720
VOLUSIA CO., FL

(d) Notwithstanding anything contained in this Section 4.04 to the contrary, the maximum assessment applies only so long as the Properties consist of the real estate described in Exhibit "A" originally attached to the Declaration. As and when additional real estate is added to this Declaration the maximum assessment may be modified as required by the Board.

4.05 Special Assessments. In addition to the Annual Assessments authorized by Section 4.02 hereof, the Association may levy in any assessment year a special assessment for the purpose of defraying, in whole or in part, the costs of any acquisition, construction or reconstruction, unexpected repair or replacement of a described capital improvement upon Common Property or easements 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 each class of Members who are voting in person or by proxy at a meeting duly called for that purpose.

4.06 Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall be due and payable on the first days of such months as may be set by the Board. The Board, pursuant to the By-Laws, shall further determine the date of the commencement and frequency of payment of the annual assessments.

The first annual assessment shall be based upon an estimate of the operating expenses for the year plus adequate reserve for anticipated expenses. In the event this assessment proves insufficient to satisfy such expenses, the Board shall levy a supplementary assessment in the amount of the deficit. Notwithstanding any other provision herein, the supplementary assessment shall not require the assent of the Members.

The due date of any special assessment under Section 4.05 or monetary fine passed pursuant to Section 9.05 hereof shall be fixed in the resolution authorizing such assessment.

4.07 Effect of Non-Payment of Assessment. If the assessments or monetary fines are not paid on the date due then such assessment or fine shall become delinquent and the entire annual assessment or fine shall, together with interest thereon, late charges and costs of collection thereof as hereinafter provided, become due and payable and be a continuing lien on the property which shall bind such property in the hands of the then Owner, the Owner's heirs, devisees, personal representatives and assigns. The obligation of the Owner to pay such assessment, late charge or fine, however, shall remain a personal obligation. The Association may record a notice of lien for delinquent assessments or fines in the public

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0721
VOLUSIA CO., FL

records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers or mortgagees for value unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments or fines thereafter until satisfied of record.

If the assessment or fine is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the highest rate allowed by law per annum, and the Association may bring action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and there shall be added to the amount of such assessment or fine the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

4.08 Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Florida law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first mortgage. The sale or transfer of any unit shall not affect the assessment lien. However, the sale or transfer of any unit pursuant to judicial or nonjudicial foreclosure of a first mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential or Commercial Unit from lien rights for any assessments thereafter becoming due. Where the mortgagee of a first mortgage of record or other purchaser of a Residential or Commercial Unit obtains title, his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Residential or Commercial Unit which became due prior to the acquisition of title to such Residential or Commercial Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Residential or Commercial Units, including such acquirer, his successors and assigns.

4.09 Effect on Declarant. Notwithstanding any provision that may be contained to the contrary herein, for so long as Declarant (or any of its affiliates) is the owner of any Residential or Commercial Unit or undeveloped property described in Exhibit "A" or "B", the Declarant shall have the option, in its sole discretion, to (i) pay assessments on the Residential or Commercial Units or Golf Club owned by it, or (ii) not paying assessments on any Residential or Commercial Units or Golf Club and in lieu thereof funding any resulting deficit in the Association's operating expense not produced by assessments receivable from Owners other

TSH06
XTJI301
12/05/89

BOOK PAGE

3417 0722

VOLUSIA CO., FL

than Declarant. The deficit to be paid under option (ii), above, shall be the difference between (a) actual operating expenses of the Association (exclusive of capital improvement costs, reserves and management fees) and (b) the sum of all monies receivable by the Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). The Declarant may from time to time change the option stated above under which the Declarant is making payments to the Association by written notice to such effect to the Association. When all Residential and Commercial Units within the Properties are sold and conveyed to purchasers, neither the Declarant, nor its affiliates, shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions. In no event shall Declarant ever be obligated to pay a Special Assessment.

ARTICLE V

INSURANCE AND CASUALTY LOSSES

5.01. Association Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to, and shall, obtain blanket all-risk insurance, if reasonably available, for all insurable improvements in the Common Area. If blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy providing fire and extended coverages shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area and the Association from all damage or injury resulting from the operation, maintenance or use of the Common Areas, or caused by the negligence of the Association or any of its Members or agents, and any legal liability that results from lawsuits relating to employment contracts with the Association in which the Association is a party. The public liability policy shall have at least a One Million Dollars (\$1,000,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit.

Premiums for all insurance on the Common Area shall be Common Expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0723
.VOLUSIA CO..FL

equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total. Deductibles on damage caused by errant golf balls shall be allocated either to the Owner or golfer as provided by law, but under no circumstances shall the Association be responsible.

Cost of insurance coverage obtained by the Association for the Common Area shall be included in the Annual Assessment as described in Section 4.02.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Florida and holding a rating of A-XI or better in the Financial Category as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies on the Common Area shall be for the benefit of the Association.

(c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors;

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

BOOK PAGE
3417 0724
VOLUSIA CO..FL

(iii) that no policy may be canceled, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' Policies from consideration; and

(vi) that no policy may be canceled or substantially modified without at least thirty (30) days prior written notice to the Association.

In addition to the other insurance required by this Section 5.01, the Board shall obtain, as a Common Expense, Worker's Compensation insurance, if and to the extent necessary, Director's errors and omissions coverage, and a fidelity bond or bonds on Directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Directors' best business judgment but may not be less than an amount equal to three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

5.02 Reconstruction/Site Clearance. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising his unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the Owner determines not to rebuild or to reconstruct, the Owner shall clear the property of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

5.03 Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0725
VOLUSIA CO., FL

disbursed in payment of such repairs or reconstruction, as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account.

5.04 Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed portion of the Common Area. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Area to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five percent (75%) of the total votes of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that the event the Common Area shall be restored to their natural state and maintained by the Association in a neat and attractive condition.

5.05 Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a Special Assessment against all Owners in proportion to their membership interest as set forth

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0726
VOLUSIA CO., FL

in Section 4.05 hereof. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VI

NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 5.04 in the case of damage or destruction, or unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII

CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed by the Board acting on the written direction of all Voting Members in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all owners, to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and the Voting Members representing at least seventy-five percent (75%) of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with the plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to repair after casualty damage or destruction shall apply. If the taking does not involve any improvements in the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such

BOOK PAGE
3417 0727
VOLUSIA CO., FL

purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

ADDITIONS TO PROPERTIES

8.01 Additions Without Approval of Membership. The Declarant hereby reserves to itself and shall hereafter have the right, but not the obligation, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, to impose this Declaration or similar declaration upon additional property, adjacent or contiguous to the subject property which is now or may hereafter be owned by the Declarant, specifically including, without limitation, any or all of the real property described on Exhibit "B" attached hereto, by the filing of an appropriate instrument to that effect among the Public Records of Volusia County, Florida. Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property described in Exhibit "B", attached hereto, and that such transfer is memorialized in a written, recorded instrument.

8.02 Addition with Approval of Membership. Subject to the consent of the owner thereof, upon the written consent, or affirmative vote of the Voting Members representing a Majority of the Association other than Declarant, and of the Declarant so long as Declarant owns property described in Exhibit "A" or "B" hereof, the Association may add real property other than that shown on Exhibit "B", and subject said property to the provisions of this Declaration and the jurisdiction of the Association by filing of record in the Public Records of Volusia County, an Amendment or Supplemental Declaration with respect to the Properties being added. Any such Amendment or Supplemental Declaration shall be signed by the President and the Secretary of the Association, the Declarant (if still a member of the Association) and the owner of the properties being added, and any such addition shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required and the proper form of notice of any meeting called for the purpose of considering the addition of property pursuant to this Section 8.02 and to ascertain the presence of a quorum at such meeting.

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0728
VOLUSIA CO., FL

8.03 Use Restrictions in Addition Property. Declarant reserves the right in its sole discretion to amend, revise and supplement the use restrictions applicable to any lands added pursuant to Sections 8.01 and 8.02 above. Said amendments, revisions or supplemental use restrictions shall be contained in an Amendment or Supplemental Declaration, shall be applicable only to the newly added property, and shall not be construed to amend, revise, supplement or release the use restrictions applicable to the original Properties, or prior additions.

8.04 Additional Common Area. In addition to the Common Area described in Section 1.07 of this Declaration, the Declarant, in its sole discretion, shall have the right to convey to the Association and the Association shall be obligated to accept any real property conveyed by the Declarant so long as such real property is used or useful for any of the objects and purposes for which the Association has been created and established. Should the Declarant so convey any such additional real property, the same shall thereupon become and thereafter continue to be Common Area which shall be subject to all covenants, conditions, restrictions, easements and reservations set forth in this Declaration with respect to all other Common Area.

8.05 Withdrawal of Property Without Consent of Membership. The Declarant hereby reserves unto itself and shall hereafter have the right, at any time and from time to time, in its sole and absolute discretion, and without notice to or the approval of any other person or party whomsoever or whatsoever, to withdraw any property, including portions of the Properties from the purview, operation and effect of this Declaration, including any property previously subjected to and encumbered by this Declaration which shall be owned by the Declarant at the time of such withdrawal by the filing of an appropriate instrument to the effect among Public Records of Volusia County, Florida.

8.06 Amendment. This Article VIII shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A" or "B" hereof.

ARTICLE IX

FUNCTION OF MASTER ASSOCIATION

9.01 Common Area and Rights-of-Way. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, maintenance and control of the Common Area and all access and drainage canals, easements, including retention areas, including off-site down stream drainage areas, recreation areas, landscaping, irrigation systems, lands

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0729
· VOLUSIA CO., FL

covered by the Planned Unit Development and all city, county, district or municipal properties and rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Properties where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to DeBary Plantation, and shall keep them in good, functioning, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

9.02 Lakes and Water Systems. The Association shall provide insect, pest and aquatic control where necessary or desirable in the judgment of the Association to supplement the service provided by the state and local governments. The Association reserves a perpetual right on, over and under all Properties to dispense pesticides and take other action which in the opinion of the Association is necessary or desirable to control insects and vermin. The provision of this paragraph shall not be construed as an obligation on the part of the Association to provide such services.

9.03 Management Agreements. The Association shall conduct the business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings, and other important events. The Association shall have the right to enter into management agreements with a management company in order to assist in providing its services, and performing its functions.

9.04 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real Property. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

9.05 Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by the Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the recreational facilities. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association. In addition, the Association, through the Board, may, by contract or other agreement, enforce

TSH06
XTJI301
12/05/89

BOOK PAGE

3417 0730

VOLUSIA CO., FL

county ordinances on the Properties for the benefit of the Association and its Members.

9.06 Guards. The Association, through action of its Board of Directors may employ guards for the protection of persons and property within the Properties, installation, operation and maintenance of communication systems by the Association or a contractual designee of the Association, and assistance in the apprehension and prosecution of persons who violate the laws of Volusia County or the State of Florida within the Properties.

ARTICLE X

MAINTENANCE

10.01 Association's Responsibility. The Association shall maintain and keep in good repair the Common Area, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, drainage canals, retention ponds, lakes and any improvements which may be situated upon such areas. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area which shall be maintained out of regular assessments for Common Expenses.

10.02 Owner's Responsibility. In accordance with any Supplemental Declaration and subsequent Amendments to this Declaration which may be filed on portions of the Properties and in accordance with this Declaration, all maintenance of a Unit and all structures, parking areas, and other improvements within a Unit shall be the sole responsibility of the Owner thereof who shall perform such maintenance in a manner consistent with this Declaration, the Community-wide Standards and the applicable covenants.

ARTICLE XI

PROPERTY RIGHTS

11.01 Easement of Enjoyment to Common Area. Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to the terms of this Declaration and to any restrictions or limitations contained in any Deed or amendment to this Declaration conveying to the Association or subjecting to this Declaration such property; provided, however that every Owner shall have an unrestricted right of ingress and egress between the Owner's Unit and a public road. Any Owner may delegate his or her

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0731
VOLUSIA CO., FL

right of enjoyment to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

11.02 Limitation on Access to Golf Course Property. Access to the golf course and to the DeBary Plantation Golf Club facilities or to a part thereof is strictly subject to the rules and procedures of the Club. No Owner or occupant gains any right to enter or to use those facilities by virtue of ownership or occupancy of a Commercial or Residential Unit.

ARTICLE XII

EASEMENTS

12.01 Appurtenant Easements. Declarant grants to all Owners (and their guests, lessees and invitees) as an appurtenance to and as part of the ownership held by such Owner, but subject to this Declaration, the Articles of Incorporation and By-Laws of the Association and the rules promulgated by the Association, a perpetual nonexclusive easement for ingress and egress over, across and through and for the use and enjoyment of all Common Area, which Common Area is an intrinsic and appurtenant part of the value of the Residential Units; such use and enjoyment to be shared in common with the other Owners, their guests, lessees and invitees as well as the guests, lessees and invitees of the Declarant. Provided, with respect to the Common Area, the Declarant reserves the right (but not the obligation) to maintain and use all rights of way associated therewith, and to maintain and place Declarant's signs thereon.

12.02 Utility Easements. The Declarant reserves to itself (and its successors or assigns) the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the Properties and the Common Area upon, over, under and across the Properties. Said easements shall only be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal lines and systems, pipes, wires, power lines, telephone service, gas lines, siphons, valves, gates, pipelines, cable television service, alarm systems and all machinery and apparatus appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Properties and Common Areas. All such easements to be of a size, width and location as Declarant, in its discretion, deems best but selected in a location so as to not

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0732
VOLUSIA CO., FL

unreasonably interfere with the use of any improvements which are now, or will be, located upon the Properties.

12.03 Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Area for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of these Properties and facilities by the Owners. Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any of the Properties owned by Declarant. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Properties. Declarant reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of security and television cables and wire within the rights-of-way and easement areas referred to hereinabove.

12.04 Drainage Easements. Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to Association to be necessary to maintain reasonable standards of health, safety and appearance. These easements include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other action reasonably necessary to install utilities and to maintain reasonable standards of health and appearance but shall not include the right to disturb any improvements erected within the properties which are not located within the specific easement area designated on the plat or in this Declaration. Except as provided herein, existing drainage (or areas reserved for such purposes) shall not be altered so as to divert the flow of water onto adjacent parcels or into sanitary sewer lines. The Association shall have the sole control over elevations and slopes within drainage easements and no Owner may alter any such elevations except upon written consent of the Association.

12.05 Golf and Recreation Easements. There is hereby created, declared, granted and reserved for the benefit of the Developer and the Owner and any lessee from time to time of the DeBary Plantation Golf Club Property and their respective employees, agents, invitees, members and guests a non-exclusive easement for ingress and egress, to, from over and upon all portions of the Properties including all Residential Property and Common Areas which are located nearby and adjacent to the DeBary Plantation Golf Club Property for the purpose of allowing golf

TSH06
XTJI301
12/05/89

BOOK PAGE

3417 0733

VOLUSIA CO., FL

balls to travel over and into and to come to rest upon and be retrieved from any and all portions of the Properties located nearby and adjacent to the DeBary Plantation Golf Club Property. Inasmuch as it is not uncommon and, indeed, quite usual in the course of the playing of the game of golf for golf balls which are struck during the course of play to be hit beyond and leave the boundaries of the golf course being played and in so doing for such golf balls to travel over and come to rest upon or within properties nearby and adjacent to the golf course, neither the Declarant, nor any other Owner or any lessee from time to time of the DeBary Plantation Golf Club Property nor their respective employees, agents, invitees, members or guests shall have any liability or responsibility whatsoever for any property damage occasioned by or personal injury to any person, whether an Owner, a member of such Owner's family or any employee, guest or invitee of such Owner, who or which is accidentally struck by a golf ball which shall travel beyond the boundaries of the golf course located on the DeBary Plantation Golf Club Property. Moreover, the travel, entry within and coming to rest of golf balls over, upon or within any property nearby or adjacent to the Golf Course and Country Club Property shall not be deemed to be or constitute a nuisance or hazard to the health, safety or welfare of the Owner of any property near or adjacent to the DeBary Plantation Golf Club Property and no injunctive relief or damages therefor shall be recoverable by any party or granted by any court; it being expressly agreed by any Owner of property nearby or adjacent to the DeBary Plantation Golf Club Property that the risk of such personal injury or damage to property has been assumed by such Owner on behalf of himself, the members of his family and his employees, guests and other invitees at the time of the acceptance of a deed or other conveyance of his lot.

12.06 Extent of Easements. The rights and easements of enjoyment created in this Article XII shall be subject to the following:

(a) The right of the Declarant or the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the parks, lakes, surface water management systems and Common Area and providing services authorized herein and, in aid thereof, to mortgage said Properties;

(b) The right of the Association to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period, not to exceed sixty (60) days, for any infraction of its published rules and regulation, it being understood that any suspension for either non-payment of any

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0734
VOLUSIA CO., FL

assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment.

(c) The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Area (including leasehold interests therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association; provided that no such gift or sale or determination of such purposes or conditions shall be effective unless the same shall be authorized by the affirmative vote of two-thirds (2/3) of the votes cast by each class of Members at a duly called meeting, and unless written notice of the meeting of the proposed agreement and action thereunder is sent at least thirty (30) days prior to such meeting to every Member entitled hereunder to vote. A true copy of such resolution together with a certificate of the results of the Vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Area, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

12.07 Discharge into Water Bodies. Nothing other than storm water or irrigation waters may be discharged into any lake or other body of water located within or adjacent to the Properties. Any device through which water is drawn (other than a pumping device from any lake or other body of water onto) or within any portion of the Properties must not be visible unless necessary or unless its nonvisibility would pose a hazard. The construction and or installation of any such device through which water is drawn shall be subject to the prior written approval of the Architectural Review Committee as hereinbelow established in Article XIII of this Declaration. Irrigation water may not be withdrawn from any body of water within the Properties or the ground without the consent of the Association, which consent may be withheld in the sole discretion of the Association. Irrigation of the golf course property is exempt from the provisions of this Section.

ARTICLE XIII

ARCHITECTURAL STANDARDS

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 13.01, including the recovery of damages, costs, reasonable attorney fees (including appellate attorney's fees and costs) and

TSH06
XTJI301
12/05/89

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3417 0735
VOLUSIA CO., FL

declaratory and injunctive relief. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land described in Exhibit "A" or "B" hereof.

No construction, which term shall include within its definition staking, clearing, excavation, grading, or other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the committee has been obtained.

13.01 New Construction. The Architectural Review Committee (ARC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. The ARC shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the Community Development Code and Land Use Standards, (CDC-LUS); provided, however, that any provision contained in the CDC-LUS which is in violation of the Planned Unit Development, as amended from time to time, shall be of no force or effect. The guidelines and procedures shall be those of the Association, and the ARC shall have sole and full authority to prepare and to amend the CDC-LUS. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and such Owners, builders, and developers shall conduct their operations strictly in accordance therewith. Until one hundred percent (100%) of the Properties, computed on an area basis, have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the ARC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the ARC in the same manner as provided above by the Declarant.

13.02 Modifications. The ARC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Residential Units or structures containing Residential Units and the open space, if any, appurtenant thereto.

13.03 Commercial Modifications. The ARC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Commercial Units or structures containing Commercial Units and the open space, if any, appurtenant thereto.

13.04 Design and Development Standards. The ARC shall promulgate detailed standards and procedures governing their areas

TSH06
XTJI301
12/05/89

of responsibility and practice. In addition thereto, the following shall apply: Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the ARC for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with originally approved plan and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Residential or Commercial Unit, or to paint the interior to his Residential or Commercial Unit any color desired. In the event that the ARC fails to approve or disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

13.05 Liability. The ARC, and any member thereof, shall not be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, or (c) the development of any property within the Properties, provided that such member has acted in good faith on the basis of such information as may be possessed by him or her. Without in any way limiting the generality of the foregoing, the ARC, or any member thereof, may but is not required to, consult with or hear the views of any member of the Association with respect to any plans, drawings, specifications or any other proposal submitted to such Committee.

13.06 Submittal Process. As part of the submittal process, two (2) complete sets of plans and specifications prepared by an architect or other person found to be qualified by the ARC shall be submitted for approval by written application on such form as may be provided or required by the ARC. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

13.07 Waivers, Exceptions and Variances by Declarant. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from the terms and provisions of this Declaration, the Declarant specifically reserves exclusively unto itself, for the duration hereinafter specified, the right and privilege (but Declarant shall have absolutely no obligation), upon a showing of good cause therefor, to: (a) grant waivers with respect to any existing or proposed future deviation from or

violation or infraction of the building restrictions specified in this Article of this Declaration where, in the reasonably exercised good faith judgment and discretion of the Declarant, the Declarant shall determine or decide that such deviation, violation or infraction is de minimus, minor or insignificant, (b) grant waiver of, exceptions to, or variances from, the building restrictions specified in this Article of this Declaration where special conditions and circumstances exist which are peculiar to a particular Residential or Commercial Unit and not generally applicable to other Residential or Commercial Unit (e.g., because of its unusual size, configuration or location) or where a literal interpretation or application of any such building restriction to a particular Residential or Commercial Unit would be inappropriate, inequitable or otherwise work or result in a hardship or deny such Residential or Commercial Units and the Owner thereof specific rights which are generally enjoyed by other Residential or Commercial Unit and Owners; it being expressly provided, however that, in all cases, the Declarant in its exercise of such right and privilege shall, in its reasonably exercised and good faith judgment and discretion determine or decide that its grant of any such waiver, exception or variance shall not result in, represent, be or constitute a significant deviation of or derogation from (a) the uniform plan of development for DeBary Plantation, (b) the high architectural, ecological, environmental and aesthetic standards otherwise established for DeBary Plantation or (c) the objects and purposes of this Declaration. The Declarant shall have such right and privilege to grant waivers, exceptions and variances, as aforesaid, until either (a) the expiration of a period of twenty (20) years from the date of the recording of this Declaration among the Public Records of Volusia County or (b) the sale by the Declarant or its successors or assigns in the ordinary course of business, and not in bulk, of ninety-five percent (95%) of all Residential or Commercial Units in DeBary Plantation, whichever shall last occur. Following the occurrence of the last of the foregoing events to occur, the right and privilege of the Declarant to grant waivers, exceptions and variances, as aforesaid, shall be delegated and assigned by the Declarant to and thereafter vest in the ARC to the extent that any such waiver, exception or variance is granted in a particular instance or with respect to any particular Residential or Commercial Unit or improvement pursuant to the provisions of this Section as aforesaid, the same shall not be deemed to be precedent for the granting of such or any similar waiver, exception or variance in any other particular instance or any other particular Residential or Commercial Unit or improvement.

BOOK PAGE
3417 0738
VOLUS

ARTICLE XIV

USE RESTRICTIONS AND RESTRICTIVE COVENANTS

Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. The following are the initial Rules and Regulations of the Association which may be amended, modified or added to from time to time as provided in the By-Laws.

14.01 Use Restrictions. The Properties shall be used only for residential, commercial and related purposes as may more particularly be set forth in this Declaration or in amendments or Subsequent Declaration and the Planned Unit Development as amended from time to time. The Association, acting through the Board of Directors, shall have standing and the power to enforce use restrictions contained in any such declaration as if such provisions were a regulation of the Association.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of Residential and Commercial Units and the Common Area, including common property of any Residential Association, and to impose reasonable user fees for facilities, including, but not limited to, vehicle storage areas, pathway systems, swimming pools, tennis courts, community center and parking facilities, if any.

14.02 Restrictive Covenants for Residential Units. No Residential Unit shall be used for any purpose except residential. Not more than one (1) living unit shall be permitted on each Residential Unit. The term "residential" is intended to prohibit any commercial use, trade or business of any kind, including professional office use, of any portion of any Residential Unit. No building shall be erected, altered, placed or permitted to remain on any Residential Unit except those approved in accordance with Article XIII hereof and the following general restrictions:

(a) ARC Approval. No building, fence, wall, pool and/or structure shall be erected or placed upon, altered, or permitted to remain on any Residential Unit unless and until the owner submits the floor plan, elevation, site clearing plan and abbreviated specifications (including exterior material and colors) and such plans have been revised and approved by the ARC, as provided herein. The ARC shall review the proposed building or structure (including plans and specifications for same) for compliance with the use restrictions set forth herein and the community-wide standards, and the quality of workmanship and materials, the harmony of the external design and location of the building or

TSH06
XTJI301
12/05/89

BOOK PAGE

3417 0739

VOLUSIA CO., FL

structure with existing buildings or structures, the location of the building or structure with respect to topography, landscaping, vegetation and the finished grade of elevation of the lot, and any other relevant considerations which are based on acceptable standards of planning, zoning and construction, including considerations based exclusively on aesthetic factors.

(b) Building Location. All front, side and rear setback and lot line construction restrictions for the Properties shall be as prescribed for single family residences in the Planned Unit Development between the Declarant and the County of Volusia, Florida.

(c) Dwelling Size. No residence shall contain less than 1800 square feet of enclosed living area. The living area is defined as that portion of the residence which has finished walls, ceilings and floors, which is insulated, and which is heated and air-conditioned by a central system. An air-conditioning system is optional; provided, however, that if this option is exercised, said air conditioning shall be by a central system. The floor space within the garage, breezeway, porch or unfinished storage area or utility room shall not be included within the living area for purposes of determining the minimum required area.

(d) Temporary Structures. No structure of a temporary nature or character, including, but not limited to, a trailer, house trailer, mobile home, camper, tent, shack, shed, barn or other similar structure or vehicle, shall be used or permitted to remain on any Residential Unit as a storage facility or residence or other living quarters whether temporary or permanent, unless approved by the ARC for use during construction only. This provision shall not apply to Declarant or its assigns in connection with its marketing and sales programs for homes and lots.

(e) Motor Vehicles and Repairs. No truck, boat, boat and trailer, trailer, house trailer, mobile home, camper, commercial or other similar vehicle shall be parked on the street (including the right of way thereof). No automobile shall be permitted to park on the street (including the right of way thereof) overnight or for a continuous period of time in excess of five (5) consecutive hours.

No inoperative vehicle, boat, boat and trailer, or trailer alone shall be parked or stored or otherwise permitted to remain on any Residential Unit except in an approved garage attached to the residence. No automobile, truck or other commercial vehicle which contains lettering or advertising thereon which is identified with a business or commercial activity, shall

BOOK PAGE
3417 0740
VOLUSIA CO., FL

be parked or stored or otherwise permitted to remain on any Residential Unit except in a garage attached to the residence.

There shall be no major repair performed on any vehicle on or adjacent to any Residential Unit or on any public street or streets.

(f) Vehicle Removal. Any commercial, recreational or other vehicle parked or stored in violation of these restriction or in violation of any rules and regulations adopted by the Association concerning the same may be towed away or otherwise removed by or at the request of the Association and at the sole expense of the Owner of such commercial, recreational or other vehicle in violation of these restrictions or such rules and regulations. In the event of such towing or other removal, the Association shall not be liable or responsible to the owner of such vehicle for trespass, conversion, or damage incurred as an incident to or for the cost of such removal or otherwise; nor shall the Association, or its agents, be guilty of any criminal act or have any civil liability by reason of such towing or removal, and neither its towing or removal nor the failure of the owner of the towed or removed vehicle to receive any notice of the violation of provisions of this Section shall be grounds for relief of any kind.

(g) Mail Boxes. All mail box installation and design shall be subject to approval by the ARC.

(h) Animals. No livestock, poultry, or animal of any kind or size shall be raised bred, or kept on any Residential Unit; provided, however, that dogs, cats, or caged birds may be raised and kept provided such pets are not kept, bred or maintained for commercial purposes. Such approved pets shall be kept on the Owner's Unit and shall not be permitted to roam free in the neighborhood. All pets shall be kept off of the golf course and away from the club house at all times and shall not be allowed to roam free in the Properties.

(i) Signs. No sign of any kind shall be displayed to public view on any lot except one temporary sign of not more than 4 1/2 square feet in area advertising the property for sale or rent. No commercial flags, pennants or other such devices shall be allowed. All signs must be approved by the ARC. This restriction shall not be applicable to Declarant or its successors or assigns.

(j) Nuisances. No noxious or offensive activity shall be conducted or permitted to exist upon any Residential Unit, nor shall anything be done or permitted to exist on any Residential Unit which could reasonably cause embarrassment, discomfort or

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0741
VOLUSIA CO., FL

annoyance to another owner or which may be or may become an annoyance or private or public nuisance. In the event of any questions as to what may be or may become a nuisance, such question shall be submitted to the Board of Directors of the Association in writing, whose decision shall be final.

Maintenance and irrigation of the DeBary Plantation Golf Club property and the machinery and equipment used for said activities shall not be considered a nuisance.

(k) Weeds and Refuse. No Residential Unit shall be used or maintained for dumping or discharge of rubbish, trash, garbage or other solid waste material. All Residential Units shall be kept free of the accumulation of rubbish, trash, garbage, other solid waste materials and all unsightly weeds and underbrush. No incinerators or other fixed equipment shall be used for collection, storage or disposal of solid waste material.

(l) Upkeep. Owners shall not permit unclean or unsightly conditions to exist on their Residential Unit that tends substantially to decrease the beauty of the property. This restriction shall apply before, during and after any construction of the Residential Unit. The ARC will notify by mail any owner of any condition to be rectified and after ten (10) days shall order the area cleaned at the Owner's expense.

(m) Driveways and Garages. No carports or detached garages shall be permitted and each detached Residential Unit shall include a garage which at the least shall be adequate to house two (2) standard size American automobiles. Garages shall be maintained as garages and shall not be converted to other uses with the exception of the sales offices for the Declarant or its successors or assigns. Garage doors must be kept closed except when in use. All dwellings shall have a paved driveway of concrete construction of at least 16 feet in width at the entrance to the garage. No driveway shall be constructed, maintained, altered or permitted to exist on any Residential Unit if the driveway obstructs or impedes the flow of surface drainage in the area adjacent to the unit or in the street right of way or swale area adjoining or abutting the unit. All driveways must be approved by the ARC.

(n) Fences. No fence or wall shall be constructed, erected or maintained on or around any portion of the Residential Unit that is within the minimum front building setback line, nor in any event, any closer to the front line than a line paralleling the front building wall of the residence dwelling where a dwelling is set back from the front line a greater distance than the required minimum set back. This prohibition shall not apply to any

TSH06
XTJI301
12/05/89

subdivision perimeter wall or fence. Within the other portions of the Residential Unit, no fence or wall shall be erected which is greater than 6 feet in height. No material shall be used for any fence or wall other than cedar, redwood or other solid wood, brick or stone. No exposed concrete block shall be used. Any subdivision perimeter wall or fence that may be built shall not be removed, altered or damaged in any manner and must be maintained against physical damage by the Owner or Owners of lots on which said wall is located. All fences must be approved by the ARC. No fence, wall or hedge shall be constructed on the rear lot line of any lot abutting the DeBary Plantation Golf Club.

(o) Sod and Irrigation. The front, side and rear yards of all lots shall be sodded with Floratam sod or St. Augustine sod excepting only paved areas, patios, shrubbery and flower beds. No Bahia sod will be permitted. All yards shall be equipped with an underground irrigation system for purposes of watering sod and shrubbery. Said irrigation system must be kept in working order at all times.

(p) Septic Tanks. No septic tank, drain field, mobile home storage tank, or other similar container shall be permitted to exist on any Residential Unit unless prior approval is obtained by the ARC.

(q) Water Supply System. No individual water supply system shall be permitted on any Residential Unit without the approval of the Architectural Review Board. The above does not restrict the right of the owner to install, operate or maintain a water well on the premises for use only for swimming pools and irrigation.

(r) Mechanical Features. All exterior pumps, motors, air conditioning compressors, storage tanks and other mechanical features shall be screened from view if visible from the street in front of the house either by a decorative structure 36 inches in height or mature landscaping material capable of obstructing the view from said streets.

(s) Trees. Trees situated between the building setback lines and the property lines having a diameter of six (6) inches or more (measured four feet from ground level) may not be removed without prior approval of the ARC. All requests for approval of tree removal shall be submitted to the ARC along with a plan showing generally the location of such tree(s). Anyone violating the provision of this subsection will be required to replace such tree with trees of like size and condition within thirty (30) days after demand by the ARC. If the owner fails or refuses to replace the trees as demanded, the ARC shall cause suitable replacements to

BOOK PAGE
3417 0743
VOLUSIA CO., FL

be planted and the cost thereof shall be a lien against the lot of the Owner in violation. The Owner grants to the Association, its agents, and employees an easement of ingress and egress over and across said lot to enable it to comply with this subsection.

(t) Television and Radio Towers. No one shall be permitted to install or maintain any outside television or radio antennae, masts, disks aerials or other tower or receiving/transmitting apparatus on a Residential Unit for the purpose of audio or visual reception or transmission.

(u) Garbage and Trash Receptacles. All Residential Units shall have trash and garbage receptacles or storage receptacles for fuel oil and similar materials located either within the structure of the Residential Unit or within a screened area on the Unit which is not visible from the street.

(v) Laundry. Outdoor clothes drying areas are not permitted.

(w) Building Materials. Only finished material such as brick, stucco, natural stone, painted siding block and wood shall be used for exterior surfaces of buildings and structures. Cypress, cedar, redwood or other durable wood types will be encouraged as will stone or natural brick. All exterior materials shall be authentic and not artificial or simulated such as plastic bricks.

(x) Roofs. Flat roofs shall not be permitted on areas other than Florida rooms, porches and patios unless specifically approved by the ARC. Build-up roofs are not permitted on pitched surfaces. Mansard roofs are not permitted unless approved by the ARC. The pitch must be at least 6/12 unless otherwise approved.

(y) Lakes. There shall be no swimming in any of the lakes, ponds or retention areas within the Properties. There shall be no removal of water, no discharge of any materials or water, no removal or interference with aquatic vegetation and no alteration of the banks or shoreline of any lake, pond or retention area within the Properties.

(z) Golf Carts. No golf carts shall be used as a normal means of transportation from one location to another within the Properties, and all use of such golf carts shall be limited to golf-related activities.

14.03 Restrictive Covenants for Commercial Units. No building shall be erected, altered, placed or permitted to remain

BOOK PAGE
3417 0744
VOLUSIA CO., FL

on any Commercial Unit except those approved in accordance with Article XIII hereof and the following general restrictions:

(a) ARC Approval. No building, fence, wall, sign or structure shall be erected or placed upon, altered, or permitted to remain on any Commercial Unit unless and until the owner submits the floor plan, elevation, site clearing plan and abbreviated specifications (including exterior material and colors) and such plans have been revised and approved by the ARC, as provided herein. The ARC shall review the proposed building or structure (including plans and specifications for same) for compliance with the use restrictions set forth herein and the community-wide standards, and the quality of workmanship and materials, the harmony of the external design and location of the building or structure with existing buildings or structures, the location of the building or structure with respect to topography, landscaping, vegetation and the finished grade of elevation of the lot, and any other relevant considerations which are based on acceptable standards of planning, zoning and construction, including considerations based exclusively on aesthetic factors.

(b) Temporary Structures. No structure of a temporary nature or character, including, but not limited to, a trailer, shack, shed, barn or other similar structure or vehicle, shall be used or permitted to remain on any Commercial Unit as a storage facility, whether temporary or permanent, unless approved by the ARC for use during construction only.

(c) Animals. No livestock, poultry, or animal of any kind or size shall be raised, bred or kept on any Commercial Unit; provided, however, that dogs, cats, or caged birds may be raised and kept provided such pets are kept, bred or maintained solely in connection with the operation of a retail pet store.

(d) Nuisances. No noxious or offensive activity shall be conducted or permitted to exist upon any Commercial Unit, nor shall anything be done or permitted to exist on any Commercial Unit which could reasonably cause embarrassment, discomfort or annoyance to another owner or which may be or may become an annoyance or private or public nuisance.

(e) Weeds and Refuse. No Commercial Unit shall be used or maintained for dumping or discharge of rubbish, trash, garbage or other solid waste material. All Commercial Units shall be kept free of the accumulation of rubbish, trash, garbage, other solid waste materials and all unsightly weeds and underbrush. No incinerators or other fixed equipment shall be used for collection, storage or disposal of solid waste material.

BOOK PAGE

3417 0745

VOLUSIA CO., FL

(f) Driveways. No driveway shall be constructed, maintained, altered or permitted to exist on any Commercial Unit if the driveway obstruct or impede the flow of surface drainage in the area adjacent to the Unit or in the street right of way or swale area adjoining or abutting the Unit. All driveways must be approved by the ARC.

(g) Trash and Garbage Receptacles. All Commercial Units shall have trash and garbage receptacles or storage receptacles either within the structure of the Commercial Unit or within a screened area on the Unit which is not visible from the street.

(h) Signs. All signs must be submitted to the ARC for approval prior to installation.

14.04 Restrictive Covenants for Residential and Commercial Units.

(a) Maintenance of Units. Each lot and all improvements, including landscaping, located thereon shall at all times be kept and maintained in a safe, clean wholesome and attractive condition and shall not be allowed to deteriorate, fall into disrepair, or become unsafe or unsightly. In particular, no weeds, underbrush or other unsightly growth and no trash, rubbish, refuse, debris or unsightly objects of any kind shall be permitted or allowed to accumulate on any Lot, Residential Unit or Commercial Unit. Enforcement of the provisions of this section shall be in accordance with the provisions of Section 14.04(d) of this Declaration and such other provisions of this Declaration as shall be applicable to its enforcement generally.

(b) Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plats or site plans. Within these easements no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the construction or use of utilities in said easements. The easement area of each Unit and all improvements in it shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible.

(c) Reconstruction of Damaged Improvements. In the event that a Residential Unit or Commercial Unit or other improvements on residential property shall be damaged or destroyed by casualty, hazard or other cause including fire, windstorm, then, within a reasonable period, not exceeding six (6) months following the occurrence of the offending incident, the owner of the affected property shall cause the damaged or destroyed improvements to be repaired, rebuilt or reconstructed or to be removed and cleared

BOOK PAGE

3417 0746

VOLUSIA CO., FL

from such lot. Any such repair, rebuilding or reconstruction shall be approved and accomplished as otherwise required pursuant to the provision of this Declaration. Enforcement of the provisions of this section shall be in accordance with the provision of Section 14.04(d) of this Declaration and such other provision of this Declaration as shall be applicable to its enforcement generally.

(d) Enforcement. In the event of a violation or failure to comply with the foregoing requirements of this Section and the failure of the owner of the affected Unit, within fourteen (14) days following written notice by the Association of such violation or noncompliance and the nature thereof, to cure or remedy such violation, then the Association or its duly appointed agents or contractors, shall have and is specifically granted the rights and privilege of an easement and license to enter upon the affected Unit or any portion or portions thereof or improvements thereon, without being guilty of any trespass therefor, the purpose of undertaking such acts or actions as may be reasonably necessary to cure or eliminate such violation; all at the sole cost and expense of the owner of the effected Unit. Such costs and expenses, together with an overhead expense to the Association of 15% of the total amount thereof shall be assessed by the Association as an individual Unit assessment as provided in Article IV of this Declaration to the affected Unit and the Owner thereof. Any such individual Unit assessment shall be payable by the owner of the affected Unit to the Association within ten (10) days after written notice of the amount thereof. Any such individual assessment not paid within said ten (10) day period shall become a lien on the affected Unit in accordance with the provisions of Article IV of this Declaration.

14.05 Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions and restrictions set forth in this Article XIV set or establish minimum standards or limitations or restrictions on use in excess of governmental regulations, the covenants, conditions and restrictions set forth in this Article XIV shall take precedence and shall prevail over less stringent governmental regulations.

ARTICLE XV

TURNOVER

15.01 Time of Turnover. The Turnover of the Association by the Declarant shall occur at the time as specified in Section 3.02 (C) hereof.

TSH06
XTJI301
12/05/89

BOOK PAGE
3417 0747
VOLUSIA CO., FL

15.02 Procedure of Calling Turnover Meeting. No more than sixty (60) days and no less than thirty (30) days prior to the turnover meeting, the Association shall notify in writing all Class "A", Class "B" and Class "D" members of the date of the turnover meeting and its purpose, which is the election of a new Board of Directors of the Association.

15.03 Procedure for Meeting. The procedures for the election and turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order.

15.04. Declarant's Rights. For as long as the Declarant shall own any of the Properties, it shall have the right to appoint one (1) member of the Board and the limitations described by Section 3.05 shall remain applicable.

ARTICLE XVI

GENERAL PROVISIONS

16.01 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period or during the last year of any subsequent ten (10) year renewal period, three-fourths (3/4) of the votes cast at a duly held meeting of Members of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total

TSH06
XTJI301
12/05/89

number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Volusia County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. Termination of the Association shall not have the effect of terminating easements herein provided or granted prior to such termination, or terminating contractual rights created prior to termination which from the context of the contract were meant to survive termination.

16.02 Amendments by Members. This Declaration may be amended at any time provided that three-fourths (3/4) of all the votes cast by each class of Members present at a duly called and held meeting (with a quorum established by the By-Laws represented) of the Association vote in favor of the proposed amendment; provided, however, that if the affirmative vote required for approval of action under the specific provision to be amended is a higher or lower percentage, then such higher or lower percentage shall be required to approve amendment of that provision. Written notice shall be given at least sixty (60) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes of members of the Association, the number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt the amendment, the total number of votes cast for the amendment, and the total number of votes cast against the amendment. Such amendment shall be recorded in the Public Records of Volusia County, Florida. Notwithstanding anything above contained to the contrary, an amendment to Section 3.05 shall require the Declarant's consent.

16.03 Amendments by Declarant. Until such time as the Turnover Meeting as referred to in Article XV occurs, the Declarant (with respect to portions of the Properties still owned by Declarant) specifically reserves for itself, its successors and assigns, and to the Association, the absolute and unconditional right to alter, modify, change, revoke, rescind, or cancel any or all of the restrictive covenants contained in this Declaration or hereinafter included in any subsequent Declaration. Further, Declarant shall have the right, without the necessity of joinder by Owners or any other persons or entities, to make modifications to this Declaration that are non-substantial in nature and do not

BOOK PAGE
3417 0749
VOLUSIA C

materially or adversely affect the interests of Owners or other affected parties.

16.04 Assignment of Rights and Duties. Any and all of the rights, powers and reservations of the Association and Declarant may be assigned to any person, corporation or association which will assume the duties of the Association or Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing its consent in writing to accept such assignment and assume such duties, he or it shall to the extent of such assignment have the same right and powers and be subject to the same obligations and duties as are herein given to and assumed by the Association or Declarant. Further, the Association or Declarant may from time to time delegate any and all of its rights, powers, discretion and duties hereunder to such agent or agents as it may nominate.

16.05 Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these covenants; failure by the Association or any Owner or the Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

16.06 Severability. Should any covenant, condition or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

16.07 Interpretation. The Board shall have the right except as limited by any other provisions of this Declaration or the By-Laws to determine all questions arising in connection with this Declaration or covenants, condition and restrictions and to construe and interpret its provisions, and its good faith, determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best end toward the consummation of the general plan of improvements.

BOOK PAGE
3417 0750
VOLUSIA CO., FL

16.08 Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

16.09 Prohibited Actions. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its non-profit status under applicable state or federal law.

16.10 Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

16.11 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Properties.

16.12 Enforceability. This Declaration is made for the objects and purposes set forth in the recitals set forth above and the Declarant make no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the terms and provisions of the covenants, conditions, restrictions, easements and reservations set forth in this Declaration, or as to the compliance of any of the same with public laws, ordinances and regulations applicable thereto.

IN WITNESS WHEREOF the Declarant has executed this Declaration the day and year first above written.

Signed, sealed and delivered
in the presence of:

Candice S. Hawks
Theresa L. Edgerton

MAGNOLIA SERVICE CORPORATION,
a Florida corporation

BY: *W. W. Tew*
Vice-President

(Corporate Seal)

STATE OF FLORIDA
COUNTY OF

Before me personally appeared William W. Tew, Vice-President of Magnolia Service Corporation, to me well known, and he acknowledged before me that he executed the foregoing instrument as such officer of said corporation and that he affixed hereto the official seal of said corporation; and I further certify that I know

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BOOK PAGE
3417 0751
VOLUSIA CO., FL

the person making said acknowledgment to be the individual described in and who executed the said instrument.

WITNESS my hand and official seal this 8th day of December, 1989.

Candice S. [Redacted]
Notary Public

My commission expires: 9/1/90

