

**DECLARATION OF  
EASEMENTS, COVENANTS AND RESTRICTIONS  
FOR**

**PALMER GLEN SUBDIVISION**

**PHASES I & II**

DECLARATION OF EASEMENTS  
COVENANTS AND RESTRICTIONS  
FOR PALMER GLEN

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EXHIBITS

- A TOTAL PROPERTY/SUBJECT PROPERTY
- B ARTICLES OF INCORPORATION
- C BYLAWS
- D ARCHITECTURAL REVIEW

DECLARATION OF EASEMENTS  
COVENANTS AND RESTRICTIONS  
FOR PALMER GLEN

THIS DECLARATION is made this \_\_\_\_ day of \_\_\_\_\_, 1999 by PALMER GLEN JOINT VENTURE, a Florida general partnership, hereinafter referred to as "DECLARANT".

WITNESSETH:

WHEREAS, DECLARANT, NICHOLS INVESTMENTS, INC., a Florida corporation, and MEDALLION HOMES GULF COAST, INC., a Florida corporation (NICHOLS INVESTMENTS, INC. and MEDALLION HOMES GULF COAST, INC. are collectively referred to as "Developers"), each own certain real property located in Sarasota County, Florida, being collectively and more particularly described in Exhibit "A" attached hereto ("TOTAL PROPERTY"), which property is intended to be developed into two (2) or more single family subdivisions containing approximately one hundred four (104) total LOTS ("PALMER GLEN PROJECT" or "PROJECT"); and

WHEREAS, DECLARANT desires to provide for the preservation of the values and amenities of the PALMER GLEN PROJECT, and the maintenance of its COMMON PROPERTIES; and

WHEREAS, DECLARANT has incorporated under the laws of the State of Florida, as a not-for-profit corporation, PALMER GLEN ASSOCIATION, INC., for the purposes of exercising the functions, powers and duties stated above ("ASSOCIATION"); and

WHEREAS, DECLARANT has deemed it desirable for the efficient preservation of the values and amenities to delegate and assign to the ASSOCIATION the powers of maintaining and administering the COMMON PROPERTIES, and administering and enforcing these covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, DECLARANT desires to commit portions of the TOTAL PROPERTY to the terms and conditions of this DECLARATION on this date, and to provide a method whereby other portions of the TOTAL PROPERTY may become part of the SUBJECT PROPERTIES; and

WHEREAS, the Developers desire to join this Declaration for the sole purpose of committing the portions of the TOTAL PROPERTY owned by them to the terms and conditions of this DECLARATION on this date.

NOW, THEREFORE, the DECLARANT and Developers declare that the SUBJECT PROPERTY, and such portions of the TOTAL PROPERTY as may hereafter be made subject to the

terms of this DECLARATION, shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, preservations, liens and charges set forth herein, all of which are created in the best interest of the OWNERS and residents of the SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and be binding upon all OWNERS having and/or acquiring any interest, right, or title in the SUBJECT PROPERTY, or any portion thereof, and shall inure to the benefit of each and every person, from time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.

1. DEFINITIONS. The words and phrases listed below, as used in this DECLARATION, shall have the following meanings, unless the context otherwise requires:

1.01 ARTICLES mean the Articles of Incorporation of the ASSOCIATION, as the same may be amended from time to time.

1.02. ASSESSMENT means the amount of money which may be assessed against a MEMBER for the payment of MEMBER'S share of COMMON EXPENSES, and/or any other funds which MEMBER may be required to pay to the ASSOCIATION as provided by this DECLARATION, the ARTICLES or the BYLAWS.

1.3 BOARD means the Board of Directors of the ASSOCIATION.

1.4 BUILDER means a builder approved by the DECLARANT and therefore authorized to construct DWELLINGS on LOTS.

1.5 BYLAWS means the Bylaws of the ASSOCIATION, as the same may be amended from time to time.

1.6 COMMON PROPERTY OR PROPERTIES means any property, whether improved or unimproved, or any interest therein, now or hereafter owned by the ASSOCIATION for the benefit, use and enjoyment of the MEMBERS of the ASSOCIATION and the OWNERS and residents of the SUBJECT PROPERTY, or any other property which is declared to be a COMMON PROPERTY by this DECLARATION, or an amendment or supplement hereof, or by a plat or replat for any portion of the SUBJECT PROPERTY. COMMON PROPERTIES may include, but are not limited to, parks, open areas, lakes, detention areas, Parcels" A"- "Q" (as depicted in the PLAT), side yard and/or rear yard access easements depicted within the PLAT, median strips, entrance ways, roads, walls, parking areas, landscaped buffers, entrance features, guard house, and waterscaping.

1.7 COMMON EXPENSES mean all expenses of any kind or nature whatsoever properly incurred by the ASSOCIATION, including, but not limited to, the following:

1.07.01 Expenses incurred in connection with any COMMON PROPERTY, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements and alterations.

1.07.2 Expenses of obtaining, operating, insuring, repairing, maintaining, altering or replacing personal property in connection with any COMMON PROPERTY, or in connection with the performance of the ASSOCIATION'S duties.

1.07.3 Expenses incurred in connection with operating, maintaining, repairing and improving landscaping, sprinkler systems, storm water management systems, littoral zone systems, structures and other improvements in, under or upon any COMMON PROPERTY for which the obligation to maintain, repair and improve has been designated to and accepted by the BOARD from time to time.

1.07.4 Expenses incurred in connection with the administration, operation and management of the ASSOCIATION.

1.07.5 Expenses declared to be COMMON EXPENSES by the provisions of this DECLARATION and/or by the ARTICLES or BYLAWS.

1.07.6 Any expense of prosecuting or defending any action for or against the ASSOCIATION, including attorneys' fees.

1.8 COMMON SURPLUS means the excess of all receipts of the ASSOCIATION over the amount of the COMMON EXPENSES.

1.9 DECLARANT means PALMER GLEN JOINT VENTURE, a Florida general partnership, or any successor of DECLARANT who may be assigned some or all of the rights of DECLARANT pursuant to a written assignment executed by the then current DECLARANT and recorded in the Public Records of Sarasota County.

1.10 DWELLING means any single family home constructed on a LOT.

1.11 INSTITUTIONAL LENDER means any company or entity holding a mortgage encumbering any PROPERTY, which in the ordinary course of business makes, purchases, guarantees or insures real estate mortgage loans, and which company or entity is not owned or controlled by the OWNER of the PROPERTY encumbered. An INSTITUTIONAL LENDER may include a bank, savings and loan association, insurance company, real estate or a mortgage investment trust, pension or profit sharing plan, mortgage company, the Federal National Mortgage Association, an agency of the United States or any other governmental authority, or any other similar type of lender generally recognized as an institutional-type lender. For definition purposes only, an INSTITUTIONAL LENDER shall also mean the holder of any mortgage executed by or in favor of DECLARANT, whether or not such holder would otherwise be considered an INSTITUTIONAL LENDER.



1.12 LOT shall mean and refer to each numbered portion of land shown upon each plat of a SUBJECT PROPERTY which has been designated by the DECLARANT to contain a Dwelling.

1.13 ASSOCIATION means PALMER GLEN ASSOCIATION, INC., a Florida corporation not-for-profit.

1.14 DECLARATION means this document as amended and supplemented from time to time.

1.15 MEMBER shall mean and refer to the OWNER of PROPERTY.

1.16 OWNER shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any LOT or PROPERTY, and notwithstanding any applicable legal theory, shall not mean or refer to the mortgagee of a LOT or PROPERTY unless and until such mortgagee has acquired fee simple title pursuant to foreclosure, or any proceeding in lieu of foreclosure.

1.17 PERSON means an individual, partnership, trust, syndicate, association, corporation or any other legal entity.

1.18. PLAT means the plats of PALMER GLEN PHASE I and PALMER GLEN PHASE II, as recorded in Plat Book 40 , page W , and Plat Book 40 , page 45", respectively, of the Public Records of Sarasota County, and any recorded plat including any portion of the TOTAL PROPERTY which is submitted to this Declaration at any future date.

1.19 PROPERTY means all or any portion of the SUBJECT PROPERTY, but excluding COMMON PROPERTY. The term PROPERTY shall include LOTS and DWELLINGS located upon or within the PROPERTY.

1.20 SUBJECT PROPERTY means that portion of the TOTAL PROPERTY subject to this DECLARATION from time to time, including any real property which may from time to time be added to this DECLARATION by an amendment.

1.21 TOTAL PROPERTY shall mean the real property legally described in Exhibit "A" hereto, which property may, from time to time, be submitted to the jurisdiction of this DECLARATION by DECLARANT as hereinafter provided.

## 2. SUBJECT PROPERTY AND ADDITIONS THERETO

2.01 LEGAL DESCRIPTION. The real property which is and shall be held, transferred, sold, or conveyed and occupied subject to this DECLARATION (SUBJECT PROPERTY) is located in Sarasota County, Florida, and comprises all the parcels, platted or

unplatted, within or upon the PROPERTY legally described in Exhibit "A" attached hereto and incorporated herein. Exhibit "A" includes a description for both Phase I and Phase II of the PROJECT.

2.2 PLATTING AND SUBDIVISION RESTRICTIONS. The DECLARANT shall be entitled at any time and from time to time, in its sole discretion and consistent with applicable governmental regulation, to plat and/or re-plat all or any part of the SUBJECT PROPERTY, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the SUBJECT PROPERTY.

2.3 STAGED DEVELOPMENT. Portions of the TOTAL PROPERTY not included within the SUBJECT PROPERTY upon the recording hereof may be annexed to be subject to this DECLARATION by the DECLARANT within ten (10) years of the date of this DECLARATION, by the recording of a supplement or Amendment to this DECLARATION subjecting said additional land, in stages or otherwise, to the terms of this DECLARATION. The additions shall be subject only to the consent of DECLARANT, and the owner of the fee simple record title of the land to be added if different than DECLARANT, and shall not require the consent of other OWNERS, MEMBERS, the ASSOCIATION, or any INSTITUTIONAL LENDERS.

### 3. COMMON PROPERTY

#### 3.01 CONVEYANCE TO ASSOCIATION.

3.01.1 BY DECLARANT. DECLARANT shall have the right to convey title to any real property owned by it, or any interest therein, to the ASSOCIATION as COMMON PROPERTY, and any such conveyance shall be effective upon recording the deed or instrument of conveyance in the Public Records of Sarasota County, Florida. ASSOCIATION shall be obligated to accept any such conveyance or transfer. DECLARANT may require the ASSOCIATION to operate and/or maintain, improve, insure, pay taxes for any property owned or controlled by DECLARANT which DECLARANT intends to eventually convey to the ASSOCIATION as COMMON PROPERTY, by written notice to the ASSOCIATION, so long as such property is improved or is useful for the purposes for which same is intended. In that event, such property shall be deemed COMMON PROPERTY even though not yet owned by the ASSOCIATION. If DECLARANT thereafter determines not to convey such property to the ASSOCIATION as COMMON PROPERTY, DECLARANT shall so notify the ASSOCIATION in writing and thereafter such property shall no longer be deemed to be a COMMON PROPERTY. Notwithstanding the foregoing, DECLARANT shall not have the obligation to develop and/or convey any property to the ASSOCIATION as COMMON PROPERTY, and if DECLARANT desires to convey any property to the ASSOCIATION, the timing of the conveyance of same shall be in the sole discretion of DECLARANT.

3.01.2 TITLE. On or before conveyance by DECLARANT of the last LOT OR PROPERTY which it owns in PALMER GLEN, DECLARANT shall convey by Special

Warranty Deed all properties that will thereafter be available for the use and benefit of the OWNERS to the ASSOCIATION subject to any mortgages for improvements to such COMMON PROPERTY, to taxes for the year of conveyance, and to restrictions, conditions, limitations, reservations, and easements of record.

3.01.03 ADDITIONAL ELECTIVE CONVEYANCES. Any other person may also convey title to any property owned by such person, or any interest therein, to the ASSOCIATION as COMMON PROPERTY, but the ASSOCIATION shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation or improvement of any such property upon the ASSOCIATION, unless the BOARD expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance in the public records of Sarasota County.

3.2 USE AND BENEFIT. All COMMON PROPERTY shall be held by the ASSOCIATION for the use and benefit of the ASSOCIATION and its MEMBERS, and residents of the SUBJECT PROPERTY, and their respective guests and invitees, and any other persons authorized to use the COMMON PROPERTY, or any portion thereof, by DECLARANT or the ASSOCIATION, for all proper and reasonable purposes and uses for which the same are reasonably intended, subject to the terms of this DECLARATION. Provided, however, that this DECLARATION may create easements upon portions of the Common Property for the exclusive use of designated LOTS.

3.3 LAKES. All lakes within the SUBJECT PROPERTY, except for any portion of any lake which is owned by any governmental authority, shall be COMMON PROPERTY. No OWNER shall draw water out of any lake existing within the SUBJECT PROPERTY for irrigation purposes, or otherwise.

3.4 GRANT AND MODIFICATION OF EASEMENTS. The ASSOCIATION, through its BOARD, shall have the right to grant, modify, assign or terminate nonexclusive or exclusive easements over, under, upon, and/or across any COMMON PROPERTY owned by the ASSOCIATION, and shall have the further right to modify, relocate, assign or terminate existing easements in favor of the ASSOCIATION.

3.5 ADDITIONS. ALTERATIONS OR IMPROVEMENTS. The ASSOCIATION shall have the right to make additions, alterations or improvements to the COMMON PROPERTY, as it deems necessary or desirable from time to time, provided, however that if the cost of any additions, alterations, or improvements shall in any calendar year exceed in the aggregate the sum of TWO HUNDRED AND NO/100 DOLLARS (\$200.00) per LOT times the total of Lots platted within the SUBJECT PROPERTY, then such additions, alterations or improvements shall not be made without the approval of a majority of the MEMBERS, expressed in writing or by vote at a duly convened membership meeting. The cost and expense of any such additions, alterations or improvements to the COMMON PROPERTY shall be a COMMON EXPENSE. The foregoing approval shall in no event be required with respect to expenses incurred

in connection with the maintenance, preventative maintenance, repair or replacement of COMMON PROPERTY, or any existing improvements or personal property associated therewith.

3.06 OWNERS' EASEMENT. Each OWNER, his immediate family, and each tenant, agent and invitee of such OWNER, shall have a permanent and perpetual easement for the use and enjoyment of all COMMON PROPERTY (unless such COMMON PROPERTY is subject to an easement in favor of a designated LOT) in common with all other such OWNERS, their immediate family members, their tenants, agents and invitees.

3.06.01 LIMITATIONS. The rights of use and enjoyment are hereby made subject to the following:

- (a) The lien rights in favor of the ASSOCIATION as provided herein.
- (b) The right and duty of the ASSOCIATION to levy assessments against each LOT or PROPERTY for the purpose of maintaining the COMMON PROPERTY in compliance with the provisions of this DECLARATION and with the restriction imposed by governmental authority.
- (c) The right of the ASSOCIATION to suspend the voting rights and right to use the COMMON PROPERTY and facilities, of an OWNER and his designees for any period during which any assessment against his LOT or PROPERTY remains unpaid; and for a period not to exceed sixty (60) days for any infraction of this DECLARATION or lawfully adopted and published Rules and Regulations.
- (d) The right of the ASSOCIATION through its BOARD, to adopt at any time, and from time to time, and enforce Rules and Regulations governing the use of the COMMON PROPERTY and all facilities at any time situated thereon, including the right to fine MEMBERS as provided herein.
- (e) The right of the ASSOCIATION, by a two-thirds (2/3) affirmative vote of the entire membership, to dedicate portions of the COMMON PROPERTY to Sarasota County or other public or quasi-public agency under such terms as the ASSOCIATION deems appropriate, provided the County or public or quasi-public agency is willing to accept and maintain same.
- (f) The rights granted hereby to OWNERS to use and enjoy the COMMON PROPERTY are automatically suspended if the DWELLING located on the OWNER'S LOT has been rented or is otherwise occupied in the absence of OWNER. In which event, the tenant and/or occupants shall have the use rights provided in this DECLARATION.
- (g) The rights reserved herein in favor of the DECLARANT.

(h) No OWNER may exempt himself from liability for his contribution towards the COMMON EXPENSES by waiving his right to use or enjoy any of the COMMON PROPERTY or by abandoning his LOT or PROPERTY.

3.06.02 ACCESS EASEMENT. The foregoing general easement for use and enjoyment of the COMMON PROPERTIES specifically includes an easement for vehicular and pedestrian ingress and egress to each and every LOT across the private roadways depicted within PARCEL Q as set forth on the PLAT.

3.07.03. TRACT E EASEMENTS. With respect to those portions of PARCELS "A"-"K" depicted on the PLAT which lie adjacent to any LOT, a perpetual exclusive easement is hereby granted in favor of such LOT for use of such adjacent PARCEL. The intent of the easement created herein is that the OWNER of any LOT has the use, benefit, and maintenance responsibilities with respect to any adjacent PARCEL as though it were a indistinguishable portion of the OWNER'S LOT for all purposes under this DECLARATION.

3.07. EASEMENTS APPURTENANT. The easements provided in Section 3.06 shall be appurtenant to and shall pass with the title to each LOT or PROPERTY.

3.8 MAINTENANCE OF COMMON PROPERTY AND OTHER PROPERTY. The ASSOCIATION shall maintain, repair, and improve all COMMON PROPERTY. In addition, the ASSOCIATION shall have the right to assume the obligation to operate and/or maintain any PROPERTY which is not owned by the ASSOCIATION if the BOARD, in its sole and absolute discretion, determines that the operation and/or maintenance of the PROPERTY by the ASSOCIATION would be in the best interests of the OWNERS of the SUBJECT PROPERTY. In such event, the ASSOCIATION shall so notify the owner thereof otherwise responsible for such operation or maintenance, and thereafter the PROPERTY shall be operated and/or maintained by the ASSOCIATION and not by the owner thereof, until the BOARD determines no longer to assume the obligation to operate and/or maintain the PROPERTY and so notifies the appropriate owner thereof in writing. Without limitation, the ASSOCIATION shall have the right to assume the obligation to operate and/or maintain any walls or fences on or near the boundaries of the SUBJECT PROPERTY, and any landscaping, sprinkler systems, stormwater management systems, sidewalks, paths, or other improvements, in or within fifteen (15) feet of any road right-of-ways or lakes within the SUBJECT PROPERTY. To the extent the ASSOCIATION assumes the obligation to operate and/or maintain any PROPERTY which is not owned by the ASSOCIATION, the ASSOCIATION shall have the right to enter upon such PROPERTY in connection with the operation and/or maintenance of same, and no such entry shall be deemed a trespass. No portion of any private streets or stormwater management system shall be altered without authorization of the Sarasota County Engineer or his designee.

3.9 LIMITATIONS. No OWNER shall maintain, repair and/or improve any PROPERTY for which the ASSOCIATION has the responsibility and duty for maintenance without the prior written consent of the ASSOCIATION.

3.10 SURFACE WATER MANAGEMENT. It is acknowledged the surface water management and drainage system for the SUBJECT PROPERTY is one integrated system, and accordingly shall be deemed a COMMON PROPERTY, and an easement is hereby created over the entire SUBJECT PROPERTY for surface water drainage and for the installation and maintenance of the surface water management and drainage system for the SUBJECT PROPERTY as required or approved by any controlling governmental authorities from time to time. The surface water management and drainage system of the SUBJECT PROPERTY shall be developed, operated, and maintained in conformance with the requirements of the Southwest Florida Water Management District (SWFWMD) and/or any other controlling governmental authority, including but not limited to, Sarasota County, Florida, Army Corps of Engineers, Department of Environmental Regulation. The ASSOCIATION shall maintain as a COMMON EXPENSE the entire surface water management and drainage system for the SUBJECT PROPERTY, including but not limited to all lakes, detention areas, littoral zones, canals, swale areas, retention areas, culverts, pipes, pumps, catch basins, and related appurtenances, regardless of whether or not same are within the SUBJECT PROPERTY, within a LOT, or are owned by the ASSOCIATION. Such maintenance shall be performed in conformance with the requirements of the SWFWMD, and any other controlling governmental authority, and an easement for such maintenance is hereby created. Such maintenance responsibility on the part of the ASSOCIATION shall not be deemed to include the maintenance of the banks of any lake or canal, or the maintenance of any landscaping, within any property which is not a COMMON PROPERTY or contiguous to a COMMON PROPERTY or which is not otherwise to be maintained by the ASSOCIATION pursuant to this DECLARATION. No OWNER or MEMBER may take any action to harm or interfere with the littoral zones constituting part of the surface water management system, and any breach of this covenant shall subject an OWNER or MEMBER to personal liability for all costs and expenses to repair or reconstitute the littoral zone, and for penalties and sanctions imposed by SWFWMD or other governmental authority, and for any and all other damages their actions may cause.

3.10.01 PRESERVE AREAS designated as PARCELS "O" and "P" on the PLAT may not be improved and no vegetation may be introduced therein or removed therefrom by any OWNER or MEMBER or family member, guest or invitee thereof. PARCELS "O" and "P" shall be maintained by the ASSOCIATION in accordance with applicable SWFWMD requirements. Without limiting the foregoing, all activities involving filling, excavating, removing of vegetation (both trees and understory) and storing of materials shall be prohibited within preservation areas, unless written approval is first obtained from the Sarasota County Resource Permitting Division.

3.11 UTILITIES. The ASSOCIATION shall pay for all utility services for the COMMON PROPERTIES, or for any other property to be maintained by the ASSOCIATION, as a COMMON EXPENSE.

3.12 TAXES. The ASSOCIATION shall pay as a COMMON EXPENSE all real and personal property taxes and assessments for any COMMON PROPERTY, or for any other property to be maintained by the ASSOCIATION.

3.13 INSURANCE. The ASSOCIATION shall purchase insurance as a COMMON EXPENSE, as follows:

3.13.1 HAZARD INSURANCE protecting against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard all-risk endorsement covering 100% of the current replacement cost of all COMMON PROPERTY, excluding land, foundations, excavations, and other items normally excluded from insurance coverage. The ASSOCIATION shall not use hazard insurance proceeds for any purpose other than repair, replacement or reconstruction of any damaged or destroyed property without the approval of at least two-thirds (2/3) of the MEMBERS.

3.13.2 COMPREHENSIVE GENERAL LIABILITY INSURANCE protecting the ASSOCIATION from claims for bodily injury, death or property damage providing for coverage of at least \$1,000.00 for any single occurrence.

3.13.3 BLANKET FIDELITY BONDS for anyone who handles or is responsible for funds held or administered by the ASSOCIATION, covering the maximum funds that will be in the custody or control of the ASSOCIATION, or any managing agent.

3.13.4 Such other insurance as may be desired by the ASSOCIATION, including without limitation flood insurance, errors and omissions insurance, worker's compensation insurance, or any other insurance.

3.13.5 All insurance purchased by the ASSOCIATION must include a provision requiring at least ten (10) days written notice to the ASSOCIATION before the insurance can be canceled or the coverage reduced for any reason.

3.13.6 Any deductible or exclusion under the policies shall be a COMMON EXPENSE and shall not exceed \$1,000.00 or such other sum as is approved by the BOARD of the ASSOCIATION.

3.13.7 Upon written request, each INSTITUTIONAL LENDER shall have the right to receive a copy or certificate of the insurance purchased by the ASSOCIATION.

3.14 PROPERTY DAMAGE OR DESTRUCTION. In the event any improvement within any COMMON PROPERTY is damaged or destroyed due to fire, flood, wind, or other casualty or reason, the ASSOCIATION shall restore, repair, replace or rebuild (hereinafter collectively referred to as "repair") the damaged improvement to the condition the improvement was in immediately prior to such damage or destruction, unless otherwise approved by two-thirds (2/3) of the MEMBERS. Any excess costs of repairing any improvement over insurance proceeds payable on account of any damage or destruction shall be a COMMON EXPENSE, and the ASSOCIATION shall have the right to make a special assessment for any such expense.

3.15 MORTGAGE AND SALE OF COMMON PROPERTY. The ASSOCIATION shall not abandon, partition, subdivide, encumber, sell, mortgage or transfer any COMMON PROPERTY owned by the ASSOCIATION without the approval of at least two-thirds (2/3) of the MEMBERS. If ingress or egress to any PROPERTY is through any COMMON PROPERTY, any conveyance or encumbrance of such COMMON PROPERTY shall be subject to an appurtenant easement for ingress and egress in favor of the OWNER(S) of such PROPERTY, unless alternative ingress and egress is provided to the OWNER(S).

3.16 EASEMENT FOR GOVERNMENTAL. HEALTH. SANITATION AND EMERGENCY SERVICES. A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, for purposes of ingress and egress over the COMMON PROPERTIES.

4. ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY, the ASSOCIATION has been organized under the laws of the State of Florida.

4.1 ARTICLES OF INCORPORATION. A copy of the ARTICLES are attached hereto as Exhibit "B". No amendment to the ARTICLES shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict the amendments of the ARTICLES except as expressly provided herein.

4.2 BYLAWS. A copy of the BYLAWS are attached hereto as Exhibit "C". No amendment to the BYLAWS shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict the amendment of the BYLAWS except as expressly provided herein.

4.3 POWERS OF THE ASSOCIATION. The ASSOCIATION shall have the powers indicated or incidental to those contained in its ARTICLES or BYLAWS. In addition, the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all powers granted to it by this DECLARATION. Effective with the execution and recording of this DECLARATION, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

4.4 APPROVAL OR DISAPPROVAL OF MATTERS. Whenever the decision of a MEMBER or OWNER is required upon any matter, whether or not the subject of an ASSOCIATION meeting, such decision shall be expressed in accordance with the ARTICLES and BYLAWS, except as otherwise provided herein.

4.5 ACTS OF THE ASSOCIATION. Unless the approval or action of the MEMBERS, and/or a certain specific percentage of the BOARD, is specifically required in this DECLARATION, the ARTICLES or BYLAWS, all approvals or actions required or permitted to be given or taken by the ASSOCIATION shall be given or taken by the BOARD, without the



consent of the MEMBERS, and the BOARD may so approve an act through the proper officers of the ASSOCIATION without a specific resolution. When an approval or action of the ASSOCIATION is permitted to be given or taken, such action or approval may be taken or given without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

4.06. MEMBERSHIP.

4.06.1 OWNER MEMBER. Each OWNER of PROPERTY shall be a member of the ASSOCIATION. Notwithstanding the foregoing, no governmental authority or utility company shall be deemed an OWNER MEMBER unless one or more DWELLINGS exist upon the PROPERTY owned by such governmental authority or utility company, in which event the governmental authority or utility company will be an OWNER MEMBER only with respect to the PROPERTY owned in conjunction with such DWELLING.

4.06.2 DECLARANT. DECLARANT shall be a MEMBER of the ASSOCIATION so long as DECLARANT owns any PROPERTY.

4.06.3 MEMBERS' VOTING RIGHTS AND ELECTION OF DIRECTORS. The votes of the MEMBERS and election of Directors shall be established and exercised as provided in the ARTICLES and BYLAWS.

4.06.4 CURRENT LISTS OF LOT OWNERS. Upon request to the ASSOCIATION, any MEMBER shall be provided by the ASSOCIATION with the names and addresses of all of the OWNERS which are MEMBERS.

5. ASSESSMENTS FOR COMMON EXPENSES.

5.1 RESPONSIBILITY. Each MEMBER shall be responsible for the payment of ASSESSMENTS for COMMON EXPENSES to the ASSOCIATION as hereinafter provided.

5.2 DETERMINATION OF ASSESSMENTS FOR COMMON EXPENSES. Not less than sixty (60) days prior to the beginning of each fiscal year, the BOARD shall adopt a budget for such fiscal year which shall estimate all of the COMMON EXPENSES to be incurred by the ASSOCIATION during the fiscal year. In determining the budget for any fiscal year, the BOARD may take into account COMMON PROPERTY, and additions to the SUBJECT PROPERTY anticipated to be added during the fiscal year. The BOARD shall then establish the ASSESSMENT for COMMON EXPENSES, which shall be equal to the total amount to be assessed for COMMON EXPENSES pursuant to the budget, divided by the total number of LOTS and PROPERTIES within the SUBJECT PROPERTY. The ASSOCIATION shall then promptly notify all MEMBERS, in writing, of the amount, frequency, and due dates of the ASSESSMENT for COMMON EXPENSES per LOT or PROPERTY. From time to time during the fiscal year, the BOARD may modify the budget for the fiscal year, and pursuant to the revised budget or otherwise

the BOARD may, upon written notice to the MEMBERS, change the amount, frequency and/or due dates of the ASSESSMENTS for COMMON EXPENSES. If the expenditure of funds is required by the ASSOCIATION in addition to funds produced by the regular ASSESSMENT for COMMON EXPENSES, the BOARD may make special ASSESSMENTS for COMMON EXPENSES, which shall be levied in the same manner hereinbefore provide for regular ASSESSMENTS for COMMON EXPENSES and shall be payable in the manner determined by the BOARD as stated in the notice of any special ASSESSMENT for COMMON EXPENSES. In the event any ASSESSMENT for COMMON EXPENSES are made payable in equal periodic payments as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency as indicated in the notice, unless and/or until: (i) the notice specifically provides that the periodic payments will terminate upon the occurrence of a specified event or the payment of a specified amount, or (ii) the ASSOCIATION notifies the MEMBER in writing of a change in the amount and/or frequency of the periodic payments. Notwithstanding the foregoing, in no event shall any ASSESSMENT for COMMON EXPENSES payable by any MEMBER be due less than ten (10) days from the date of the notification of such ASSESSMENT for COMMON EXPENSES.

5.3 PAYMENT OF ASSESSMENTS FOR COMMON EXPENSES. On or before the date each ASSESSMENT for COMMON EXPENSES is due each MEMBER shall be required to and shall pay to the ASSOCIATION an amount equal to the ASSESSMENT for COMMON EXPENSES per LOT or PROPERTY, multiplied by the number of LOTS or PROPERTIES within the PROPERTY then owned by and/or under the jurisdiction of such MEMBER but excluding LOTS and PROPERTIES owned by DECLARANT.

5.4 ASSESSMENTS FOR COMMON EXPENSES WHILE DECLARANT APPOINTS MAJORITY OF THE BOARD. Notwithstanding anything contained in this Paragraph 5 to the contrary, during the period DECLARANT appoints a majority of the directors of the BOARD, or until DECLARANT, in its sole discretion, provides the ASSOCIATION written notice that it will pay ASSESSMENTS in the same manner as any other MEMBER, DECLARANT shall pay any amount of COMMON EXPENSES incurred by the ASSOCIATION and not produced by ASSESSMENTS for COMMON EXPENSES receivable from the other MEMBERS, but shall not be liable for any ASSESSMENTS for COMMON EXPENSES for LOTS or PROPERTIES owned by DECLARANT.

5.5 MONETARY DEFAULTS AND COLLECTION OF ASSESSMENTS.

5.05.01 INTEREST AND LATE CHARGE: If any MEMBER or OWNER is in default in the payment of any ASSESSMENT for more than ten (10) days after same is due, or in the payment of any other monies owed to the ASSOCIATION for a period of more than ten (10) days after written demand by the ASSOCIATION, such MEMBER, or OWNER shall pay to the ASSOCIATION interest at the rate of 18% per annum on the amount owed to the ASSOCIATION from and after the due date. A late charge may also be imposed by the BOARD if any MEMBER or OWNER is more than ten (10) days delinquent in paying an ASSESSMENT

to the ASSOCIATION. The BOARD may set the amount of the late charge by duly adopted Rule from time to time.

5.05.2 ACCELERATION OF ASSESSMENTS. In addition, if any OWNER or MEMBER is in default in the payment of any ASSESSMENT or any other monies owed to the ASSOCIATION, for more than ten (10) days after written demand by the ASSOCIATION, the ASSOCIATION shall have the right to accelerate and require such defaulting OWNER or MEMBER to pay to the ASSOCIATION ASSESSMENTS for COMMON EXPENSES for the next twelve (12) month period, based upon the then existing amount and frequency of ASSESSMENTS for COMMON EXPENSES. In the event of such acceleration, the defaulting OWNER or MEMBER shall continue to be liable for any increases in the regular ASSESSMENTS for COMMON EXPENSES, for all special ASSESSMENTS for COMMON EXPENSES, and/or all other ASSESSMENTS and monies payable to the ASSOCIATION.

5.05.3 COLLECTION. In the event any MEMBER or OWNER fails to pay any ASSESSMENT or other monies due to the ASSOCIATION within ten (10) days after written demand, the ASSOCIATION may take any action deemed necessary to collect such ASSESSMENTS or monies including, but not limited to, retaining the services of a collection agency or attorney to collect such ASSESSMENTS or monies, initiating legal proceedings for the collection of such ASSESSMENTS or monies, recording a claim of lien as hereinafter provided, and foreclosing same in the same fashion as mortgage liens are foreclosed, or any other appropriate action, and the MEMBER or OWNER shall be liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION incident to the collection of any ASSESSMENT or other monies owed to it, and the enforcement and/or foreclosure of any lien for same, including costs of recording the claim of lien and any satisfaction and reasonable attorneys' fees, and all sums paid by the ASSOCIATION for taxes and on account of any mortgage lien or encumbrance in order to preserve and protect the ASSOCIATION'S lien. All payments received by the ASSOCIATION on account of any assessments or monies owed to it by any MEMBER or OWNER, shall be first applied to payments and expenses incurred by the ASSOCIATION, then to interest and late charges, then to any unpaid assessments or monies owed to the ASSOCIATION.

5.05.4 LIEN FOR ASSESSMENT AND MONIES OWED TO ASSOCIATION. The ASSOCIATION shall have a lien on all PROPERTY owned and/or subject to the jurisdiction of any MEMBER or OWNER, for any unpaid ASSESSMENTS (including any ASSESSMENTS which are accelerated pursuant to this DECLARATION) or other monies owed to the ASSOCIATION by such MEMBER or OWNER, and for interest, late charges, reasonable attorneys' fees incurred by the ASSOCIATION incident to the collection of the ASSESSMENTS and other monies, or enforcement of the lien, and for all sums advanced and paid by the ASSOCIATION for taxes and on account of superior mortgages, liens, or encumbrances in order to protect and preserve the ASSOCIATION'S lien. The lien is effective from and after the recording of a claim of lien in the Public Records of Sarasota County stating the description of the PROPERTY, the name of the MEMBER or OWNER which owns and/or has jurisdiction over the PROPERTY, the amount due, and the due dates. The lien is in effect until all sums secured by it

have been fully paid. The claim of lien must be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien, in recordable form.

5.05.5            TRANSFER OF PROPERTY AFTER ASSESSMENT. The lien shall not be affected by the sale or transfer of any PROPERTY, and in the event of any such sale or transfer, both the new OWNER and the prior OWNER shall be jointly and severally liable for all ASSESSMENTS, interest, and other costs and expenses owed to the ASSOCIATION which are attributable to any PROPERTY purchased by or transferred to such new OWNER. However, any OWNER or MEMBER, upon demand, shall be entitled to receive from the ASSOCIATION a statement as to any then unpaid ASSESSMENTS, interest, or other costs or expenses owed to the ASSOCIATION by such OWNER or MEMBER and any purchaser or transferee of any PROPERTY shall have the right to rely on such statement.

5.05.6            SUBORDINATION OF THE LIEN TO MORTGAGES.  
The lien of the ASSOCIATION for ASSESSMENTS or other monies shall be subordinate and inferior to the lien of any mortgage in favor of an INSTITUTIONAL LENDER recorded prior to the recording of a claim of lien by the ASSOCIATION. The sale or transfer of any PROPERTY which is subject to such a mortgage of an INSTITUTIONAL LENDER, by the foreclosure of such mortgage or by deed in lieu thereof, shall extinguish the lien of the ASSOCIATION which became due prior to such sale or transfer, unless a claim of lien for same was recorded prior to the recording of the mortgage, and neither the INSTITUTIONAL LENDER, or any purchaser at a foreclosure sale, nor their grantees or successors, shall be responsible for said payments, but they shall be liable for any ASSESSMENTS due after such sale or transfer. If the ASSOCIATION'S lien or its rights to any lien for any such ASSESSMENTS, interest, expenses or other monies owed to the ASSOCIATION by any OWNER or MEMBER is extinguished as aforesaid, such sums shall thereafter be COMMON EXPENSES, collectible from all OWNERS or MEMBERS including such acquirer, and its successors and assigns.

5.6            CERTIFICATE AS TO UNPAID ASSESSMENTS OR DEFAULT. Upon request by any MEMBER, or the OWNER of any LOT or PROPERTY, or any INSTITUTIONAL LENDER holding a mortgage encumbering any PROPERTY, the ASSOCIATION shall execute and deliver a written certificate as to whether or not such MEMBER or OWNER is in default with respect to the payment of ASSESSMENTS or with respect to compliance with the terms and provisions of this DECLARATION.

5.7            SPECIFIC DAMAGE. OWNERS (or their family members, tenants, guests, or invitees) causing damage to any portion of the COMMON PROPERTY, including without limitation, the surface water management system as provided in Section 3.11 hereof, as a result of misuse, negligence, failure to maintain or otherwise shall be directly liable to the ASSOCIATION and a special ASSESSMENT may be levied therefore against such OWNER or OWNERS. Such special ASSESSMENTS shall be subject to all of the provisions hereof relating to other ASSESSMENTS, including but not limited to, the lien and foreclosure procedures.

6. ARCHITECTURAL CONTROL.

6.1 PURPOSE. Architectural control will be exercised over all buildings, structures and improvements to be placed or constructed upon the SUBJECT PROPERTY for the purpose of insuring the development of PALMER GLEN PROJECT as a residential community of high standards and aesthetic beauty. It is the intent of this Paragraph that the party exercising architectural control shall have the right to control all architectural aspects of any improvements constructed on any PROPERTY including, but not limited to, height, site planning, set-back requirements, open space, exterior design, color schemes, landscaping, waterscaping, and aesthetic criteria, to the end that the entire SUBJECT PROPERTY may be developed as a planned high-quality residential community with each portion of the SUBJECT PROPERTY complementing the other portions. The Architectural Criteria and Regulations of the Architectural Review Board in effect at the time of recording of this DECLARATION are attached as Exhibit "D" ("ARB Criteria") hereof but may be subsequently amended, revised, deleted or expanded by the party exercising architectural control by the recording of such subsequent documents in the Public Records. A current copy of the Architectural Criteria shall be available through the DECLARANT or ASSOCIATION.

6.2 PARTY EXERCISING ARCHITECTURAL CONTROL. Architectural control shall be exercised by the Architectural Review Board ("ARB"), a committee of the ASSOCIATION. DECLARANT shall have the right to exercise such architectural control by appointing all members of the Architectural Review Board so long as it owns any PROPERTY, or holds a mortgage encumbering any PROPERTY provided, however, that at any time DECLARANT shall have the right to relinquish architectural control over all or any portion of the SUBJECT PROPERTY, by written notice to the ASSOCIATION. So long as the DECLARANT controls the ARB, the committee may consist of only one member; however, when under the control of the ASSOCIATION, the ARB shall consist of 1-5 MEMBERS appointed by the President of the ASSOCIATION.

6.3 OWNER TO OBTAIN APPROVAL. Each OWNER by accepting title to any LOT or PROPERTY, and each BUILDER covenant and agree that no DWELLING, building, fence, wall, tennis court, swimming pool, patio area, driveway, landscaping, antenna, satellite dish, sign, mailbox, flagpole, basketball backboards, hoops or courts, and other recreational or play facilities, or other structure or improvement, or any change or alteration thereto other than normal maintenance and repair which does not significantly alter or change the original structural or exterior condition and color of same, shall be placed, constructed or made upon any PROPERTY, nor shall the elevation of any PROPERTY be changed, nor shall any lake be filled or the boundaries of same altered, unless and until plans and specifications therefore have been submitted to the ARB and the approval of same has been obtained as provided below. An application fee in such amount as shall be set from time to time by Rule adopted by the ARB, shall be paid by the applicant at the time of submission of the plans and specifications in accordance with the ARB Criteria. Said plans and specifications to be submitted shall fully describe in detail the improvements to be made including, but not limited to, all materials, equipment, and colors to be used. In the event the ARB deems such

plans and specifications insufficient, said party may require the plans and specifications to be further detailed.

6.4 APPROVAL OF PLANS AND SPECIFICATIONS. The ARB shall have the right to approve or disapprove the plans and specifications on any grounds, including exterior aesthetics. The ARB shall approve or disapprove any plans or specifications when deemed sufficient under Section 6.03 above within thirty (30) days after they have been submitted for approval, by written notice to the person submitting same, and in the event the party exercising architectural control fails to disapprove any plans or specifications within such thirty (30) day period, they shall be deemed to have been approved, and upon request, the ARB shall give written notice of such approval. Any approval of plans or specifications which is conditioned upon changes being made shall be deemed a disapproval until such time as the person submitting the plans and specifications agrees to the changes or revises the plans and specifications to reflect the changes requested. In the event the ARB approves, or is deemed to have approved, any plans or specifications, the person submitting the plans and specifications may proceed to make only those improvements or repairs in strict conformance with the plans and specifications submitted and approved or deemed to have been approved.

6.5 REMEDY FOR VIOLATIONS. In the event this Section 6 is violated in that any construction, improvement, change, or alteration is made without first obtaining the written approval of the ARB, or is made prior to the time approval is presumed as set forth herein, the ARB shall have the right to injunctive relief, which shall include, but not be limited to, requiring the applicable OWNER to stop, remove, restore and/or alter any such construction, improvement, change or alteration in a manner which is satisfactory to the ARB, or the ARB may pursue any other remedy available by law or equity. The ARB must commence any such action within one (1) year of the date of the violation or first knowledge of such violations occurrence, whichever last occurs. The foregoing shall be in addition to any other remedy set forth herein for violations of this DECLARATION. Furthermore, notwithstanding anything contained herein to the contrary, the ARB shall have the exclusive authority to enforce the provisions of this Article, unless assigned or delegated, in writing, as elsewhere permitted.

6.6 NO LIABILITY. Notwithstanding anything contained herein to the contrary, the ARB shall merely have the right, but not the duty, to exercise such control, and shall not be liable to any MEMBER or OWNER due to the exercise or non-exercise of such control, or the approval or disapproval of any construction, improvements, alteration or maintenance. Furthermore, the approval or failure to disapprove of any plans or specifications submitted for approval shall not be deemed to be a warranty that such plans or specifications are complete or do not contain structural defects, or in fact meet any standards, guidelines and/or criteria of the party exercising architectural control, or are in fact architecturally or aesthetically, appropriate, or comply with any applicable governmental requirements, and the ARB shall not be liable for any deficiency, or injury to person and/or property resulting from any deficiency in such plans or specifications.

6.07 CONSTRUCTION OF DWELLINGS ON UNIMPROVED LOTS. Only BUILDERS approved by DECLARANT shall be authorized to construct DWELLINGS on LOTS. This provision is inserted in an attempt to ensure that financially secure BUILDERS capable of constructing quality DWELLINGS are used in the PALMER GLEN PROJECT. All DWELLINGS constructed by BUILDERS must comply with the Palmer Glen Approved Builder Program Agreement, and the Development Standards and Architectural Criteria referenced in Section 6.01 hereof. A list of the approved BUILDERS is available from DECLARANT and may be changed from time to time by DECLARANT, in its sole discretion. Without limiting the generality of the foregoing, construction of a DWELLING must commence within fifteen (15) months from the purchase of a LOT by an PERSON other than the BUILDER. For purposes hereof, "commencement of construction" shall mean the installation of footers and/or a foundation and a slab for the DWELLING, all in accordance with the proper permit issued by Sarasota County, and other governmental authority. After the commencement of construction, OWNER shall diligently and timely pursue completion of the DWELLING, and the issuance of a certificate of occupancy from Sarasota County. The fifteen (15) month time period referenced herein shall not be extended by an subsequent sale or transfer of the LOT, and shall be binding upon the initial owner of the LOT, and any successors and assigns. Failure to commence construction within the fifteen (15) month time frame, and/or to timely complete construction thereafter, shall be an event triggering the right of repurchase vested in DECLARANT pursuant to Paragraph 9.16 of this DECLARATION.

7. USE RESTRICTIONS AND OWNER MAINTENANCE.

7.01 RESIDENTIAL PURPOSES. All LOTS shall be used for residential and related recreational use only, and not for commercial, trade or business purposes, except as otherwise permitted herein. For purposes hereof, "residential" shall mean:

"Occupancy of a DWELLING for single family residential use which shall be limited to one person; two people no matter how related; or three or more persons all of whom are related to each other by blood, marriage or legal adoption. In no event shall a DWELLING be occupied by more than two permanent occupants per bedroom."

No business or trade shall be conducted anywhere on the SUBJECT PROPERTY, except as follows:

- A. Those which are determined to be acceptable by the ASSOCIATION.
- B. Those which are found to be in compliance with the applicable underlying zoning of the SUBJECT PROPERTY.

7.01.01 The ASSOCIATION is excluded from the general prohibition on the conduct of business given its duties and responsibilities under this DECLARATION, ARTICLES, BYLAWS, and applicable law.

7.01.2 OWNERS, their family members, tenants and occupants may conduct limited profession or business activities if confined solely within their LOT, but only if the activity cannot be seen, heard or smelled by other residents of the SUBJECT PROPERTY, and provided further that no activity shall be permitted that results in a significant increase in pedestrian or vehicular traffic in the SUBJECT PROPERTY, nor shall any activities be permitted that would increase the insurance risks of other OWNERS, or the ASSOCIATION, or constitute a dangerous activity, or nuisance, or violate the Zoning Code of Sarasota County, Florida.

7.01.3 The DECLARANT is excluded as elsewhere provided.

7.2 SUBDIVISION OR COMBINATION OF LOTS. No LOTS shall be divided, subdivided or reduced in size. Two contiguous LOTS may be combined to form a site for one DWELLING but the LOTS shall otherwise retain their separate identity for voting, assessment and other purposes. Any combination of LOTS must have the prior written approval of either DECLARANT or ASSOCIATION.

7.3 PORTABLE OUTBUILDINGS. No portable outbuildings, temporary or accessory buildings or structures, or tents, shall be erected, constructed or located upon any LOT for occupancy, storage or otherwise, without the prior written consent of the ARB.

7.4 CLOTHES LINES. No clothes lines or clothes poles shall be erected, maintained or permitted on the exterior of any LOT unless hidden from view of adjacent LOT, other PROPERTY and COMMON PROPERTY in a manner acceptable to the party exercising architectural control.

7.5 SIGNS. No sign advertising the sale, lease or rental of any LOT, and/or DWELLING thereupon, no garage sale or similar sign and no political sign, advertising or commercial sign shall be posted, displayed, inscribed, or affixed to, or be visible from, the exterior of a LOT or upon any COMMON PROPERTY, without the prior written consent of the BOARD, or the party exercising architectural control. Other types of signs may be permitted, subject to the approval of the party exercising architectural control as elsewhere provided.

7.6 PETS. No animals, livestock or poultry of any kind shall be permitted within the SUBJECT PROPERTY except for common household pets, which shall be limited to dogs, domestic cats, birds, fish and other animals from time to time permitted by BOARD Rule. No pet may be kept or maintained for commercial purposes and no pet may constitute an unreasonable nuisance or annoyance to other residents of the SUBJECT PROPERTY. Pets shall be permitted outside a DWELLING only if located within an enclosed area, or on a leash under the control of the pet's owner. The owner of the pet shall be strictly responsible for its actions, and shall indemnify and hold harmless ASSOCIATION, and its BOARD, agents, employees and MEMBERS, from any liability or damages occasioned by the actions of the pet. Owners of pets shall also be responsible for picking up and properly disposing of any excrement deposited by the pet upon any portion of the COMMON PROPERTY, or on any LOT or PROPERTY other than their own. The BOARD may



require any pet to be immediately and permanently removed from the SUBJECT PROPERTY due to a violation of this Paragraph.

7.7 NUISANCES. No nuisances shall be allowed upon any PROPERTY, nor any use or practice which is an unreasonable source of annoyance to other OWNERS or which interferes with the peaceful possession and proper use of the residents of the SUBJECT PROPERTY. No improper, offensive or unlawful use shall be made of any PROPERTY, and all laws, zoning ordinances and regulations of all controlling governmental bodies shall be observed.

7.8 LAKES. The use of any lake or canal within the SUBJECT PROPERTY shall be subject to all rules, regulations and restrictions adopted by the BOARD. In particular, and without limitation, no swimming or boating will be allowed in any lake. Fishing by OWNERS of waterfront LOTS and by their family members, their tenants, guests and invitees from the shore of the Lakes shall be permitted, subject to reasonable rules and regulations of the ASSOCIATION. For purposes of this DECLARATION, LOTS, abutting littoral zones or any lake shore shall be deemed to be waterfront LOTS. The OWNERS of waterfront LOTS shall be responsible for routine maintenance (mowing and trimming) any COMMON PROPERTY between the LOT and the ordinary high waterline of the adjacent Lake or a line designated by the ASSOCIATION beyond which the ASSOCIATION is solely responsible for maintaining.

7.9 BOATS. Boats may be kept or stored only in an enclosed garage constituting part of a DWELLING.

7.10 MOTOR VEHICLES. Except as set forth below, only a conventional passenger automobile may be parked on the SUBJECT PROPERTY and only when it has a current license tag affixed to it. A "conventional passenger automobile" shall be limited to those vehicles which are primarily used as passenger motor vehicles, and which have a body style consisting of two doors, four doors, hatchback, convertible, station wagons, or pickup trucks and minivans which do not exceed 17 in length, and utility vehicles, such as Ford Bronco, Chevrolet Blazer, Jeep or similar vehicles provided they are in a condition substantially similar to that which existed when they were sold by the manufacturer and specifically excluding vehicles that have been modified by increasing their height, adding off-road tires, roll bars and the like.

All other motor vehicles, including but not limited to commercial vehicles (any vehicle primarily used in a trade or business or having advertising or promotional information, symbols materials affixed thereto), trucks (any motor vehicle designed used principally for the carriage of goods and including a motor vehicle to which has been added a cabinet box, a platform, a rack, or other equipment for the purpose of carrying goods other than the personal effects of the passenger, and specifically including all pickup trucks and vans exceeding 18' in length), motorcycles, campers, recreational vehicles (vehicles having either kitchen or bathroom facilities), trailers, motor homes, mobile homes, and any and all other vehicles other than the aforescribed conventional passenger automobiles, shall be prohibited from parking in any area in the SUBJECT PROPERTY.

Notwithstanding the foregoing parking limitations, the following exceptions shall be made: (1) service vehicles may be temporarily parked in parking areas during the time they are actually servicing a LOT or PROPERTY, but in no event overnight; (2) boats, trailers, trucks, commercial and recreational vehicles, any other prohibited vehicles may be temporarily parked in a parking area when they are being actively cleaned, loaded or unloaded; (3) motor homes and other recreational vehicles operated by persons residing out of PALMER GLEN, may temporarily park their vehicle in the driveway of their host with prior permission of the BOARD but in no event more than seven (7) consecutive days and more than fourteen (14) days in any calendar year; and (4) any of the motor vehicles, trailers or other vehicles which are otherwise prohibited by virtue of this section may be parked inside an OWNERS garage provided the garage door is kept closed and the vehicle is only located outside of the closed garage when it is being loaded or unloaded or driven to or from the DWELLING.

No vehicle belonging to an OWNER or to a member of the family of an OWNER or guest, tenant or employee of any OWNER shall be parked in such manner as to impede or prevent access to another OWNERS' parking areas. The OWNERS, their employees, servants, agent, visitors, licensees, and the OWNERS' families will obey parking regulations posted at the private and public streets, parking areas and drives and any other traffic regulations which may be promulgated in the future for safety, comfort and convenience of the OWNERS. No vehicle which cannot operate on its own power shall remain within the SUBJECT PROPERTY for more than 24 hours, and no repair of vehicles shall be made within the SUBJECT PROPERTY.

No parking is permissible on the lawn or streets at any time except for: (1) service vehicles and then only if necessary to service a LOT or PROPERTY within the SUBJECT PROPERTY; or (2) guest or employee parking on the street for terms of less than eight hours if off street parking for any DWELLING is fully utilized.

Any and all vehicles parked or stored on the SUBJECT PROPERTY which do not comply with the foregoing parking regulations shall be deemed "improperly parked vehicles" and are subject to towing, by the ASSOCIATION, at the expense of the vehicle owner, at any time after twenty-four (24) hours has elapsed from notification to the OWNER of the LOT upon which the improperly parked vehicle is located.

7.11 ARTIFICIAL VEGETATION. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any LOT or PROPERTY.

7.12 OUTSIDE ANTENNAS. No outside antennas or satellite or signal-receiving dishes are permitted on any LOT or PROPERTY unless approved in writing by the person exercising architectural control as elsewhere provided herein, except as authorized under Federal law.

7.13 WELLS. No wells may be installed within the SUBJECT PROPERTY without the prior written consent of the DECLARANT or ASSOCIATION, except wells which may be constructed by the DECLARANT in its sole discretion.

7.14 MAINTENANCE PROVISIONS. Except for portions of any PROPERTY to be maintained by the ASSOCIATION as elsewhere provided, all buildings and other improvements existing under, upon or over any PROPERTY from time to time shall at all times be maintained by the OWNER thereof in accordance with all applicable governmental requirements, and in a first class condition and in good working order, so as to preserve the beauty, quality and value of all SUBJECT PROPERTY. Without limiting the foregoing, the following standards shall apply with respect to the maintenance of any PROPERTY.

7.14.1 BUILDINGS AND OTHER STRUCTURES AND/OR IMPROVEMENTS. All buildings and other structures and/or improvements shall be maintained in first class condition, especially as to the exterior appearance. Painting or other exterior maintenance shall be periodically performed as reasonably required. No excessive and/or unsightly mildew, rust deposits, dirt, or deterioration shall be permitted to accumulate on any building, structure or improvement.

7.14.2 SIDEWALKS, ROADS AND PARKING AREAS. All sidewalks, driveways, parking areas, and other paved or hard surfaced areas intended for use by vehicular or pedestrian traffic shall be cleaned and kept free of debris; and cracks, damaged and/or eroding areas on same shall be repaired, replaced and/or resurfaced as necessary.

7.14.3 LANDSCAPING. All landscaping shall be subject to architectural control as elsewhere provided in this DECLARATION. Xeriscaping areas should be encouraged for purposes of water conservation. All diseased or dead sod, plants, trees, shrubs or flowers shall be promptly replaced. All landscaping shall be regularly maintained in first-class condition and appearance, including mowing, trimming, fertilization, irrigation, and weed, insect and disease control by OWNER from edge of the road curb to the rear yard wall, inclusive of any adjacent COMMON PROPERTY area, or to the water's edge of any Lake or other adjoining water body. All DWELLINGS shall include an automated irrigation system in accordance with the ARB Criteria.

7.14.4 TREES. A minimum of three (3) 3" caliper hardwood trees shall be planted and thereafter maintained within the LOT and no tree or shrub, the trunk of which exceeds two (2) inches in diameter, measured one foot above grade, shall be cut down or otherwise destroyed without the prior written consent of the ARB.

7.14.5 TRASH. No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any LOT or PROPERTY except in closed dumpsters or other sanitary garbage collection facilities. All dumpsters and garbage facilities shall be screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted. No refuse shall be allowed to accumulate so as to be detrimental to the surrounding area. Garbage bags, recyclable bins, or private trash containers required to be placed near any street for collection purposes shall not be placed outside more than twenty-four (24) hours prior to scheduled collection times and shall be returned the same day after collection.

7.14.06 UTILITY LINES AND SERVICE. All utility lines and services shall be maintained in good working condition.

7.15. RULES AND REGULATIONS. Reasonable rules and regulations concerning the maintenance and use of the SUBJECT PROPERTY may be made and amended from time to time by the ASSOCIATION, through its BOARD. Copies of such rules and regulations and amendments shall be furnished by the ASSOCIATION to any OWNER or BOARD upon request.

7.16 WAIVER. The BOARD shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any LOT or PROPERTY where, in the discretion of the BOARD, circumstances exist which justify such waiver or permitted deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of DECLARANT, the ASSOCIATION, the BOARD, or any other person having the right of DECLARANT, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future.

7.17 RESPONSIBILITY FOR MAINTENANCE AND COMPLIANCE.

7.17.01 OWNERS. The OWNER of any LOT or PROPERTY shall be responsible for complying with all of the provisions of this Section 7.14 with respect to such PROPERTY.

**NOTE: A SECOND AMENDMENT TO THE DECLARATION WAS RECORDED WITH THE SARASOTA COUNTY CLERK'S OFFICE ON SEPT. 9, 2004 AS INSTRUMENT # 2004174866 AND ADDED PARAGRAPHS 7.18 THRU 7.20, WHICH FOLLOW:**

7.18 LEASES. No residence upon any lot shall be rented or leased for a period of less than one (1) year. Upon request of the Association, the Owner shall be required to provide the Association a copy of any proposed or active lease agreement with any proposed or current tenant to ensure compliance with this restriction. In addition, the Association shall have the authority to promulgate a requirement that all proposed leases be provided to the Association prior to the effective date of the lease, and in the event that such lease fails to comply with the limitations of this provision, the lease shall not be permitted. Leases in effect at the time this provision is enacted shall not be required to comply with this provision for the current term of such lease; however, all subsequent renewals or extensions of current leases or any new leases shall be subject to the terms of this provision.

7.19 MOTORIZED SCOOTERS. No go-cart, or motor-driven gas-powered scooter shall operate upon any roadway, lot, or parcel of land in the community. Furthermore, no such vehicle shall be allowed to be stored on any lot unless it is appropriately garaged or hidden from view from the street or any neighboring lots.

7.20 Compressor and fan units for central air-conditioning systems which are located outside of a building shall be fenced or landscaped so as to be hidden from view. All such screening must be approved by the ARB and must be consistent with all architectural criteria promulgated by the ARB. Walls or masonry structures may be permitted upon approval by the ARB, but such structures are not required.

8. ENFORCEMENT.

8.01 NON-MONETARY DEFAULTS. In the event of a violation by any MEMBER, or OWNER (other than the non-payment of any assessment or other monies) of any of the provisions of this DECLARATION, or of the ARTICLES or BYLAWS, or Rules or Regulations adopted by the BOARD, the ASSOCIATION shall notify the MEMBER or OWNER of the violation, by written notice. If such violation is not cured as soon as practicable, and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the MEMBER or OWNER fails to commence and diligently proceed to completely cure as soon as practicable such violation within seven (7) days after written notice by the ASSOCIATION, the ASSOCIATION may, at its option, proceed under one or more of the following options:

8.01.1 Commence an action to enforce the performance on the part of the MEMBER, or OWNER, or for such equitable relief as may be necessary under the circumstance, including injunctive relief, and/or

8.01.2 Commence an action to recover damages; and/or

8.01.03 Take any and all action reasonably necessary to correct such failure, which action may include, but is not limited to, removing any building, structure or improvement for which architectural approval has not been obtained, or performing any maintenance required to be performed by this DECLARATION.

All expenses incurred by the ASSOCIATION in connection with the correction of any failure, or the commencement of any action against any MEMBER or OWNER, including reasonable attorneys' fees, shall be assessed against the applicable MEMBER or OWNER, and shall be due upon written demand by the ASSOCIATION. The ASSOCIATION shall have a lien against the OWNER for any such ASSESSMENT and any interest, costs or expenses associated therewith, including attorney's fees incurred in connection with such ASSESSMENT, and may take such action to collect such ASSESSMENT or foreclose said lien as in the case and in the manner of any other ASSESSMENT as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the Public Records of Sarasota County.

8.01.4 Suspend the voting rights, and right of the OWNER, family members and guests, tenants, invitees and others claiming through the OWNER, to use the RECREATIONAL FACILITIES of the COMMON PROPERTY, all as elsewhere provided in this DECLARATION.

8.01.5 Levy a fine in accordance with the following procedures:

The BOARD shall appoint a Covenants Enforcement Committee which shall be charged with determining whether there is a probable cause to assert that an OWNER or other person is violating, or has violated any of the provisions of the DECLARATION, ARTICLES, BYLAWS, or the Rules and Regulations of the ASSOCIATION. In the event the Covenants Enforcement Committee determines that such probable cause exists, it shall report to the BOARD.

The BOARD shall thereupon provide written notice to the person alleged to be in violation, and the OWNER of the PROPERTY within which that person occupies, or to which that person is a guest, if that person is not the OWNER, of the specific nature of the alleged violation, including a statement setting forth the provisions of the documents allegedly violated and a short and plain statement of the matters asserted by the ASSOCIATION, and advising of an opportunity for a hearing before the BOARD upon a written request delivered to the BOARD or designated agent within fourteen (14) days of the date of the notice of the violation or violations. The BOARD notice shall state the date, time and place of the hearing to be held if the hearing is requested. The BOARD notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation of each day during which the violation continues, shall be deemed a separate offense, subject to a separate find, not to exceed One Hundred and NO/Dollars (\$100.00) per violation, provided that the total amount of fines shall not exceed Two Thousand Five Hundred and NO/100 Dollars (\$2,500.00), exclusive of interest, costs, and attorneys' fees. The BOARD notice shall further specify, and it is hereby provided for an alternative procedure available only for first

time violations and not for recurring violations, that in lieu of requesting a hearing, the alleged violator or OWNER may respond in writing to the notice, within fourteen (14) days of its date, acknowledging that the violation or violations occurred as alleged and promising that the violation or violations will henceforth cease and will not recur. Such acknowledgment and promise and performance in accordance therewith, shall terminate further enforcement activity by the ASSOCIATION with regard to the violation and no fines shall be levied. Notwithstanding anything above to the contrary, upon a subsequent reoccurrence of the same violation, the ASSOCIATION may levy a fine for the prior first violation.

If a hearing is timely requested, the BOARD shall hold the same on the date and time and at the place set forth in the notice, and shall hear and receive the response of the violator, and OWNER if other than the violator, including written and oral argument on all issues involved and shall hear witnesses that the alleged violator, the OWNER, or the Covenants Enforcement Committee, or its agents, may produce. Any party at the hearing may be represented by counsel.

Subsequent to the hearing, or if no hearing is timely requested and if no acknowledgment and promise are timely and properly made, the BOARD shall determine whether there is a sufficient evidence of a violation or violations as provided herein. If the BOARD determines there sufficient evidence to support a finding that a violation or violations occurred, it shall send a written notification to the violator, and the OWNER if other than the violator, announcing its finding that a violation or violations occurred and notifying the violator, and OWNER if other than the violator, that fines will be assessed and levied as provided herein. No further notice of hearing shall be necessary to enable the BOARD to levy fines for an uncorrected violation, or violations, or for recurring or continuing violations substantially similar to violations for which a hearing opportunity was previously provided.

A fine pursuant to this section shall be assessed against the LOT or PROPERTY which the violator occupied or was visiting at the time of the violation, whether or not the violator is an OWNER of that LOT or PROPERTY, and shall be promptly paid by the OWNER to the ASSOCIATION incident to the levy or collection of the fine, including appellate proceeding.

Nothing herein shall be construed as a prohibition of or a limitation on the right of the BOARD to pursue other means to enforce the provisions of the various documents including, but not limited to, legal action for damages or injunctive relief. In the event such other means are pursued, the ASSOCIATION shall not be required to comply with the procedures and provisions of this Paragraph.

8.02 NO WAIVER. The failure of the ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by this DECLARATION, the ARTICLES, or the BYLAWS, shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provision, covenant or condition in the future.

8.3 RIGHTS CUMULATIVE. All rights, remedies and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this DECLARATION, the ARTICLE or the BYLAWS, shall be deemed to cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

8.4 ENFORCEMENT BY OR AGAINST OTHER PERSONS. In addition to the foregoing, this DECLARATION, ARTICLES, BYLAWS, or Rules or Regulations may be enforced by the DECLARANT, or the ASSOCIATION, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The prevailing party in any litigation shall be entitled to reimbursement for the expenses of any litigation to enforce this DECLARATION, ARTICLES, BYLAWS, or Rules or Regulations adopted by the BOARD. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this DECLARATION against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein (but no OWNER shall be entitled to levy a fine or enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person) and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

## 9. DECLARANT RIGHTS AND RESERVATIONS.

9.1 DECLARANT'S CONSTRUCTION AND SALES ACTIVITIES. In addition to the property rights granted in this DECLARATION to the DECLARANT, as an OWNER or otherwise, the DECLARANT is extended the right to enter upon the SUBJECT PROPERTY at any time and in any way reasonably necessary to allow the DECLARANT to construct or sell, or promote, the TOTAL PROPERTY or any parcel thereof or any contiguous property or to carry out any responsibility of the DECLARANT to OWNERS in such properties including but not limited to the right to use and close to the public the street in front of the Model Areas designated by DECLARANT for parking for visitors and staff, to use any part of the COMMON PROPERTIES for location of a sales center, to maintain and show model homes, to have signs, to have employees in the offices, and to otherwise use the roads and COMMON PROPERTIES. Notwithstanding any other provision in this DECLARATION, the DECLARANT is irrevocably empowered to sell, lease, or rent LOTS or PROPERTIES on any terms to any purchasers or lessees for as long as it owns any PROPERTY.

9.2 NONAPPLICABILITY OF RESTRICTIONS. The architectural control and the use and maintenance restrictions set forth in Sections 6 and 7 of this DECLARATION shall not apply to DECLARANT, or with respect to any PROPERTY owned by DECLARANT and shall not apply with respect to the development of the SUBJECT PROPERTY, the construction of any structure or improvements within the SUBJECT PROPERTY from time to time, by DECLARANT. Specifically, and without limitation, DECLARANT shall have the right to: (i) construct any



buildings, structures or improvements within the SUBJECT PROPERTY; (ii) maintain customary and usual sales, general office and construction operations on any PROPERTY, including portions of the COMMON PROPERTY; (iii) place, erect or construct portable buildings, temporary or accessory buildings, or structures upon any PROPERTY for storage or other purposes; (iv) temporarily deposit, dump or accumulate trash, refuse and rubbish in connection with the development or construction of any PROPERTY; (v) post, display, inscribe or affix to the exterior of a LOT or upon any PROPERTY, "For Sale" and other reasonable signs used in developing any PROPERTY for sale to the public, and for promotional purposes (vi) excavate fill from any lakes within and/or contiguous to the SUBJECT PROPERTY by dredge or dragline, store fill on the SUBJECT PROPERTY, and sell excess fill from the SUBJECT PROPERTY; and (vii) grow plants and trees upon the SUBJECT PROPERTY for later use, and sell excess plants and trees.

9.3 DEDICATION. The DECLARANT reserves the right to dedicate, grant or convey any portion of the SUBJECT PROPERTY owned by it, or any interest or easement therein, to any governmental or quasi-governmental agency or private or public utility company, and shall also have the right to direct the ASSOCIATION to likewise dedicate, grant or convey any COMMON PROPERTY or any interest or easement in any COMMON PROPERTY, whereupon the ASSOCIATION shall execute such documents as will be necessary to effectuate such dedication. This right of DECLARANT shall terminate when DECLARANT no longer has any interest in any portion of the SUBJECT PROPERTY, either as OWNER or mortgagee, and thereafter the right shall be vested within the ASSOCIATION. Any property, or any interest or easement therein, which is dedicated, granted or conveyed pursuant to this Paragraph shall not be subject to the covenants and restrictions contained within this DECLARATION, unless the instrument so dedicating, granting, or conveying such property, interest or easements specifically provides that same is subject to the covenants and restrictions contained within this DECLARATION.

9.4 SUPPLEMENTS. DECLARANT reserves the right to adopt supplemental covenants and restrictions with respect to SUBJECT PROPERTY or any portion thereof, so long as such supplemental covenants and restrictions do not materially and adversely conflict with the terms and provisions herein set forth, and so long as DECLARANT maintains the right to elect or appoint a majority of the BOARD.

9.5 ASSIGNMENT OF DECLARANT'S RIGHTS AND DUTIES.

9.05.01 DECLARANT reserves the right to assign and delegate to ASSOCIATION any and all of its rights, title, interest, duties and obligations created by this DECLARATION, and ASSOCIATION agrees to accept such assigned or delegated rights, title, interest, duties and obligations, it being understood that ASSOCIATION has been formed as a property owners association for the purpose of enforcing these covenants and restrictions; operating, maintaining and improving the COMMON PROPERTIES; and carrying out any other obligations and duties required of it or necessary or desirable in order to effectuate proper development, operation and management.

9.05.2 DECLARANT reserves the right to assign and delegate any and all of its rights, title, interest, duties and obligations to persons and entities other than the ASSOCIATION. Without limiting the generality of the foregoing, it is expressly acknowledged that DECLARANT shall have the right to assign and transfer to BUILDERS some of the rights and privileges herein vested in DECLARANT, such as the rights set forth in Section 9.02 above.

9.05.3 Any partial assignee of any of the rights of DECLARANT shall not be deemed the DECLARANT, and shall have no other rights, privileges, or options other than as are specifically assigned. No assignee of DECLARANT shall have any liability for any acts of DECLARANT unless such assignee is assigned and agrees to assume such liability.

9.6 WITHDRAWAL OF PROPERTY. DECLARANT reserves the right in its sole discretion, at any time and from time to time, to withdraw from the purview of this DECLARATION any SUBJECT PROPERTY, provided that DECLARANT is the sole OWNER of the PROPERTY to be withdrawn and the withdrawal of such PROPERTY shall not materially increase the annual ASSESSMENTS against other LOTS or PROPERTIES remaining subject to this DECLARATION.

9.7 RESERVATION OF EASEMENTS. DECLARANT hereby reserves until itself, its successors and assigns, a perpetual, alienable and releasable nonexclusive easement, right and privilege (a) on, over and under the right-of-way of any of said private roads, sidewalks and pathways in PALMER GLEN for ingress and egress and to erect, construct, maintain and use electric power and telephone poles, wires, cables, conduits, water mains, sewers, drainage lines, drainage ditches and swales, underdrains, and other suitable equipment and appurtenances for these purposes, or for other equipment and appurtenances pertaining to the installation, maintenance, transmission and use of electricity, telephone, television signal transmissions, gas, street lighting, water, and any other utilities or conveniences to be placed in, in over and under the right of way of said roads and sidewalks and pathways; (b) on, over and under any PROPERTY lying between any private road and any lake, pond, canal or ditch serving as part of PALMER GLEN's drainage system for pedestrian and vehicular ingress and egress to such lake, pond, canal or ditch and for the erection, construction, maintenance and use of drainage lines, pipes, ditches, swales, and other drainage devices, provided, however, that in the event DECLARANT exercises its rights under this easement over any area of any PROPERTY platted as a subdivision which has not been specifically reserved on such plat as an area subject to a drainage easement, DECLARANT shall repair any damage to such area occasioned by DECLARANT'S actions and shall restore such area as nearly practicable to its condition prior to DECLARANT' actions (c) on, over and under all PROPERTY lying from the water's edge to within fifteen (15) feet beyond the top of the bank of all lakes and ponds serving as part of PALMER GLEN's drainage system for access to and maintenance of all portions of such lakes and ponds and for installation and maintenance of drainage control devices and apparatus, provided, however, that if DECLARANT should in the exercise of its rights under this easement damage any PROPERTY subject to this easement, DECLARANT shall repair such damage and restore such PROPERTY as nearly as practicable to its condition prior to DECLARANT'S actions.

9.8 USE OF COMMON PROPERTIES. DECLARANT shall have the right in its sole discretion to permit the use of any portion or portions of COMMON PROPERTY, including without limitation the recreational facilities, by the general public or by such persons as DECLARANT may designate.

9.9 WATER LEVEL. DECLARANT shall have the sole right to control the water level and maintenance of all lakes, ponds, canals, drainage control devices, and, all other areas and apparatus comprising the drainage system for PALMER GLEN.

9.10 USE OF ROADS. DECLARANT hereby authorizes use of all private roads by and delegates the nonexclusive right to exercise control of traffic thereon to duly constituted law enforcement officers, and, subject thereto, DECLARANT shall have the right, but not the obligation, from time to time to control all types of traffic on said roads, including the right to control vehicular access to said roads, the right to prohibit use by traffic which, in the opinion of DECLARANT, would or might result in damage to said roads or any part thereof, and the right to control and prohibit parking on all or any part of said roads. DECLARANT reserves the absolute right to deny ingress to any person except those persons referred to above and to remove or require the removal of any fence, wall, hedge, shrub, tree, or other object, natural or artificial, placed or located on any PROPERTY subject to these covenants if the location of the same will, in the sole opinion of DECLARANT, unreasonably obstruct the vision of a motorist or endanger the safe passage of vehicles, bicycles and pedestrians upon said private roads.

9.11 DECLARANT CONTROLLED ASSOCIATION. As elsewhere provided in the ARTICLES and BYLAWS, DECLARANT shall, have the right to control ASSOCIATION by election/appointment of a majority of the BOARD thereto, until three (3) months after ninety percent (90%) of the Lots within the TOTAL PROPERTY that will ultimately be operated by the homeowners' association have been conveyed to MEMBERS at which time the MEMBERS shall be entitled to elect at least a majority of the Directors, and thereafter the DECLARANT shall have the right to appoint at least one or more minority Directors so long as the DECLARANT holds for sale in the ordinary course of business at least five percent (5%) of the Lots within the TOTAL PROPERTY.

9.12 AMENDMENT. As long as DECLARANT has right to elect or appoint a majority of the BOARD, DECLARANT shall have the right to unilaterally amend the DECLARATION, and the ARTICLES and BYLAWS, as elsewhere provided in this DECLARATION. This right of the DECLARANT to amend the DECLARATION shall include, but not be limited to, the right to modify, supplement and add to the definitions contained herein, and to otherwise make what might otherwise be considered substantial modification if necessary to change the scheme of development to permit the development, construction and sale of other types of residential housing. The foregoing notwithstanding, any amendment which would affect the private streets or storm water management system must have the prior written approval of an authorized officer, representative or agent of Sarasota County.

9.13 DISPUTE RESOLUTION. DECLARANT, while it controls the BOARD, and acting through the BOARD, reserves the right to set up one or more committees composed of MEMBERS consisting of OWNERS of LOTS in the SUBJECT PROPERTY. The purpose and operation of said Committees shall be under the direction and control of the BOARD, and shall include, as necessary, the right and authority to investigate alleged defects in the design and construction of the COMMON PROPERTY, and the handling of the affairs of the ASSOCIATION while under DECLARANT control, for purposes of providing a recommendation for resolution of any disputes arising because of any alleged improper activities or defects, so any dispute between DECLARANT, and other MEMBERS of the ASSOCIATION, can be resolved amicably prior to transfer of control of the ASSOCIATION from the DECLARANT to LOT OWNERS. Any agreement reached between DECLARANT and one or more committees appointed for the aforesaid purposes shall be a binding settlement of any and all disputes thereon provided the settlement is approved, in writing, by a majority of the MEMBERS of the ASSOCIATION other than DECLARANT, as said MEMBERS may exist at the time of the settlement. The fact that DECLARANT was in control of the ASSOCIATION at the time of the settlement shall not be a bar of impediment to the validity or enforceability of the settlement nor shall there be any ground to attack the fiduciary duty, obligations and performance of MEMBERS appointed to or elected to the BOARD by DECLARANT during such period of time. Nothing contained herein, shall act to prohibit or restrict the ASSOCIATION from filing a lawsuit against the DECLARANT.

9.14 PERFORMANCE OF ASSOCIATION'S DUTIES BY DECLARANT. DECLARANT shall have the right from time to time, at its sole discretion, to perform at DECLARANT'S expense the duties and obligations required hereunder to be performed by the ASSOCIATION, and in connection therewith to reduce the budget of the ASSOCIATION and the assessments for COMMON EXPENSES payable by the MEMBERS, provided however that any such performance on the part of DECLARANT may be discontinued by DECLARANT at any time, and any such performance shall not be deemed to constitute a continuing obligation on the part of DECLARANT.

9.15 ENFORCEMENT OF OBLIGATIONS OF ASSOCIATION. The original DECLARANT, regardless of whether or not it is a MEMBER of the ASSOCIATION, Sarasota County and any controlling governmental authority, shall have the right but not the obligation, to enforce by proceedings at law or equity, all restrictions, conditions, covenants, reservations, liens, and charges now, or hereafter imposed by provisions of the Declaration, or any amendment thereto, including the right to prevent the violation of provisions relating to private streets, the stormwater management system and any other common property, the right to recover damages for any such violations, and including the right to impose and enforce assessments on behalf of the ASSOCIATION. Furthermore, no amendment to this paragraph shall be made without the joinder and consent of an authorized officer, agent or representative of Sarasota County. In the event the ASSOCIATION defaults with respect to any of its obligations to operate or maintain any PROPERTY, and does not commence and diligently proceed to cure such default as soon as is reasonably practical and in any event within ten (10) days after demand by the original DECLARANT or any controlling governmental authority, the original DECLARANT or such

controlling governmental authority shall have the right to perform such maintenance and in that event all reasonable costs and expenses incurred by the original DECLARANT or such governmental authority, plus interest at the highest rate permitted by law, shall be paid by the ASSOCIATION, plus any costs, expenses, and attorneys' fees incurred in connection with the enforcement of the ASSOCIATION'S duties and obligations hereunder or the collection of any such sums. The original DECLARANT or the controlling governmental authority shall have the right to collect such sums from the MEMBERS of the ASSOCIATION and in connection therewith shall have all enforcement rights granted to the ASSOCIATION in connection with the collection of said monies including but not limited to all lien rights provided by this DECLARATION.

No amendment to this Section 9.15 shall impair, restrict or prove detrimental to the right of Sarasota County as provided hereinabove or to any controlling governmental authority without the joinder and consent of an authorized officer, representative or agent of Sarasota County.

#### 9.16 TRANSFER OF UNIMPROVED LOTS.

9.16.01 NOTICE TO DECLARANT. Any OWNER(S) intending to make a bonafide sale of his unimproved LOT or any interest therein shall give to DECLARANT written notice of such intention, together with a fully executed copy of the proposed contract of sale (the "Proposed Contract"). Within thirty (3) days of receipt of such notice and information or subsequent to the lapse of said thirty (30) day period and within seven (7) days of receipt of written notice that said period has lapsed, DECLARANT shall either exercise, or waive exercise of, its right of first refusal. If DECLARANT elects to exercise its right of first refusal, it shall, within the above specified time periods deliver to the OWNER an agreement to purchase the LOT upon the following terms:

A. The price to be paid shall be the price paid for the LOT when purchased by the OWNER attempting to sell it. The purchase price shall be paid in cash at closing.

B. The sale shall be closed within thirty (30) days after the delivery or making of said agreement to purchase.

If DECLARANT shall fail to exercise or waiver exercise of its right of first refusal within the above specified time periods, the DECLARANT'S right of first refusal shall be deemed to have been waived and DECLARANT shall furnish a certificate of waiver as hereinafter provided.

9.16.03 CERTIFICATE OF WAIVER. If DECLARANT shall elect to waive its right of first refusal, or shall fail to exercise said right within the time periods specified in Section 9.16.02 above, DECLARANT'S waiver shall be evidenced by certificate executed by DECLARANT in recordable form which shall be delivered to the Proposed Contract purchaser and shall be recorded in the Public Records of Sarasota County, Florida.

9.16.4 UNAUTHORIZED TRANSACTIONS. Any sale of a LOT or any interest therein, upon which a DWELLING has not been constructed (and a certificate of occupancy issued therefore), without notice to DECLARANT and waiver of DECLARANT'S right of first refusal as aforesaid, shall be void.

9.16.5 EXCEPTIONS. This Section 9.16 shall not apply to a transfer to or sale by an INSTITUTIONAL LENDER which acquires its title as a result of owning a mortgage upon the LOT concerned, (whether the title is acquired by deed from the mortgagor or its successors in title or through foreclosure proceedings); nor shall this Section 9.16 apply to a sale to any such INSTITUTIONAL LENDER which so acquires title. Neither shall this Section 9.16 require the waiver by DECLARANT as to any transfer of title to a LOT at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

9.16.6 RIGHT OF REPURCHASE. In addition to the right of first refusal set forth above, DECLARANT shall have a right to repurchase a LOT under the following conditions:

A. If an OWNER of a LOT has failed to commence construction within fifteen (15) months after closing on the LOT, DECLARANT shall have a right to repurchase the LOT from the OWNER. DECLARANT shall give written notice of its intent to repurchase the LOT to OWNER. The price to be paid shall be the price paid for the LOT when purchased by the OWNER. The purchase price shall be paid in cash at closing. The closing shall take place within thirty (30) days after notification by DECLARANT of its intent to repurchase. Marketable title shall be transferred by warranty deed, and OWNER shall be responsible for paying the costs of recording the deed, and any corrective instruments, and for documentary stamps on the deed. The amount of these closing costs shall be deducted from the net proceeds due OWNER at closing.

B. The DECLARANT shall also have a right to repurchase a LOT if construction has commenced within fifteen (15) months, but has not been diligently and timely pursued to completion. The purchase price shall be the price paid for the LOT when purchased by OWNER, plus the reasonable value of any improvements made to the LOT. The notice, requirements, closing procedures, and other details shall be as set forth in the immediate preceding Paragraph. If the parties cannot agree on the reasonable value of the improvements, each shall appoint an appraiser, and those two appraisers shall appoint a third appraiser, and the decision of the three appraisers shall be binding upon the parties for purposes of the value of the improvements constructed on the LOT.

C. Notwithstanding the foregoing, the DECLARANT has the discretion whether to exercise the right of repurchase, and in no event can be forced to do. Further, the right of the DECLARANT to repurchase the LOT is not exclusive, and the DECLARANT shall have the right to pursue any other remedies available, under the terms of this DECLARATION, or applicable law, separately or in conjunction with the repurchase.

10. RIGHTS OF INSTITUTIONAL LENDERS. Upon written notice to the ASSOCIATION by any INSTITUTIONAL LENDER holding, insuring or guaranteeing a mortgage encumbering any LOT or PROPERTY, identifying the name and address of the INSTITUTIONAL LENDER and the LOT or PROPERTY encumbered by such mortgage, any such INSTITUTIONAL LENDER will be entitled to timely written notice of:

10.1 LOSS. Any condemnation or casualty loss that affects either a material portion of the SUBJECT PROPERTY or the LOT or PROPERTY securing its mortgage.

10.2 DELINQUENCY. Any sixty (60) day delinquency in the payment of ASSESSMENTS or charges owed by the OWNER of the LOT or PROPERTY to which it holds the mortgage.

10.3 INSURANCE. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION.

10.4 CONSENT. Any proposed action that requires the consent of a specified percentage of INSTITUTIONAL LENDERS.

10.5 TERMS OF DECLARATION. All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their family members, tenants, guests, successor, personal representatives, heirs or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of recording of this DECLARATION in the Public Records of Sarasota County, unless within such time, MEMBERS representing eighty percent (80%) of the votes of the entire membership of the ASSOCIATION execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time). After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods often (10) years each, until MEMBERS representing eighty percent (80%) of the votes of the entire membership of the ASSOCIATION execute a written instrument declaring a termination of the DECLARATION (as it may have been amended from time to time). Any termination of this DECLARATION shall be effective on the date the instrument of termination is recorded in the Public Records of Sarasota County, provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by DECLARANT unless ninety percent (90%) of the Lots within the TOTAL PROPERTY that will ultimately be operated by the homeowners' association have been conveyed to MEMBERS.

## 11. AMENDMENT.

11.01 PROCEDURES. This DECLARATION may be amended upon the approval of not less than sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the ASSOCIATION present, in person or by proxy, and voting, at a duly convened membership

meeting, and by not less than a majority of the BOARD, provided, however, that any such Amendment, in order to be effective, must be approved in writing by DECLARANT so long as DECLARANT owns at least ten percent (10%) of the Lots within the TOTAL PROPERTY. In order to be effective, any Amendment to this DECLARATION must first be recorded among the Public Records of Sarasota County, and in the case of an Amendment made by the MEMBERS and the BOARD, such Amendment shall contain a certification by the President and Secretary of the ASSOCIATION that the Amendment was duly adopted.

11.2 DECLARANT'S RIGHTS. So long as DECLARANT exercises its reserved rights to elect/appoint a majority of the Directors of the ASSOCIATION, DECLARANT shall have the right to unilaterally amend this DECLARATION, without the consent or joinder of the ASSOCIATION, its MEMBERS, or any OWNER or INSTITUTIONAL LENDER, except as to matters expressly exempted from DECLARANT'S unilateral amendment as provided elsewhere herein.

11.3 LIMITATIONS ON AMENDMENT. No Amendments shall change the number of votes of any MEMBER or increase any OWNER'S proportionate share of the COMMON EXPENSES, unless the OWNERS of the PROPERTY affected by such Amendment join the execution of the Amendment. No Amendment may prejudice or impair the lien priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL LENDERS join the execution of the Amendment. No Amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, DECLARANT, unless DECLARANT joins in the execution of the Amendment.

## 12. MISCELLANEOUS.

12.1 CONFLICT WITH ARTICLES OR BYLAWS. In the event of any conflict between Rules or Regulations adopted by the BOARD, the ARTICLES, the BYLAWS or this DECLARATION, this DECLARATION, the ARTICLES, the BYLAWS, and the Rules and Regulations adopted by the BOARD, in that order, shall control.

12.2 AUTHORITY OF ASSOCIATION AND DELEGATION. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its MEMBERS, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.

12.3 SEVERABILITY. The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section, sub-section, sentence, clause, phrase, word or other provision of this DECLARATION shall not affect the validity of the remaining portions which shall remain in full force and effect.



12.4 VALIDITY. In the event any court shall hereafter determine that any provisions as originally drafted herein violates the rule against perpetuities, the period specified in this DECLARATION shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

12.5 EFFECTIVE DATE. This DECLARATION shall become effective upon its recordation in the Public Records of Sarasota County, Florida.

12.6 AMBIGUITY. In the event any of the provisions of this DECLARATION are ambiguous or subject to more than one interpretation and a dispute arises involving another OWNER MEMBERS, the ASSOCIATION or the DECLARANT, the question shall be presented to the BOARD and its determination shall be dispositive of the question.

12.7 VARIANCE. No OWNER shall request a variance from the Zoning Code of Sarasota County without first having presented the request for variance to the BOARD and receiving the approval for the variance request from the BOARD. Any variance received from Sarasota County which was not first approved by the BOARD shall be considered to be of no force or effect as it relates to any matters covered by or affecting this DECLARATION.

12.8 NUMBER/GENDER. Unless otherwise so required, 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.

12.9 TITLES. The use of titles in this DECLARATION is for convenience only and the titles shall not be interpreted or construed to negate, counteract, limit or otherwise affect the substantive provisions of this DECLARATION.

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SIGNATURE OF DECLARANT ON FOLLOWING PAGE

EXHIBIT "A"

TOTAL PROPERTY/SUBJECT PROPERTY  
Legal Description

Phase I

Situated in Section 29, Township 36 South, Range 19 East, Sarasota County, Florida and being part of Tracts 46, 47, 48 & 49, of the Fifth Unit of Palmer Farms, a subdivision recorded in Plat Book 3 at Page 15 of the Public Records of Sarasota County, Florida, together with a strip of land being a portion of the northerly 15 feet of the former Tampa Southern Railroad, all being more particularly described as follows-

Begin at the northwest corner of aforesaid of Tract 46; Thence along the southerly right-of-way of Palmer Boulevard (former Ringling Boulevard 60 feet wide) , South 85°28'33" East 1624.16 feet to the northeast corner of aforesaid Tract 49/ Thence along the east line of Tract 49, South 00°00'30" west 534.99 feet; Thence crossing Tract 49, 48, 47 and a portion of Tract 46 the following courses:

1. North 89°59'30" West 136.18 feet
2. South 00°00'30" West 49.97 feet
3. North 89°59'20" West 174.61 feet
4. South 00°00'30" West 43.53 feet
5. Southwestwardly on a curve concave northwestwardly an arc distance of 329.29 feet, said curve having a radius of 190.00 feet/ a central angle of 99°18'00" and a chord which bears South 49°39'30" West 289.60 feet
6. North 80°41'30" West 219.61 feet
7. Northwestwardly on a curve concave northwardly an arc distance of 119.54 feet, said curve having a radius of 190.00 feet, a central angle of 36°02'52" and a chord which bears North 62°40'04" West 117.58 feet
8. North 44°36'36" West 195.68 feet
9. South 45°21'22" West 95.74 feet
10. Southwardly on a curve concave eastwardly an arc distance of 39.27 feet, said curve having a radius of 25.00 feet, a central angle of 90°00'00" and a chord which bears South 00°21'22" West 35.36 feet
11. South 45°21'22" West 50.00 feet
12. North 44°38'38" West 21.63 feet
13. South 45°21'22" West 125.00 feet
14. South 44°38'38" East 163.00 feet
15. South 51°51'28" East 185.44 feet
16. South 09°18'30" West 25.13 feet

to a point on the north line of Firethorne Estates, a subdivision recorded in Plat Boole 29, Page 23-23C, of the Public Records of Sarasota County, Florida; Thence along the north line of Firethorne Estates the following courses:

1. North 80°41'30" West 174.12 feet
2. North 09°18'30" East 15.00 feet
3. North 80°41'30" West 515.83 feet to a point on the easterly right-of-way line of Niobe Road,- and Thence along said easterly right-of-way line, North 00°04'29" East 1054.41 feet to the Point-of-Beginning.

AND:

EXHIBIT "A" TOTAL PROPERTY /  
SUBJECT PROPERTY (Cont'd)

Legal Description

Phase II

Situated in Section 29, Township 36 South, Range 19 East, Sarasota County, Florida and being part of Tracts 46, 47, 48 & 49, of the Fifth Unit of Palmer Farms, a subdivision recorded in Plat Book 3 at Page is of the Public Records of Sarasota County, Florida, together with a strip of land being a portion of the northerly 15 feet of the former Tampa Southern Railroad, all being more particularly described as follows:

Begin at the Point-of-intersection of the southerly projection of the east line of aforesaid Tract 49 with the northerly line of Firethorne Lakes, a subdivision recorded in Plat Book 33, Pages 43, 43A & 43B of the Public Records of Sarasota County, Florida; Thence from said Point-of-Beginning and along the northerly line of said Firethorne Lakes and Firethorne Estates, a subdivision recorded in Plat Book 29 at Page 23 of the Public Records of Sarasota County, Florida, North 80°41'30" West 954.02 feet to a southeasterly corner of Palmer Glen, Phase I; Thence along the easterly lines of Palmer Glen, Phase I the following courses:

1. North 09°18'30" East 2S.13 feet
2. North 51°51'26" West 185.44 feet
3. North 44°38'38" West 163.00 feet
4. North 45°21'22" East 125.00 feet
5. South 44°38'3B" East 21.63 feet
6. North 45°21'22" East 50.00 feet
7. Northwardly on a curve concave eastwardly an arc distance of 39.27 feet, said curve having a radius of 25.00 feet, a central angle of 90°00'00" and a chord which bears North 00°21'22" East 35.36 feet
8. North 45°21'22" East 95.74 feet
9. South 44°38»3B" East 195.68 feet
10. Southeastwardly on a curve concave northeastwardly, an arc distance of 119.54 feet, said curve having a radius of 190.00 feet, a central angle of 36°02'52\* and a chord which bears South 62°40'04" East 117.58 feet
11. South eo°4i'30" East 219.61 feet
12. Northeastwardly on a curve concave northwestwardly, an arc distance of 329,29 feet, said curve having a radius of 190.00 feet, a central angle of 99°18'00<sup>M</sup> and a chord which bears North 49°39\*30" East 209.60 feet
13. North 00°00'30" East 43.53 feet
14. South 89°59'30" East 174.61 feet
15. North 00°00"30" East 49.97 feet
16. South 89°59'30" East 136.18 feet to the east line of aforesaid tract 49; and Thence along said line. South 00°00'30" West 672.08 feet to the Point-of-Beginning.