

Record and Return to:  
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10110 San Jose Boulevard  
Jacksonville, FL 32257

Doc# 2000189441  
Book: 9715  
Pages: 2336 - 2473  
Filed & Recorded  
08/18/2000 11:16:36 AM  
HENRY W COOK  
CLERK CIRCUIT COURT  
DUVAL COUNTY  
TRUST FUND \$ 69.50  
RECORDING \$ 553.00

## DECLARATION OF CONDOMINIUM FOR WINDSOR POINTE V, A CONDOMINIUM

### Exhibit List

- Exhibit A Legal Description of the Building
- Exhibit B Share of Common Elements and Common Surplus
- Exhibit C Survey and Site Plan
- Exhibit D Unit Designations and Street Addresses
- Exhibit E Owner's Association Articles of Incorporation
- Exhibit F Owner's Association Bylaws
- Exhibit G Master Association Articles of Incorporation
- Exhibit H Master Association Bylaws
- Exhibit I Description of Master Association Property
- Exhibit J Declaration of Covenants, Conditions and Restrictions
- Exhibit K Joinder of Mortgagee
- Exhibit L Declaration of Covenants and Restrictions for Windsor Parke

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DECLARATION OF CONDOMINIUM

FOR

WINDSOR POINTE V, A CONDOMINIUM

This DECLARATION OF CONDOMINIUM is made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by **WINDSOR POINTE OF JACKSONVILLE, INC.**, a Florida corporation, whose address is 10161 Centurion Parkway North, Suite 150, Jacksonville, Florida 32256 ("Developer" or "Declarant"), in and by which the Developer makes the following declarations:

1. **INTRODUCTION AND SUBMISSION.**

1.1 **Submission Statement.** Developer, being the owner of the fee simple title to the property described in **Exhibit A** attached hereto, for itself, its successors, grantees and assigns, hereby submits to the condominium form of ownership and use the land described in **Exhibit A** hereof, the improvements now and hereafter situated thereon, and the easements and rights appurtenant thereto (the "Condominium Property"), pursuant to Chapter 718, Florida Statutes, 1998, as amended through the date hereof (the "Condominium Act").

All the restrictions, reservations, covenants, conditions, easements and limitations of record contained herein shall constitute covenants running with the land or equitable servitudes upon the land, as the case may be, shall run perpetually unless terminated as provided herein, and shall be binding upon all Unit Owners as hereinafter defined. In consideration of receiving and by acceptance of a grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions hereof, the Articles of Incorporation and the Bylaws of the Association and the Master Association as hereinafter defined. Both the benefits provided and the burdens imposed shall run with each Unit and the interests in Common Elements as defined herein.

1.2 **Name.** The name by which the condominium is to be identified is WINDSOR POINTE V, A CONDOMINIUM, sometimes herein called the "Condominium." The street address is 13715 Richmond Park Drive, Jacksonville, Duval County, Florida 32256.

1.3 **The Land.** The land submitted to Condominium is located in Duval County, Florida, and is described in **Exhibit A** attached hereto and made a part hereof, and consists of a parcel of real property (the "Land") upon which will be situated residential improvements (the "Condominium Building") and common facilities which are submitted hereby to condominium ownership. A survey and site plan of the Land is attached hereto and made a part hereof as **Exhibit C**.

2. **DEFINITIONS.**

2.1 **"Assessment"** means a proportionate share of the funds required for the payment of Common Expenses which from time to time is assessed directly each Unit Owner.

2.2 **"Articles"** mean the Articles of Incorporation of the Association and/or the Master Association, unless the context would prohibit or it is otherwise expressly provided, to be recorded in the County as they now exist and as they may be amended from time to time hereafter.

2.3 **"Special Assessment"** means any assessment levied against unit owners other than those assessments required by a budget adopted annually.

2.4 **"Association"** or **"Condominium Association"** means WINDSOR POINTE V, CONDOMINIUM ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the operation of the Condominium and such other Condominiums as are from time to time designated to be maintained or operated by the Association.

2.5 **"Master Association"** means WINDSOR POINTE MASTER ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the grounds, access, parking, and roadways used by the Condominium and such other Condominiums as are from time to time designated to be maintained or operated by such Association.

2.6 **"Community Association"** means WINDSOR PARKE OWNERS ASSOCIATION, INC., a not for profit Florida corporation, the entity responsible for the grounds, access, and roadways used by the Condominium and such other developments within the Windsor Parke community as set forth in that certain Declaration of Covenants and Restrictions for Windsor Parke recorded at Volume 7479, Pages 1141 through 1163 of the current public records of Duval County, Florida (the "Community Covenants") attached hereto as **Exhibit L** and incorporated herein by reference, as the same are from time to time designated to be maintained or operated by such Association.

2.7 **"Board"** or **"Board of Directors"** means the Board of Directors of the Association pursuant to the Articles and Bylaws thereof or such other representative body responsible for administration of the Association.

2.8 **"Building"** or **"Condominium Building"** means the structure or structures situate on the Condominium property in which the Units are located, regardless of the number thereof.

2.9 **"Bylaws"** mean the Bylaws of the Association, the Master Association and Community Association, unless the context would prohibit or it is otherwise expressly provided, as they now exist and as they may be amended from time to time hereafter.

2.10 **"Common Elements"** means and includes:

2.10.1 The portions of the Condominium Property which are not included within the Units.

(a) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishings of utility and other services to Units and Common Elements.

(b) An easement of support in every portion of a Unit which contributes to the support of the Building.

(c) The property and installations required for the furnishings of utilities and other services to more than one Unit or to the Common Elements.

(d) Any other parts of the Condominium Property designated to Common Elements in this Declaration or any amendment thereto.

2.10.2 Common Elements shall not include improvements installed by Unit Owners.

2.11 "**Common Expenses**" means the expenses of administration, maintenance, operation, repair and replacement of the Condominium Property as well as any Association, Master Association and/or Community Association property and any other properties owned by any of the Associations, other expenses declared by the Association, Master Association and/or Community Association or this Declaration to be Common Expenses and any other valid expenses or debts of the Condominium as a whole or the Association which are assessed against the Unit Owners and includes all expenses incurred by the Association, Master Association and Community Associations for the benefit of the Condominium.

2.12 "**Common Surplus**" means the excess of all receipts of the Association collected on behalf of the condominium, including but not limited to, assessments, rents, profits and revenues on account of the Common Elements over the Common Expenses.

2.13 "**Condominium Parcel**" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits. the term includes all other appurtenances to the Unit.

2.14 "**Master Association Property**" means the property, real and personal for which title or ownership is vested in the Master Association and/or property that is leased by the Master Association or dedicated by a recorded plat to the Master Association for the use and benefit of its members and/or such other persons as the Master Association or Developer may grant use rights.

2.15 "**Community Association Property**" means the property, real and personal for which title or ownership is vested in the Community Association and/or property that is leased by the Community Association or dedicated by a recorded plat to the Community Association for the use and benefit of its members and/or such other persons as the Community Association or Developer may grant use rights.

2.16 "**County**" means the County of Duval, State of Florida.

2.17 "**Covenants**" or "**Declaration of Covenants**" means Windsor Pointe, Declaration of Covenants, Conditions and Restrictions, recorded in the Public Records of the County and attached hereto as **EXHIBIT J**, and the Declaration of Covenants and Restrictions for certain property owned or controlled by the Association to be recorded in the Public Records of the County, all as now or hereafter amended, modified or supplemented.

2.18 "**Community Covenants**" means Windsor Pointe, Declaration of Covenants, and Restrictions, recorded in the Public Records of the County and attached hereto as **EXHIBIT L**, as now or hereafter amended, modified or supplemented.

2.19 "**Declaration**" or "**Declaration of Condominium**" means this instrument, as it may be amended from time to time.

2.20 "**Improvements**" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium property.

2.21 "**Lake(s)**" shall mean a body of water of considerable size, surrounded by land located on the Master Association or Community Association Property, both natural and artificial, and if artificial, designed to hold water on a permanent basis.

2.22 "**Mortgagee**" means a bank, the Developer, savings and loan association, insurance company, mortgage company, real estate investment trust, recognized institutional type lender or its loan correspondent, or agency of the United States Government, which owns, holds or insures a mortgage encumbering a Condominium Parcel. "Mortgagee" also includes Federal National Mortgage Association.

2.23 "**Institutional Mortgagee**" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, Federal National Mortgage Association ("FMNA") Government National Mortgage Association ("GMNA") and other similar insurers and guarantors of mortgages, mortgage banker, or any other lender generally reorganized as an institutional type lender or Developer holding a mortgage on a Unit or Units.

2.24 "**Limited Common Elements**" mean those Common Elements the use of which are reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration Reference herein to Common Elements shall include also all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.

2.25 "**Major Damage**" wreckage, ruin or destruction of all or a substantial part of the Condominium Property such that the estimated cost of repair or replacement would exceed TWENTY THOUSAND DOLLARS (\$20,000.00).

2.26 "**Unit**" means a part of the Condominium property which is subject to exclusive ownership, as designated in the Declaration, which shall consist of land and/or improvements.

2.27 "**Unit Owner**" or "**Owner of a Unit**" means the owner of a Condominium Parcel as shown by the real estate records in the office of the Clerk of Duval County, Florida, whether such Owner be the Developer, one or more persons, firms, associations, corporations or other legal entities. "Owner" shall not mean or refer to the holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

2.28 "**Utility Service**" as used in the Condominium Act, construed with reference to this Condominium, and as used in this Declaration, the Articles and the Bylaws shall include, but not be limited to, electric power, gas, water, trash and sewage disposal.

2.29 "**The Condominium**" or "**this Condominium**" means WINDSOR POINTE V, a Condominium.

2.30 "**Voting Certificate**" means a document which designates one of the record title owners, or the corporate, partnership or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity.

2.31 "**Voting Interest**" means the voting rights distributed to the Association members pursuant to §718.104(4)(i).

### 3. **DESCRIPTION OF CONDOMINIUM PROPERTY.**

3.1 **Number and Identification of Units.** Exhibit D attached hereto and made a part hereof includes a graphic description of the improvements comprising part of the Condominium Property. The improvements shall consist of eight (8) condominium units located in one two-story building. Each "Unit" is identified (as defined in the Condominium Act and herein) by number. A plot (site) plan of the improvements is annexed and made a part hereof as **Exhibit C**.

The construction of the improvements on the Land is not substantially complete; however, at the time the improvements or a portion thereof are substantially completed the Developer shall cause this Declaration to be amended to include a Certificate of Surveyor authorized to practice in this state which shall provide that the construction of the improvements or certain Units to be conveyed are substantially complete so that the materials in **Exhibits A, C and D** together with the provisions of the Declaration describing the property or the planned common element facilities is an accurate representation of the location and dimensions of the improvements and that the identification, location and dimensions of the Common Elements and of each Unit to be conveyed can be determined from these materials.

3.2 **Other Improvements.** In addition to the Condominium Building situated thereon, the Land also includes improvements consisting of parking areas, walks, landscaped areas (owned by the Master Association) as well as all underground structures and improvements, which are not part of or located within the Condominium Building, such as wires, cables, drains, pipes, ducts, conduits, valves and fittings serving the Condominium to the extent the same are not elsewhere herein reserved to and/or retained by Developer and/or the Master Association.

3.3 **Units.** The term "Units" as used herein shall mean and comprise the eight (8) condominium units in the Condominium which are located and individually described in **Exhibit D** hereto.

3.3.1 Each condominium Unit shall include that part of the Condominium Building containing such Unit that lies within the following boundaries:

(a) **Upper and lower boundaries.** The upper and lower boundaries of a Unit shall be the boundary of the horizontal plane of the unfinished ceiling surface extended to an intersection with the perimetrical boundaries as an upper boundary and the boundary of the horizontal plane of the unfinished surface of the floor extended to an intersection with the perimetrical boundary as a lower boundary. For those Units which have a cathedral or other type of irregular ceiling the space above the horizontal plane and below the underside of the finished surface of the vaulted ceiling is part of the Unit.

(b) **Perimetrical Boundary.** The perimetrical boundary of each unit shall be the following boundaries of the exterior building walls which are the intersecting vertical planes adjacent to and which include the unfinished surface of the interior of the outside walls of the Condominium Building bounding a Unit and the interior building walls which are the vertical plane of the interior unfinished surface of the walls bounding a Unit (excluding interior partitions within

Units) extended to intersections with other perimetrical boundaries both as extended to an intersection with the upper and lower boundaries.

(c) **Exclusions.** The Unit Owner shall not be deemed to own any spaces or improvements lying beneath the unfinished inner surfaces of the perimeter walls and floors and above the lowest horizontal plane of the uppermost structural elements of each Unit, nor any spaces or improvements lying beneath the undercoated and/or unfinished inner surface of all interior columns, bearing walls and/or bearing partitions nor any pipes, ducts, vents wires, conduits or other facilities equipment and/or fixtures running through any interior wall or horizontal or vertical portion of a Unit, for the furnishing of utility services, heating and cooling and/or ventilation to Units, Common Elements and/or Limited Common Elements.

(d) **Aperture.** All glass and other transparent and/or translucent material insect screens and screening in windows and doors, the material covering other openings in the exterior on interior walls of Units where applicable, shall be construed to be within the boundaries or limits and part of the Unit exclusively served by such windows, doors and other openings.

(e) **Mechanical Equipment.** All air conditioning compressors, water heaters, heat pumps and other mechanical equipment serving only one Unit shall be deemed to be a part of the Unit, wherever the same may be located on the Land.

### 3.4 **Appurtenances and Possession and Enjoyment of Condominium Parcels.**

3.4.1 There shall pass with each Unit as appurtenances thereto:

(a) An undivided share in the Common Elements and Common Surplus, as more fully described in **Exhibit B** attached hereto and made a part hereof.

(b) An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

(c) Membership of the Unit Owner in the Association, full voting rights in the Association and the right to use the Association Property and to access properties owned by the Association, subject to the rules and regulations as adopted from time to time by the Association.

(d) Membership of the Unit Owner in the Master Association, and the right to use the Master Association Property and to access properties owned by the Master Association, subject to the rules and regulations as adopted from time to time by the Master Association.

(e) Membership of the Unit Owner in the Community Association, and the right to use the Community Association Property and to access properties owned by the Community Association, subject to the rules and regulations as adopted from time to time by the Community Association.

(f) A non-exclusive easement for ingress and egress by the Owners, their guests, invites and lessees over streets, walks, and other rights-of way serving the Units of the Condominium, necessary to provide reasonable access to the public ways.

(g) An exclusive easement for the use of such Limited Common Elements as may be designated in this Declaration or in the deed conveying the Unit.

3.4.2 Each Unit Owner is entitled to the exclusive possession of his Unit subject to the provisions of this Declaration. He shall be entitled to the use of the Common Elements, in accordance with the provisions of this Declaration and the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Unit Owners. There shall be a joint use of the Common Elements and a mutual easement for that purpose is hereby created.

3.4.3 "Time share estates" may not be created in any Unit by any person or entity.

### 3.5 **Common Elements.**

3.5.1 **Inclusions.** The term "Common Elements", as used herein, shall mean and comprise all of the real property and improvements of the Condominium except Units including without limitation:

(a) easements through Units for conduits, pipes, ducts, vents plumbing wiring and other facilities equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements;

(b) easements of support in every portion of a Unit which contribute to the support of other Units and/or Common Elements;

(c) installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation;

(d) the property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements;

(e) fixtures owned or held for the common use benefit and enjoyment of all owners of Units in the Condominium;

(f) parking spaces within the Garage of the Condominium Building as to which a single space may be assigned to each Unit Owner;

(g) easements for ingress and egress serving the Condominium property;

(h) all open areas and contained within the Land;

(i) all roadways, sidewalks, paths, fences and entrance areas located on the Land; and

(j) all other improvements owned or held for common use, benefit and enjoyment of all Unit Owners.

3.6 **Limited Common Elements.**

3.6.1 **Existence.** There may be Limited Common Elements appurtenant to Units in this Condominium, as reflected by the plot plan and survey attached as **Exhibit C** hereto. These Limited Common Elements are reserved for the use of the Units to which they are appurtenant or assigned to the exclusion of other Units, and there shall pass with a Unit as an appurtenance thereto the exclusive right to use the Limited Common Elements so appurtenant or assigned. These Limited Common Elements shall include, but not be limited to, the following as specifically designated and delineated by the plot plan and survey attached as **Exhibit C** hereto:

(a) To each Unit any enclosed patio areas and/or balconies that may be depicted on **Exhibit D.**

(b) Each Unit Owner of a Unit in the Condominium has the right of exclusive use of the air space and ground space occupied by the air conditioning compressor, heat pump, air handler and equipment and fixtures appurtenant thereto, serving that Unit.

3.6.2 **Costs of Maintenance, Repair or Replacement.** Any expenses of maintenance, repair or replacement of Limited Common Elements shall be treated and paid for as a part of the Common Expenses (except that any maintenance, repairs or replacements caused by an individual Unit Owner shall be charged against the individual Unit Owner). Notwithstanding the foregoing, storage areas, patios and balconies, including any enclosure thereof shall be maintained by an individual Unit Owner.

4. **APPURTENANCES TO UNITS.** There shall be appurtenant, and pass with title to each Unit, the rights, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation the following:

4.1 **Use of Common Elements.**

4.1.1 An undivided one eighth (1/8), share in the Common Elements, as described above.

4.1.2 The right to use exclusively those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere to a certain Unit or Units as Limited Common Elements.

4.1.3 An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown on **Exhibit D** hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time.

4.1.4 Non-exclusive easements, to be used and enjoyed in common by all present and future owners of Units in the Condominium, their guests and invites, for use of those Common Elements or other facilities not designated elsewhere herein as Limited Common Elements including, without limitation easements for the furnishing and maintenance of utility services to all parts of the Land over across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefore now exist and/or may be modified or relocated.

4.1.5 An exclusive easement for the unintentional and non-negligent encroachment by any Unit, or upon any portion of the Common Elements, or vice versa for any reason not caused by or resulting from the willful negligent act of Developer or any Unit owner or owners, including construction of improvements which exclusive easement shall exist at all times during the continuance of such encroachments, as an easement appurtenant to the encroaching Unit or other improvements, to the extent of such encroachment.

4.1.6 The Developer reserves the right, but not the obligation to develop other condominiums and/or other residential developments upon lands adjacent to the Condominium property. In the event of such additional development, the Developer reserves the right to grant further non-exclusive easements over the common roads to property owners adjacent to the Land described on **Exhibit A** Developer shall grant such easements to such adjacent property owners, and such adjacent property owners shall enter into an agreement with the Association/Master Association and shall covenant on behalf of themselves and their successors and assigns to pay a pro rata share of the maintenance and repairs for the common roads and to enter into an Agreement with the Association/Master Association to set forth the method of computation of the respective contributions to the maintenance and repairs thereof.

## 4.2 Easements.

4.2.1 An exclusive easement for the use of the air space occupied by the Units as it exists any particular time (as shown on **Exhibit D** hereto) and as it may lawfully be altered or reconstructed from time to time which easements shall be terminated automatically in any air space which is permanently vacated from time to time; and

4.2.2 Non-exclusive easements, to be used and enjoyed in common with the owners of all Units in the Condominium, their guests, invites, and lessees, for use of those Common Elements not designated elsewhere herein as Limited Common Elements, including, without limitation, easements for:

(a) The furnishing and maintenance of private or public utility services to all parts of the real property of the Condominium over, across, in and through the Land, the Condominium Building and other improvements as the fixtures and equipment therefore now exist and/or may be modified or relocated; and

(b) Vehicular and pedestrian access over across upon in and through the drive, sidewalks, entries, gates, wales, grounds, and other portions if any of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic through the Condominium and for access to the common roadways.

(c) An exclusive easement for the use of the area of Land and air space occupied by the appurtenant mechanical equipment, e.g., air conditioning compressor heat pump air handler and the equipment and fixtures appurtenant thereto, situated in and/or on Common Elements of the Condominium but exclusively serving a particular Unit, as the same exists in and on the Land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, heat pump air handler and the equipment and fixtures appurtenant thereto, provided that the removal of the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

4.3 **Membership.** The right to membership in the Association, Master Association and Community Association upon the terms and conditions set forth elsewhere herein.

4.4 **Ingress and Egress.** Each Unit Owner and his guests, invitees, lessees and domestic help, and all delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities authorized by the Developer or Grantor of the easement referenced therein ("Grantor") to serve the Condominium, holders of mortgage liens on the Condominium or any Unit and such other persons as the Developer may from time to time designate, shall have the non-exclusive and perpetual right of ingress and egress over and across the real property constituting common roads within the Community as described in **Exhibits A and C** attached hereto and made a part hereof, or as they may be amended in related documents recorded in the public records of the County.

4.5 **Alterations of and improvements to Units and Common Elements.**

4.5.1 **Required Pre-approval.** Subject to the restrictions set forth in Section 9, no Unit Owner shall make any addition, alteration or improvements in or to his Unit, the Common Elements or Limited Common Elements and no fence, wall, gate or other structure or improvement may be erected, installed, maintained or removed on the Condominium Property until the design, construction, specifications and a plan showing the location of the structure have been approved in writing by the Board of Directors as to quality, design and materials, in harmony with existing structures, and as to location with respect to topography and finished grade elevation. Absent such approval of the Board of Directors, said request for approval shall be deemed denied. Nothing contained in this paragraph shall be construed to lessen the obligation of any Owner to make prompt application for and obtain all necessary governmental permits and other approvals with respect to any such structure. In no event shall a Unit Owner make any alterations in the portions of the improvements of the Condominium which are to be maintained by the Association/Master Association, remove any portion thereof, make any additions thereto, do any work which would jeopardize the safety or soundness of the Building containing his Unit or impair any easement, or be in violation of the governing documents of the Community Association.

4.5.2 **Indemnification of Association/Master Association and Unit Owners.** A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, Master Association and Community Association and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of installation or construction thereof, as may be required by the Association, Master Association and/or Community Association, including, without limitation, any costs, expenses or liability associated with the repair, replacement, removal or reinstallation of said additions, alterations or improvements regardless of the impetus, cause or reason for the same. The provisions of this paragraph shall not apply to the Developer.

4.6 **Restraint Upon Separation and Partition of Common and Limited Common Elements.**

4.6.1 The undivided share in the Common and/or Limited Common Elements which is appurtenant to a Unit shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described.

4.6.2 A share in the Common and/or Limited Common Elements appurtenant to a Unit cannot be conveyed or encumbered except together with the Unit.

4.6.3 The shares in the Common and/or Limited Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common and/or Limited Common Elements shall lie.

5. **AMENDMENT OF DECLARATION.**

5.1 **Procedure for Amending Declaration.** Except for amendments which Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided this Declaration may be amended only in the following manner:

5.1.1 **Required Vote of the Units.** This Declaration may be amended at any regular or special meeting of Unit Owners called or convened in accordance with the Bylaws by the affirmative vote of more than two thirds (2/3rds) of the Units.

5.1.2 **Notice.** Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

5.1.3 **Proposal.** Amendments to this Declaration may be proposed by the Board of the Association by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board or by the owners of one-tenth (1/10) of the Units, whether by vote of such owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

5.1.4 **Adoption of Amendments.** Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association; or, in the absence of the president, to a Vice president or other acting chief executive officer, who shall thereupon call a special meeting of the Unit Owners in this Condominium to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting as the case may be of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association; provided, that any member may, in writing signed by such member, waive notice of any such meeting in the manner provided for in the Bylaws of the

Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member.

The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of owners not less than two-thirds of the Units provided that any amendment proposed may be adopted without a formal meeting of the members, by an instrument executed and acknowledged with the formalities of a deed by members owning not less than eighty percent (80%) of all Units.

5.1.5 **Effective Date and Recording Evidence of Amendment.** An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed in the form required for the execution of a deed Amendments effected by the Developer must be evidenced in writing and recorded but a certificate of the Association is not required an Amendment of the Declaration is effective when it is recorded in the public records of the County.

5.2 **Prohibited Amendments.** Except as otherwise provided in this Declaration no amendment shall be passed which shall:

5.2.1 Subject to the provisions of Article Four above, change the configuration or the size of any Unit in any material fashion, materially alter or modify the appurtenances to such Unit, nor change the proportional percentage by which a Unit Owner shares the Common Expenses and owns the Common Surplus unless the record owner thereof and all record owners of liens thereon shall join in the execution of such amendment and unless a majority of record owners of all Units approve the amendment; and

5.2.2 Materially impair or prejudice the rights and priorities of any Mortgagee or otherwise violate a Federal National Mortgage Association or Federal Home Loan Mortgage Corporation requirement without the prior written consent of such Mortgagee. Mortgagee's consent shall not be unreasonably withheld.

5.2.3 In any way affect any of the rights, privileges, powers or options of the Developer without the prior written consent of the Developer, or the Master Association.

5.2.4 Discriminate against any Unit Owner or against any Unit or class or group of Units comprising part of the Condominium property, unless the record owners of all affected Units and Institutional Mortgagees thereon shall join in the execution and acknowledgment of the amendment.

5.2.5 Make any change in Article Nine hereof entitled "Insurance," nor in Article Ten hereof, entitled "Reconstruction or Repair After Casualty" unless the Institutional Mortgagees on Units shall join in the execution and acknowledgment of the amendment.

5.2.6 Adversely affect the lien or priority of any previously recorded mortgage to a Mortgagee.

5.2.7 Change the rights and privileges of the Developer without the Developer's written approval

5.2.8 Change the use of any Unit or Common Element to commercial use without Developer's written consent.

5.3 The right of the Developer to amend this Declaration of Condominium as elsewhere provided herein shall not be abridged in any manner by this Article or any other article of this Declaration or exhibits thereto.

5.4 The condominium regime may not be merged with a successor condominium regime without prior written approval of Institutional Mortgagees.

5.5 **Amendments by Developer.** Notwithstanding any provision to the contrary set forth in this Article or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Association the Developer may amend this Declaration to add any surveyor's certificate(s) and/or to amend the documents as required by an Institutional Mortgagee without the consent or joinder of any Unit Owner or Institutional Mortgagee.

5.6 **Amendment to Correct Omission or Error in Condominium Documents.** The Association, by the affirmative vote of the Owners of not less than 51% of the members, may amend the Declaration for the purpose of correcting a defect, error or omission in this Declaration so long as such amendment does not materially or adversely affect the rights of owners, lienors or mortgagees.

## 6. **THE ASSOCIATION.**

6.1 **Name of Association.** The entity responsible for the operation of this Condominium shall be WINDSOR POINTE V CONDOMINIUM ASSOCIATION, INC. a Florida corporation not-for-profit (the "Association"), of which a copy of the Articles of Incorporation is attached hereto and made a part hereof as **Exhibit E**, subject to the rights reserved to Developer herein, and in the Condominium Act to administer and manage the Condominium Property the Association shall administer and manage the Condominium Property provided that the Association may, to the extent permitted by the Condominium Act, by contract, delegate its maintenance, management and operational duties and obligations. The Association is also authorized to adopt and publish such reasonable rules and regulations as it deems reasonably necessary for the maintenance and conservation of the Condominium Property, and for the benefit of all Unit Owners. All Unit Owners shall be subject to such rules and regulations.

6.2 **Bylaws of Association.** A copy of the Bylaws of the Association is attached hereto and made a part hereof as **Exhibit F**. Defects or omissions in the Bylaws shall not affect the validity of the Condominium or title to the Condominium parcels.

6.3 **Voting Rights of Unit Owners.** The Unit Owner(s) shall become a member or members of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee title thereto from Developer or, in a conveyance by a grantee or a remote grantee of Developer, a deed which has been approved by the Association and otherwise complies with the terms and conditions of this Declaration, the Articles of Incorporation and Bylaws of the Association. There shall be appurtenant and pass with title to each Unit, one vote as a member

of the Association, which may be exercised by the Unit Owner(s), or the duly constituted proxy of the Unit Owner(s), from time to time, at all meetings of members and in connection with all matters upon which all members of the Association are entitled to vote. The qualification of members of and manner of admission to membership in the Association the termination of such membership and voting by members shall be as provided for in the Articles of Incorporation and Bylaws of the Association.

**7. THE MASTER ASSOCIATION AND COMMUNITY ASSOCIATION.**

7.1 The Master Association represents all the residents of Windsor Pointe development, including this Condominium, and its members are those persons designated in the Master Association's Articles of Incorporation and Bylaws. The Master Association, acting through its Board of Directors, shall have the powers, rights and duties with respect to the Condominium Property, all as more particularly set forth in the Master Association's Articles of Incorporation and its Bylaws.

7.2 The Master Association is entitled to a lien upon a Unit for any unpaid assessment for expenses incurred or to be incurred by the Master Association in fulfillment of its maintenance, operation and management responsibilities with respect to roadways, bridges, lakes, ponds, drainage facilities, rights-of-way, medians, bicycle paths, entrance ways, irrigation systems, traffic control systems, street lighting, security, uncovered parking areas and other common areas or areas to be used in common with other residents of the Windsor Pointe development, the payment of real estate ad valorem taxes assessed against such common areas and the providing of other services, all of which is more particularly described in the Master Association Bylaws.

7.3 If for any reason the Association fails or refuses to perform the obligations imposed on it hereunder and under the other Condominium Documents, the Master Association shall be, and hereby is, authorized to act for and on behalf of the Association in such respect as the Association has so refused or failed to act, and any expenses incurred thereby by the Master Association shall be reimbursed by the Association.

7.4 Notwithstanding anything herein to the contrary this Declaration shall not be amended in any manner to affect the rights of the Master Association without the written approval of the Board of Directors of the Master Association. Any such approval shall be evidenced by a document, in recordable form, executed by the president of the Master Association and attested to by the secretary of the Master Association.

7.5 The Community Association represents all the residents of Windsor Parke development, including this Condominium, and its members are those persons designated in the Community Association's Articles of Incorporation and Bylaws. The Community Association, acting through its Board of Directors, shall have the powers, rights and duties with respect to the Condominium Property, all as more particularly set forth in the Community Association's Articles of Incorporation, its Bylaws and the Community Covenants.

7.6 The Community Association is entitled to a lien upon a Unit for any unpaid assessment for expenses incurred or to be incurred by the Community Association in fulfillment of its maintenance, operation and management responsibilities with respect to roadways, bridges, lakes, ponds, drainage facilities, rights-of-way, medians, bicycle paths, entrance ways, irrigation systems, traffic control systems, street lighting, security, uncovered parking areas and other common areas

or areas to be used in common with other residents of the Windsor Parke development, the payment of real estate ad valorem taxes assessed against such common areas and the providing of other services, all of which is more particularly described in the Community Association's Articles of Incorporation, its Bylaws and the Community Covenants.

7.7 If for any reason the Association or the Master Association fails or refuses to perform the obligations imposed on it hereunder and under the other Condominium Documents, the Community Association shall be, and hereby is, authorized to act for and on behalf of said Association in such respect as said Association has so refused or failed to act, and any expenses incurred thereby by the Community Association shall be reimbursed by the defaulting Association.

7.8 Notwithstanding anything herein to the contrary this Declaration shall not be amended in any manner to affect the rights of the Community Association without the written approval of the Board of Directors of the Community Association. Any such approval shall be evidenced by a document, in recordable form, executed by the president of the Community Association and attested to by the secretary of the Community Association.

8. **MAINTENANCE, REPAIRS AND REPLACEMENTS**. Responsibility for maintenance, repairs, and replacements of Condominium Property and property of Unit Owners located or situated within the Condominium shall be as follows:

8.1 **Units**. Each Unit, and the personal property therein, fixtures, equipment and appliances comprising a part thereof located therein or exclusively serving the same shall be maintained, kept in good repair and replaced by and at the expense of the Owner(s) thereof. All maintenance, repairs and/or replacements for which Unit Owners are responsible and obligated to perform, whether structural or non-structural, ordinary, or extraordinary shall be performed promptly as the need arises Notwithstanding the obligation of Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss or damage to or within such Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

8.2 **Common Elements**. The Association shall be responsible for, and shall assess against and collect from all Unit Owners the costs of maintaining repairing replacing and keeping in clean and orderly condition, all of the Common Elements except certain of the Limited Common Elements specified below. The Association shall, at the expense of all Unit Owners, repair any and all incidental damage to Units resulting from maintenance, repairs, and/or replacements of or to Common Elements.

8.3 **Limited Common Expenses**. The responsibility for, and the cost of keeping clean and in orderly condition any patios, balconies or storage areas forming a part of the Limited Common Elements which exclusively serve a certain Unit to the exclusion of other Units, shall be borne by the Owner(s) of the Unit(s) to which the same are appurtenant.

Notwithstanding the Unit Owners' obligations with respect to certain Limited Common Elements, any proceeds of insurance awards or payments under insurance carried by the Association for loss or damage to such Limited Common Elements shall be applied against such repair or replacement to the extent that such award or payments exceed the deductible limits of such insurance.

8.4 **Failure to Maintain.** In the event a Unit Owner fails to maintain his Unit and Limited Common Elements, as required herein, or makes any alteration or additions without the required consent, or otherwise violates or threatens to violate the provisions of this Declaration relevant to maintenance, alteration and repair, the Association shall have the right to levy reasonable fines and/or administrative fees against the Unit Owner and the Unit for such necessary sums to remove any unauthorized addition or alteration and restore the property to good condition and repair.

No such fine or administrative fee will become a lien against the Unit. However, a fine or fee may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, provided that no such fine or fee shall in the aggregate exceed \$1,000.00. The levying of the fine or fee shall be in accordance with the provisions of Section 10.4 of the Bylaws.

The Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

8.5 **Management.** The Board may enter into a contract with any firm, person or corporation or may join with another condominium association or entity in contracting for the maintenance and repair or management of the condominium property. The Board may contract for and may delegate to the contractor or manager all the powers and duties of the Association, except such as are specifically required by this Declaration or the Bylaws to have the approval of the Board or the membership of the Association. The contractor or manager may be authorized to determine the budget, make assessments for common expenses and collect assessments as provided by this Declaration, the Bylaws and Exhibits to this Declaration.

Each Unit Owner, his heirs, successors and assigns shall be bound by the Management Agreement for the purposes therein expressed, including without limitation:

8.5.1 Adopting, ratifying, confirming, and consenting to the execution of the Management Agreement by the Association.

8.5.2 Covenanting and promising to perform each and every covenant, promise and undertaking to be performed by the Unit Owners as provided in the Management Agreement.

8.5.3 Ratifying, confirming and approving each and every provision of the Management Agreement, and acknowledging that all of the terms and provisions thereof are reasonable.

8.5.4 Agreeing that the persons acting as directors and officers of the Association entering into such an agreement have not breached any of their duties or obligations to the Association.

8.6 **Entry for Maintenance.** The Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to

the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

The liability for any damage done by the Board, agents or employees of any management firm the Association, Master Association or Community Association shall be the responsibility of the Unit Owner of the Unit being repaired maintained or inspected unless such damage is created by the gross negligence or willful misconduct of the Board agents or employees of any management firm, Association, Master Association or Community Association.

9. **ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.** Except as the right is herein reserved to Developer, neither a Unit Owner nor the Association shall make any alterations, improvements or additions to Units, Common Elements, or Limited Common Elements except in compliance with the following conditions:

9.1 **Architectural Control.** It is the Developer's intent to create and maintain a subdivision in harmony with its surroundings and the natural elements of the land, and the Condominium homes have been designed to be compatible with the environment. No Unit Owner will make any change to the exterior appearance of his Unit.

Additionally no Unit Owner, shall make any addition, alteration or improvements to the Common Elements nor to any limited Common Element.

Notwithstanding the above, a Unit Owner making or causing to be made any additions, alterations or improvement agrees, and shall be deemed to have agreed, for such person and his heirs, personal representatives, successors and assigns, to hold the Association, and all other Unit Owners harmless from any liability or damage to the Condominium Property and expenses arising therefrom and shall be solely responsible for the maintenance, repair and insurance thereof from and after the date of the installation or construction thereof as may be required by the Association, subject to the Board's right to perform appropriate maintenance upon the failure of the Unit Owner to do so as provided in Section 8 above, including, without limitation, any costs, expenses or liability associated with the repair, replacement, removal or reinstallation of said additions, alterations or improvements regardless of the impetus, cause or reason for the same.

In connection with all reviews, acceptance, inspections, permissions, consents or required approvals by or from the Developer or the Association neither the Developer, nor the Association shall be liable to a Unit Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against a Unit Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by the Developer, or the Association. Approval of any plans does not in any way warrant that the improvements are structurally sound or in compliance with applicable codes, nor does it eliminate the need for approval from the Duval county building department.

10. **INSURANCE.** Insurance shall be carried and kept in force at all times in accordance with the following provisions:

10.1 **Duty and Authority to Obtain.** The Association shall obtain fire and extended coverage insurance, vandalism and malicious mischief insurance insuring all of the insurable improvements within the Common Elements together with such other insurance as the Association

deems necessary in a company with an "A+10" rating or better in an amount which shall be equal to the maximum insurable replacement value as determined annually.

The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association, the Association Property, the Condominium Property, and the Unit owners and their Mortgagees.

A certificate evidencing a Mortgagee endorsement shall be issued to the Mortgagee of each Unit.

The Owner(s) of each Unit may, at the expense of such Owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses, provided, that each policy of such insurance purchased by a Unit Owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against other Unit Owners the Association, and their respective employees, agents, guests, and invitees.

**10.2 Required Coverage.** The Association shall purchase and carry casualty insurance covering all of the buildings and the improvements of the Condominium in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs as determined annually by the Board of Directors of the Association such insurance to include or afford protection against:

10.2.1 Loss or damage by fire or other hazards covered by standard extended coverage or other perils of endorsements;

10.2.2 Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location, and use to the buildings and other improvements of the Condominium including, without limitation, vandalism, malicious mischief, windstorm, water damage, and war risk insurance if available;

10.2.3 Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association to protect the Association and the owners of all Units including without limitation hired automobile non-owned automobile, off premises employee coverage, water damage and legal liability) with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner;

10.2.4 Workmen's Compensation insurance to meet the requirements of law; and

10.2.5 Loss or damage by flood, to the extent, if any, required or necessitated by law, including without limitation, the Flood Disaster protection Act of 1973, or any similar law or regulation.

10.2.6 The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or

fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph the terms "persons who control or disburse funds of the Association" includes but is not limited to those individuals authorized to sign checks and the president, secretary and treasurer of the Association. The Association shall bear the cost of bonding.

Except for the fidelity bonds that a management agent obtains for its personnel, the fidelity bond shall name the Association as an obligee and shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms of expressions.

10.3 **Optional Coverage.** The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, including Directors' liability insurance coverage or as an institutional Mortgagee may reasonably require while it holds a mortgage encumbering any Unit.

10.4 **Premiums.** Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by this Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as Common Expenses.

10.5 **Association as Agent.** The Association is hereby irrevocably appointed agent for each Unit Owner, for each holder of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property with power to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

10.6 **Assured.** The named insured shall be the Association, individually and as agent for the Unit Owners, without naming them, and as agent for their Mortgagees. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, its members and their Mortgagees, as their interests may appear. All proceeds of insurance policies purchased by the Association shall be payable to the Association. The proceeds from insurance against any casualty loss shall be held for the use of the Association, its members and their respective Mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

10.7 **Insurer.** All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

10.8 **Application of Insurance Proceeds.** The proceeds of casualty insurance paid to the Association shall be applied and paid as follows:

10.9 **Damage to Common Elements Only.** The proceeds paid to the Association for loss of or damage to real property or improvements constituting Common Elements only shall be

applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Association to the owners of all Units, and their respective Mortgagees as their interests may appear in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of repair, replacement or reconstruction of such Common Elements, the Association shall pay the difference between the cost of repairing, replacing or reconstructing such loss or damage to the Common Elements and the amount of the proceeds from any Association Reserve Fund which may have been established. If no such Association Reserve Fund has been established or if any such Association Reserve Fund has been established and is insufficient to pay said difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners, as a Common Expense.

#### 10.10 **Damage to Units.**

10.10.1 **Association's Obligation.** The proceeds paid to the Association for loss of or damage to a building, constituting Common Elements and one or more Units thereof only, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such buildings which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Association to the owners of the damaged or destroyed Units and their respective Mortgagees, as their interests may appear, in equal amounts. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Owner(s) of the Unit(s) damaged or destroyed shall be liable for the cost of such repair, replacement or reconstruction, in the proportion that the amount of damage sustained to each such Unit bears to the total deficit, upon payment by each such Unit Owner of their proportionate share of the cost of repairing replacing or reconstructing the damaged Units, said funds shall be applied toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed Units. If the insurance proceeds shall be insufficient to pay the cost of repairs, replacements, or reconstruction of the Common Elements, the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners, as a Common Expense. If and when insurance proceeds are paid to the Association for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the Owner(s) of the Unit and the Mortgagee(s) thereof, after such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of the Unit, and the Mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

10.10.2 **Unit Owner's Obligation.** Each Unit Owner shall have the obligation to purchase public liability insurance to protect himself against claims due to accidents within his Unit, and casualty insurance on the contents within said Unit. In addition, he should review the coverage of the Association to determine any additional insurance that may be advisable for him to purchase.

11. **RECONSTRUCTION OR REPAIR AFTER CASUALTY.** Whether, and the manner in which, any or all of the Condominium Property which shall be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

11.1 **Residential Building.** If the Residential Building shall be damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following :

11.1.1 **Total Destruction of the Residential Building.** If the Residential Building of the Condominium is totally destroyed or is so damaged that no Unit therein is habitable, neither the Building nor any of the improvements comprising Common Elements shall be reconstructed and the Condominium shall be terminated unless seventy-five percent (75%) of the owners of Units agree in writing, within sixty (60) days after the date of such destruction to reconstruct the same and/or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder, and in either case as long as the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed.

11.1.2 **Damage to the Building.** If the Residential Building is wholly or partially damaged and a majority of the Units in the building remain habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed so that the building and/or Units shall be restored to substantially the same condition as existed at the time the Unit was initially conveyed, unless within sixty (60) days after the casualty is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

11.2 **Common Elements.** Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

11.2.1 **Plans and Specifications.** Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed, provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

11.2.2 **Responsibility.** If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance, repair and replacement is that of the affected Unit Owner(s), then such Unit Owner shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

11.2.3 **Construction Funds.** All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit Owners, shall be disbursed toward payment of such costs in the following manner:

(a) **Unit Owner.** The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more but less than all Unit Owners shall be paid by the Association to the affected Unit Owners and if any of such Units are mortgaged, to the Unit Owners and their Mortgagees jointly.

(b) **Association - Under \$20,000.00.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Twenty Thousand and No/100 Dollars (\$20,000.00), then the Construction Fund shall be disbursed in payment of such costs upon the order of the Association.

(c) **Association - Over \$20,000.00.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Twenty Thousand and No/100 Dollars (\$20,000.00), then the Construction Fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Florida.

(d) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in the Construction Fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein stated; except, however, that the part of a distribution to a beneficial owner which is not in excess of assessment paid by such owner into the Construction Fund shall not be made payable to any Mortgagee.

12. **EQUITABLE RELIEF.** In the event of "major damage" to or destruction of all or a substantial part of the Condominium Property and if the Property is not repaired, reconstructed or rebuilt within a reasonable period of time, any Unit Owner shall have the right to petition a court of competent jurisdiction for equitable relief which may, but need not, include termination of the Condominium and partition.

13. **LIMITATION OF LIABILITY.**

13.1 The liability of each Unit Owner for Common Expenses shall be limited to the amounts assessed against him from time to time in accordance with the Condominium Act, this Declaration, the Articles and the Bylaws.

13.2 A Unit Owner may be personally liable for any damages caused by the Association in connection with the use of the Common Elements, but only to the extent of his pro rata share of that liability in the same percentage as his interest in the Common Elements and in no event shall said liability exceed the value of his Unit. Each Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit to the same extent and degree that the owner of a house or any other property owner would be liable for such an occurrence.

13.3 In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners, and they shall have a right to intervene and defend.

14. **USE RESTRICTIONS.** In order to provide for congenial occupancy of the Condominium Property and for the protection of the value of the Units, the use of the Condominium Property shall be in accordance with the Declaration of Covenants, Conditions and Restrictions of the Windsor Pointe development (**Exhibit J** hereto), and with the following provisions, so long as the Condominium exists:

14.1 **Units.** Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Notwithstanding the foregoing:

14.1.1 an occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees or invitees coming to the Unit), making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions;

14.1.2 it shall be permissible for the Developer to maintain, during the period of its sale or rental of Units, one or more Units as sales and rental models and offices, and for storage and maintenance purposes; and

14.1.3 one or more Units may be maintained for the use of the Association in fulfilling its responsibilities. Nothing herein shall be construed to prohibit leasing of the Units, provided that such leases are in compliance with Paragraph 14.11 hereof.

14.2 **Insurance.** No use shall be made of any Unit or of the Common Elements or Limited Common elements which will increase the rate of insurance upon the Condominium Property without the prior consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in cancellation of insurance on any Unit or part of the Common Elements, or which will be in violation of any law. No waste shall be committed in the Common Elements.

14.3 **Signs.** No sign of any kind shall be displayed to public view on or from any Unit or the Common Elements without the prior written consent of the Board.

14.4 **Pets.** No animals of any kind other than four-footed pets, aquarium fish or small birds such as canaries and parakeets shall be kept in a Unit or allowed upon the Condominium Property except by prior written consent of the Board. Such consent, if given, shall be revocable by the Board at any time and shall automatically expire upon the death or other disposition of the pet. Pets shall be leashed and restrained at all times when on or about the Condominium Property. No guest, lessee, or invitee shall bring any animal upon the Condominium Property, unless specifically permitted by the Association. Unit Owners maintaining pets on the Condominium Property, or whose guests, lessees or invitees bring any animal upon the Condominium Property shall be responsible for, and bear the expense of, any damage to person or property resulting therefrom. Any such damage shall be determined by the Board and collection by the Association. The Board of Directors is authorized from time to time to make such rules restricting or permitting pets on the Condominium Property, including, without limitation, the number, type, size and/or weight of such pets, requirements that all animals be leashed and that all animal waste be properly disposed of.

14.5 **Parking.** A minimum of one (1) parking space per dwelling unit shall be provided. Trailers, boats, campers, trucks other than standard size pick-up trucks, recreational vehicles, etc., may not be parked on the Property unless specifically permitted by the Developer or the Association.

14.6 **Encroachments.** None of the rights and obligations of the Unit Owners created herein or by the deed conveying the Condominium shall be altered in any way by encroachment due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of any such encroachments as long as they shall exist; provided however, that in no event shall a valid easement for encroachment be created in favor of Unit Owner(s), if encroachment occurred due to the willful conduct of the Unit Owner(s).

14.7 **Common Elements.** The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units. There shall be no obstruction or alteration of, nor shall anything be stored altered on constructed in or removed from, the Common Elements or Limited Common Elements without the prior written consent of the Association.

14.8 **Nuisances.** No noxious or offensive activity shall be allowed upon the Condominium property, nor any use or practice which is the source of annoyance or nuisance to Unit Owners or guests or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor shall any fire hazard be allowed to exist.

14.9 **Floor Coverings.** Hard and/or heavy surface floor coverings such as tile and wood will be permitted only in approved areas. All other areas are to receive sound absorbent, less dense floor coverings, such as carpeting. Use of hard and/or heavy surface floor covering in any location must be submitted to and approved by the Board of Directors and also must meet applicable structural requirements and sound transmission restrictions. Also, the installation of any improvement or heavy object must be submitted to or approved by the Board and be compatible with the structural design of the Building. The Board may require the review of a structural engineer, which costs shall be paid by the Unit Owner. In addition, if any installation will be visible from the exterior of the Building, approval must be obtained from the ARB, should one be established, as to aesthetic compatibility. Owners will be held strictly liable for violation of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violation.

14.10 **Lawful Use.** No immoral, improper, offensive, or unlawful use shall be made of the Condominium Property or any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

14.11 **Leasing.** It is the intention of the Developer in creating this Condominium that its use shall be on a non-transient basis. For so long as the Developer is in control of the Association, all leases must be for a minimum term of one month, must be occupied by the tenant and no subleasing is permitted. All tenants must specifically assume and agree to abide by the terms and conditions of the Declaration of Condominium. After termination of the Developer's right to control the Board of Directors, the Owners may adopt different leasing regulations upon the approval of Owners owning at least fifty percent (50%) percent of the Units. Any noncompliance with the terms and conditions of the Declaration of Condominium, Bylaws, Articles, Covenants and Restrictions and/or other promulgated rules and regulations by such lessee shall be the responsibility of the Unit Owner.

**14.12 Exterior Improvements/Landscaping.** No Unit Owner shall cause anything to be affixed or attached to, hung displayed or placed on the exterior walls doors or windows of the building (including but not limited to awnings signs storm shutters, screens, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association, subject always to the provisions hereof. All window coverings shall be lined or otherwise made so that they appear from the exterior to be white or off-white.

**14.13 Regulations.** Reasonable regulations and rules concerning the use of the Condominium Property may be promulgated modified or amended from time to time by the Board Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium.

The Association shall have the right to enforce all the restrictions set forth in this Article and the Declaration in any manner it deems necessary including without limitation, injunctions, suit for damages, or fines.

**15. TRANSFER OR SALE OF CONDOMINIUM UNITS.** In order to maintain the Condominium as a community of congenial residents, and thus protect the value of each Condominium Parcel, the transfer, conveyance and/or sale of Units or the lease of Units for more than one (1) year, other than Units owned by the Association or Developer (including, without limitation, any affiliate, assign, subsidiary or trustee of the Developer) shall be subject to the following provisions:

**15.1 Right of First Refusal.** In the event the Owner of any Condominium Parcel wishes to lease for more than one (1) year, sell, assign, or otherwise transfer (for purposes of this Article collectively "transfer") their Unit, and shall have received a *bona fide* offer for the same, such Owner ("Transferor") shall notify the Association in writing of the proposed transfer and shall supply the Association with an executed copy of such offer and the terms thereof, including the name of the prospective transferee and such other information that the Association, in the reasonable exercise of its discretion may request (the "Terms of the Offer"). The Association shall have the option for thirty (30) days from receipt of the Terms of the Offer, to notify the Transferor in writing that it wishes to exercise its rights under this Article 15 and take title to the Unit under the same terms and conditions as are contained in the Terms of the Offer. The Association shall have the right to assign its option herein granted or to waive its rights under this Article 15.

(a) Upon expiration of the 30 day option period created herein and absent notice to the Transferor that the Association or its assignee intends to exercise the option, the Transferor shall have the right to complete the transaction according to the terms and conditions of the Terms of the Offer as was communicated to the Association.

(b) If for any reason, the transaction is not completed within thirty (30) days of the date for closing as specified in the Terms of the Offer provided to the Association pursuant hereto, the offer shall be deemed to have been abandoned and the Association's right of first refusal pursuant to this Article 15 shall be reimposed on the Unit in question.

For purposes of this Article 15, the term "*bona fide* offer" shall mean an offer made in good faith by a prospective transferee to Transferor for the Condominium Parcel.

**15.2 Lapse of Exercise of Option.** If for any reason not due to the actions or inactions of the Transferor (or anyone on his behalf) the Association (or its assignee) is unable to consummate the

transaction according to the Terms of the Offer within the time specified therein for closing, the Association's rights under this Article 15 shall lapse and the Transferor shall have the option of seeking another transferee, which such transfer shall likewise be subject to the terms of this Article 15.

**15.3 Application.** Limitations upon Transfer of any interest in a Condominium Parcel pursuant to Article 15 above shall not apply to transfers made by the Association or Developer (including, without limitation, any affiliate, assign, subsidiary or trustee of the Developer), or to transfers made solely for the purpose of securing the performance of any obligation, transfers involving a foreclosure sale or judicial sale, or any transfer to a mortgagee in lieu of foreclosure, any transfer by a mortgagee after foreclosure or any other proceeding or arrangement in lieu thereof, transfers between joint tenants or tenants in common, transfer by operation of law, or transfers to direct descendants or ascendants of the Transferor.

**15.4 Certification of Termination.** Upon request of the Transferor, the Association shall furnish in recordable form to any Unit Owner or other person legitimately interested in the same, a certificate in writing by an officer of the Association that the requirements of this Article 15 have been complied with or duly waived by the Association and the rights of the Association under Article 15 have expired or been terminated. Such certification shall be conclusive evidence of the compliance with the requirements of this Article 15 For all persons relying on the same in good faith and without notice.

**15.5 Rental or Lease.** No rental or lease of a Condominium Unit for more than one (1) year shall be valid unless such lease ( and prospective tenant) is first approved by the Association. The Association shall have the right, but not the obligation, to require a substantially uniform form of lease for use throughout the Condominium. No lease or rental agreement shall release the Owner of a Unit from their obligations under this Declaration, the Articles of Incorporation or Bylaws of the Association and/or the Master Association.

**15.6 Occupants.** The Association shall have the right to prohibit occupancy of any Unit by any persons other than a Unit Owner, purchaser or lessee who acquired their interests in compliance with this Article 15.

**15.7 Voidability.** Any purported sale or lease of a Unit where the Unit Owner failed to comply with the requirements of this Article 15, shall be voidable at the election of the Association, provided, however, that such voidability shall exist for a period not to exceed ninety (90) days from the Notice to the Association of the consummation of the transaction.

For purposes of this section, Notice to the Association of the consummation of a transfer shall be evidenced by the earlier of:

- (a) Actual occupancy and possession of the Unit by the transferee; or
- (b) The Association being furnished with an executed document of conveyance or lease.

Provided however, that within such ninety (90) day period following such Notice to the Association, the Association must commence an action at law or inequity to have the same declared void.

15.8 **Exception.** Any Institutional First Mortgagee making a mortgage loan for the purpose of financing the purchase of a Unit shall not be required to inquire as to whether or not its mortgagor's grantor complied with the provisions of this Article, and any failure of such mortgagor's grantor to comply herewith will not operate to affect the validity or priority of such mortgage.

16. **RESERVED RIGHTS OF DEVELOPER.** In addition to various rights reserved by the Developer elsewhere provided in this Declaration the Developer reserves the following rights:

16.1 **Developer's Use of Units.** Until Developer has completed and conveyed all the Units, neither the Unit Owners nor the Association shall interfere with the completion of the proposed improvements and the sale of the Units. Developer may make such use of the unsold Units and common areas as may facilitate such completion and sale, including, but not limited to maintenance of a sales office, the showing of the Unit, and the display of signs.

16.2 **Easement Rights of Developer.**

16.2.1 **Roads.** Developer hereby reserves for itself, its designees an easement over the Condominium Property as may deem necessary for preserving, maintaining or improving the Condominium property.

(a) **Developer's Easement to Correct Drainage.** For a period of five years from the date of conveyance of the first Unit, the Developer reserves for itself and its designees an easement and right on over and under the ground within the Condominium Property to maintain and to correct drainage of surface water and other erosion controls in order to maintain reasonable standards of health safety and appearance. Such right expressly includes the right to cut any trees bushes or shrubbery make any grading of the soil or to take any other similar action reasonably necessary following which the Developer shall restore the affected Condominium property to its original condition as nearly as practicable. The Developer shall give reasonable notice of intent to take such action to all affected owners, unless in the opinion of the Developer an emergency exists which precludes such notice. The rights granted hereunder may be exercised at the sole option of the Developer and shall not be construed to obligate Developer to take any affirmative action in connection therewith.

(b) **Construction Easement.** Developer reserves for itself, its nominees, designees, successors and assignees, an easement over and across the Condominium Property as may be reasonably necessary in connection with the construction of improvements within the Windsor Pointe development. Such easement shall include, but not be limited in connection with such construction activity, together with the usual and common noise level created by such construction activity.

(c) **Cable Television.** The Developer hereby reserves the right to install or to contract for the installation of cable television within the Condominium Property.

16.3 **Right to Amend.** The Developer, so long as it owns Units to which more than twenty-five percent (25%) of the Common Elements are appurtenant, reserves the right at any time to amend the Declaration, as may be required by a lending institution or public body or title insurance company. In addition, the Developer reserves the right to amend the Declaration as provided in Section 5 hereof. Any such amendment need only be executed and acknowledged by the Developer and shall not require the joinder or consent of any other Unit Owner or mortgages of any Unit.

16.4 **Rights of Developer to Sell or Lease Units.** So long as Developer, or any mortgagee succeeding Developer in title, shall own any Unit, it shall have the absolute right to sell any such Unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests. In addition, the Developer shall have the right to maintain a sales office or model unit on the Condominium Property for so long as it owns one unit in the Condominium.

16.5 **Waterway Rights.** With respect to any waterways now existing or which may hereafter be contained within or adjoining the Property only the Declarant the Master Association or the Community Association as the case may be shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters or other structure shall be erected on or over the waterways, except as may be erected by the Declarant, the Master Association or the Community Association as the case may be. Canoes, small non-combustion powered boats, gas and diesel driven boats shall be permitted only as designated by the Master Association or the Community Association as the case may be. All permitted boats shall be stored screened from public view or as otherwise designated by the Declarant, the Master Association and the Community Association shall be stored either within existing structures on the Unit Owner's property or in designated areas, if any. Unit Owners are granted the right to reasonable use and benefit of the waterways now existing or which may hereafter be contained within, or adjoin the Property subject to governing law and the right of Master Association and/or Community Association to adopt reasonable Regulations from time to time in connection with the use of the waterways by members of the Master Association and/or Community Association and subject to the Declarant's reserved right to ingress and egress over the waterways. The ingress and egress to the waterways shall be solely at designated access points. The Declarant, the Master Association or the Community Association as the case may be shall have the right to deny such use to any person who in the opinion of Declarant, the Master Association or the Community Association may create or participate in a disturbance or nuisance on any part of the waterways. The right to reasonable use and benefit of the waterways may be subject to riparian rights of others and may be further granted to such other Persons, as may be designated by Declarant from time to time.

16.6 **Ingress and Egress Maintenance Easement.** Declarant hereby reserves an easement for itself, the Master Association and/or the Community Association across all Lots and all waterways for ingress and egress for the reasonable maintenance and care of any portion of the waterways or their embankments. In light of the meandering nature of shorelines and the constant changes incident to water levels, the Developer does not warrant that the property lines along waterways and other bodies of water will be identical to those depicted on any survey of the Property, at any one time.

16.7 **Additional Easements Reserved.** The real property submitted to condominium ownership herewith is subject to conditions, limitations restriction, reservation all matters of record taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for ingress and egress for pedestrian and vehicular purposes, easements for utility service and drainage now existing or hereafter granted by the Developer for the benefit of such persons as the Developer designates. The Developer shall have the right to grant such easements over and upon the Condominium Property and designate the beneficiary thereof until seven (7) years after recording of this Declaration or until such time as Developer transfers control of the Association to the Unit Owners, whichever shall first occur. Thereafter the Association shall be empowered to grant such easements on behalf of its members. During the period of time that Developer has the

right to grant the foregoing easements, the consent and approval of the Association and its members shall not be required. The right to grant the foregoing easements shall be subject to the requirement that the easements not structurally weaken the Condominium building(s) and improvements upon the Condominium Property by Unit Owners.

17. **COMPLIANCE AND DEFAULT.** Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, the Master Association and the Community Association and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association, the Master Association, the Community Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act and/or the governing documents of said entity.

17.1 **Negligence.** A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests employees, agents, lessees or other invitees but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

17.2 **Compliance.** In the event a Unit Owner or occupant fails to maintain a Unit or the Limited Common Elements appurtenant to the Unit, or fails to cause such Unit or Limited Common Elements to be maintained or fails to observe and perform all applicable provisions of the Declaration, the Bylaws the Articles of Incorporation of the Association, the Master Association and/or the Community Association, applicable rules and regulations, the Community Covenants, the Declaration of Covenants, or any other agreement, document or instrument affecting the Condominium property or administered by the Association, the Master Association and/or the Community Association in the manner required by said entity, the Association, the Master Association and/or the Community Association shall have the right to proceed in court of equity to require performance and/or compliance, to sue in a court of law for damages, to collect from the Unit Owner and the Unit the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance and to enforce collection by judgment lien and/or any other manner permitted by law. The Association, the Master Association and/or the Community Association shall have the further irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements, limited common elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the common elements, limited common elements or to a Unit or Units and may exercise this right by allowing such access to Units by Association employees, or agents or any subcontractors appointed by them.

In addition to or instead of the above the Association shall have the right to levy fines against Unit Owners for any violation of the Declaration Bylaws and/or rules or regulations established by the Association. Any reference to a fine contained in this Declaration shall not be construed as a limitation, fines may be imposed for the violation of any provision herein.

17.2.1 Prior to the levying of such a fine, the Unit Owner and, if applicable, any licensee or invitee must be given reasonable notice of at least fourteen (14) days and an opportunity for hearing. The notice shall include: (a) A statement of the date, time and place of the hearing; (b) A statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have allegedly been violated; and (c) A short and plain statement of the matters asserted by the Association.

17.2.2 A party against whom the Association seeks to levy a fine is entitled to a hearing held before a committee of other Unit Owners. Said party shall have the opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. If the committee of other Unit Owners does not agree with the fine, it shall not be levied.

17.3 **Costs and Attorney's Fees.** In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association, or any and all regulations applicable to such Owner as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the Court.

17.4 **No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

18. **ASSESSMENTS: LIABILITY AND DETERMINATION.** To provide the funds necessary for proper operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against all Unit Owners and Units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Condominium by the Association. Nothing contained herein shall abridge or limit the rights or responsibilities of Mortgagees as set forth in the Condominium Act.

18.1 **Common Expenses and Common Surplus.**

18.1.1 Common Expenses shall include the expenses of the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, costs of maintaining any facilities and property owned by the Association, and any other expense designated as Common Expenses by the Condominium Act, this Declaration or the Bylaws. The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense.

18.1.2 Common Expenses shall be assessed against Unit Owners in accordance with the percentage set forth for such Unit Type in **Exhibit B** attached hereto and made a part hereof.

18.1.3 Common Surplus, if any, shall be owned by Unit Owners in accordance with the percentage set forth for such Unit Type in **Exhibit B** attached hereto and made a part hereof.

18.2 **Liability for Assessments.**

18.2.1 **Authority to Impose.** The Association, through its Board of Directors, shall have the power to determine and fix the sums necessary to provide for the Common Expenses, including the expense allocable to services being rendered by a management company with whom the Association may contract. The annual Assessment shall initially be payable monthly in advance; however, the Board of Directors shall have the power to establish other collection procedures. In addition, the Board of Directors shall have the power to levy Special Assessments

against Units in their respective percentages if a deficit should develop in the payment of Common Expenses during any period that the level of Assessments has not been guaranteed by the Developer. The Board of Directors of the Association may include sums to establish reasonable reserves against future contingencies in each annual Assessment which reserves may be waived or reduced upon the approval of a majority of the total voting interests voting in person or by limited proxy at a duly called meeting of the Association.

**18.2.2 Persons and Entities Liable.** A Unit Owner, regardless of the manner in which he acquired title to his unit including, without limitation, a purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments while he is the owner of a Unit. Additionally, a Unit Owner shall be jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of the conveyance. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner.

The liability for prior Assessments of first mortgagees, or their successors or assignees, who acquire title to a Unit by foreclosure or deed in lieu of foreclosure shall be limited to the lesser of (a) one percent (1%) of the original mortgage debt or (b) the Unit's unpaid common expenses and Assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association. The limitations for prior Assessments imposed by this section shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action. The person acquiring title shall pay the amount owed to the Association within thirty (30) days of the transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Unit and proceed in the same manner as provided in this section for the collection of unpaid Assessments.

The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements, services or recreation facilities, or by abandonment of the Unit against which the Assessment was made. The Association may charge an administrative late fee, in addition to interest, on the late Assessment payments not to exceed the maximum amount permitted under the Condominium Act. Any unpaid share of Common Expenses or Assessments for which a first mortgage mortgagee is relieved from liability under the provisions of this Declaration shall be deemed to be a Common Expense, collectible from all Unit Owners, including such acquirer, his successors and assigns. A first mortgage mortgagee may not, during the period of its ownership of such Parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

The Owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, fines on such delinquent assessments or installments thereof as above provided and for all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

No Owner of a Unit may exempt himself from liability for any assessment levied against such owner and his Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

**18.2.3 Exceptions to Liability for Assessments.**

(a) **The Association.** Should the Association become the Owner of any Unit(s), the assessment which would otherwise be due and payable to the

Association by the Owner(s) of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be apportioned and the assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

(b) **The Developer.** Upon conveyance of the first Unit to a non-Developer purchaser, the Developer shall not be obligated to pay the share of Common Expenses and Assessments attributable to Units it owns until the earlier of the date control of the Association is turned over to the Unit Owners other than the Developer or September 30, 2000 (the "Guarantee Expiration Date"). Provided however, that the Assessments for the Common Expenses imposed on each Unit Owner, other than the Developer, shall not increase during such period over the amount set forth in the estimated operating budget initially adopted by the Board of Directors, One hundred fourteen dollars and 97/100 (\$114.97). The Developer shall be obligated to pay any amount of Common Expenses incurred during such period and not produced by the Assessments at the guaranteed level receivable from other Unit Owners. After the Guarantee Expiration Date, the Developer shall be obligated to pay the share of Common Expenses and Assessments attributable to the Units it is then offering for sale or Developer may, in its sole discretion, extend the Guarantee Expiration Date for up to three (3) additional twelve (12) month periods provided that the Assessments levied against the Units other than the Developer do not increase, except as may be required directly as a result in increases in the annual assessment due to Community Association.

The Developer has elected to collect and fund the reserves. Upon transfer of control of the Association to the non Developer Unit Owners, the reserves may only be waived or reduced a majority vote at a duly called meeting of the Association. Waiver or reduction of the reserves by the non-developer Unit Owners in this manner may adversely impact upon the Project's continued financing eligibility under the Federal National Mortgage Association ("FANNIE MAE").

18.3 **Time for Payment.** Unless otherwise determined by the Board, the assessment levied against the Owner of each Unit and his Unit shall be payable monthly on the first day of each month beginning at the time of conveyance of the Unit to a third party.

18.4 **Annual Budget.** The Board shall establish an Annual Budget in advance for each fiscal year which shall estimate all expenses for the forthcoming fiscal year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves.

18.5 **Reserve Fund.** The Board, in establishing each Annual Budget, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of Common Elements and personal property held for the joint use and benefit of the Unit Owners. The amount to be reserved shall be determined by the Board of Directors or as may be required under the provisions of the Condominium Act and may be waived or reduced by a majority of votes at a duly called meeting of the Unit Owners. The decision to waive or reduce reserves must be taken each fiscal year, as such election may only be taken one year at a time.

18.6 **Use of Association Funds.** Except as provided herein with regard to reserve accounts, all monies and assessments collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment

of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws. As the moneys for Assessments are paid to the Association by any Unit Owner (but not any moneys collected therein for reserves), the same may be commingled with moneys paid to the Association by the other owners of Units. Reserve and operating accounts of the Association shall not be commingled. For purposes of facilitating allocation of funds into their proper accounts, the Association may require Unit Owners to pay operating expenses and reserve escrows by separate instrument. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

**18.7 Delinquency or Default.** The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. If any assessment or installment is not paid by the due date, the Owner and the Unit shall be assessed an Administrative Late Fee in an amount equal to the greater of fifteen dollars (\$15.00) or two and one-half percent (2.5%) of the unpaid installment if not paid within ten (10) days of the due date or if not paid within 30 days of the due date the greater of twenty-five dollars (\$25.00) or five percent (5%) of the unpaid installment. The Unit and Unit Owner shall also be liable for payment of all late charges and interest assessed by the Community Association according to the requirements governing documents for said association.

Those sums, assessments and installments thereof together with applicable fines and late fees detailed above not paid within thirty (30) days from the date they are due shall bear interest at the highest lawful rate from the 30th day from due date until paid.

If the delinquent installment(s) of Assessments and any charges thereon are not paid in full when due, the Association at its option may, in accordance with requirements of the Condominium Act, file a claim of lien and thereupon declare all of the unpaid balance of the annual Assessment to be immediately due and payable without further demand and may enforce the collection thereof and all charges thereon in the manner authorized by law and this Declaration.

Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorneys fees incurred in collection, and then to the delinquent assessment or installment. The forgoing shall be applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying said payment.

If the Association is authorized/required to approve or disapprove a proposed lease of a unit, disapproval on the basis of a unit owner's delinquency in the payment of any installment or assessment at the time approval is sought, shall not constitute unreasonable withholding of consent by the Association.

## **19. ASSESSMENTS: LIEN AND ENFORCEMENT.**

**19.1 Lien for Assessment.** The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements or Limited Common Elements subordinate to prior bona fide liens of record, which lien shall and does secure the moneys due for all assessments levied against each Unit. Interest which may become due on delinquent

assessments owing to the Association and reasonable attorney's fees which may be incurred by the Association in collecting and enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for the County. Any such enforcement shall be in accordance with the requirements of the Act.

As to first mortgages of record, the lien shall be evidenced by a claim recorded among the public records of the County in the manner provided by the Condominium Act, and shall be effective from and as of the time of such recording.

As to other than first mortgages of record, the lien shall relate back to the recording of the original Declaration of Condominium creating the Unit.

The Board of Directors may take such action as it deems necessary to collect Assessments by either an in personam action or lien foreclosure, or both, and may settle and compromise the same if in the best interest of the Association. Said liens shall have the priorities established by the Condominium Act.

Liens for Assessments may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property. The Association may bid in the Condominium Parcel at foreclosure sale and apply as a cash credit against its bid all sums due the Association secured by the lien being enforced, and the Association may acquire and hold, lease, mortgage and convey any Condominium Parcel so acquired.

In any suit for the foreclosure of the lien the Association shall be entitled to seek a judicial order awarding rental from the Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for the Unit. The rental required to be paid shall be equal to the rental charged on comparable types of Units in the County. The lien of the Association shall also secure all advances for taxes and payments on account of superior mortgages, liens or encumbrances made by the Association to preserve and protect its lien, together with interest at the highest rate permitted by law on all such advances made for such purpose.

**19.2 Effect of Foreclosure or Judicial Sale.** In the event that any person, firm, partnership or corporation shall acquire title to any interest in a Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments due and payable for the Unit and its appurtenant undivided interest in Common Elements except that a first mortgagee acquiring title thusly is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the first mortgagee's liability is limited to a period not exceeding six (6) months and in no event shall the first mortgagee's liability exceed one (1) percent of the original mortgage debt. The first mortgagee's liability for such expenses or assessments shall be paid to the Association within thirty (30) days of the date of transfer of title. In no event shall the mortgagee be liable for more than six months of the Unit's unpaid common expenses or assessments accrued before the acquisition of the title to the Unit by the mortgagee or one (1) percent of the original mortgage debt, whichever amount is less.

**19.3 Effect of Voluntary Transfer.** When the owner of any Unit proposes to sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the Unit Owner, shall furnish to the proposed purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by an officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding

the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased sold, or mortgaged at the time when payment of any assessment against the owner of the Unit and Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such proceeds of sale or mortgage to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

19.4 **No Election of Remedies.** Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

20. **REGISTRY OF OWNERS AND MORTGAGEES.** The Association shall at all times maintain a Register of the names of the owners and mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The owner of each Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice the Association shall register in its records all pertinent information pertaining to the same.

21. **TERMINATION.** The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

21.1 **Destruction.** In the event it is determined in the manner elsewhere herein provided, that the improvements shall not be reconstructed because of total destruction or major damage, the condominium plan of ownership will be thereby terminated without agreement.

21.2 **Agreement.** If all Unit Owners and the holders of all liens and mortgages upon all of the Condominium Parcels execute and duly record an instrument terminating the Condominium Property, or if "major damage" occurs, the Condominium Property shall be removed from the provisions of the Condominium Act and thereafter owned in common by the Unit Owners. The undivided interest in the Property owned in common by each Unit Owner shall then be the percentage of the undivided interest previously owned by such Owner in the Common Elements, and any liens which encumbered any Condominium Parcel shall be transferred to said undivided interest of the Unit Owner in the Property.

If the Owners of at least 85% of the Common Elements elect to terminate, they shall have the option to buy the Units of the other Unit Owners for a period of sixty (60) days from the date of the meeting wherein the election to terminate was taken. The purchase price shall be the fair market

value of the Units as of the date of said meeting as determined by arbitration under the rules of the American Arbitration Association. The price shall be paid in cash within thirty (30) days of the determination of the same.

21.3 **Certificate.** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying to facts effecting the termination which certificate shall become effective upon being recorded in the public records of the County. When the Board of Directors intends to terminate or merge the Condominium or dissolve or merge the Association, the Board shall so notify the division before taking any action to terminate or merge the Condominium or Association. Upon recordation of the instrument evidencing consent of all of the unit owners to terminate the Condominium the Association, within thirty business days, shall notify the Division of Florida Land Sales, Condominiums and Mobile Homes (the "Division") of the termination and the date the document was recorded, the county in which the document was recorded, and the book and page of the public record was recorded and shall provide the Division a copy of the recorded termination notice certified by the clerk.

21.4 **Shares of Owners After Termination.** After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in Common in undivided shares. and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owner's Units prior to the termination.

21.5 **Amendment.** This Article cannot be amended without consent of four-fifths (4/5) of the Unit Owners and of all Institutional Mortgagees required to approve termination by agreement, which consent shall not be unreasonably withheld, conditioned or delayed by such Mortgagees.

22. **CONDEMNATION.** Whenever all or any part of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association unless otherwise provided by law at the time of such taking any award made therefor shall be disbursed by the Association in accordance with the applicable provisions of this Declaration and/or determination of the applicable governmental body.

If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common Elements, then the award shall be disbursed as provided by law. All related matters, including without limitation alteration of the percentages of undivided interest of the Owners in the Common Elements, shall be handled pursuant to and in accordance with the consent of owners as required by this Declaration (or such lesser number of owners as may then be prescribed by the Condominium Act for the purpose of altering the percentages of undivided interest of the owners in the Common Elements) expressed in a duly

recorded amendment to this Declaration. In the event that such an amendment shall not be recorded within 90 days after such taking then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided for in Article, whereupon the development may be terminated in the manner herein prescribed.

If part of the Common Elements is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Elements among the Unit Owners in proportion to their respective

Common Element interests before the taking but the portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

The Association shall give to each Mortgagee prompt written notice of any such eminent domain or condemnation proceedings.

**23. RIGHTS OF MORTGAGEES.**

23.1 **Rights.** Any Institutional mortgagee of a Unit who makes a request in writing to the Association for the items provided in this Article shall have the following rights:

23.1.1 To be furnished with at least one (1) copy of the Annual Financial Statement and report of the Association.

23.1.2 To be given written notice by the Association of the call of a meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Condominium, or the Articles of Incorporation and Bylaws of the Association which notices shall state the nature of the amendment being proposed.

23.1.3 To be given notice of default (if such default remains uncured for 30 or more days by any member owning any Unit encumbered by a mortgage held by such mortgagee, such notice to be given in writing and to be sent to the principal office of such mortgagee or to the place which it or they may designate in writing to the Association.

23.1.4 To be given an endorsement to the insurance policies covering the Common Elements requiring that such Mortgagee be given any notice of cancellation provided for in such policy.

23.1.5 To examine the books and records of the Association upon reasonable notice during ordinary working hours.

23.1.6 To obtain current copies of the Declaration, Bylaws and other rules concerning the project.

23.1.7 To obtain written notice of any condemnation loss eminent domain procedures or any casualty loss which affects a natural portion of the Condominium or any Unit upon which such mortgagee has a first mortgage.

23.1.8 To obtain notice of any lapse, cancellation or material modification of any fidelity bond maintained by the Association.

23.2 **Consent Required.** Except as shall be elsewhere provided herein unless Institutional Mortgagees having loans secured by Units to which 75% of the Common Elements are appurtenant have given their prior written approval, the Association shall not be entitled to:

23.2.1 change the configuration or size of any condominium unit in any material fashion;

23.2.2 materially alter or modify the appurtenances to the unit; or

23.2.3 change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus.

23.3 **Reimbursement for Costs.** In the event the Association fails to pay when due, taxes assessed against the Common Elements or premiums of insurance covering the improvements on the Common Elements, then any one or more of the Institutional Mortgagees may pay such taxes or insurance premiums, and the Association shall be obligated to reimburse such Institutional Mortgagee or Mortgagees for such payments, and until paid, the same shall constitute a lien upon the Common Elements in favor of the party or parties, entity or entities, paying same which lien may be enforced in a court of competent jurisdiction of the State of Florida in the same manner as a judgment lien may be enforced.

24. **MISCELLANEOUS.**

24.1 **Severability.** The invalidity in whole or in part of any covenant or restriction or any Article, subarticle sentence, clause, phrase or word or other provision of this Declaration of Condominium and the Articles of Incorporation Bylaws and regulations of the Association shall not affect the validity of the remaining portions thereof.

24.2 **Applicability of Declaration of Condominium.** All present or future owners, lessees, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration and the mere acquisition or rental of any Unit, or mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

24.3 If the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without the Developer's written approval:

24.3.1 Assessment of the Developer as a Unit Owner for capital improvements, and

24.3.2 Any action by the Association that would be detrimental to the Developer's sale of Units.

24.3.3 Notices to Unit Owners shall be sent to their place of residence in the Condominium Building, unless the Unit Owner has, by written notice to the Association, specified a different address. Notices to the Association and the Developer shall be delivered by certified mail to Windsor Pointe of Jacksonville, Inc., 10161 Centurion Parkway North, Suite 150, Jacksonville, Florida 32256 with a copy to John S. Duss, IV, Esquire, Ford, Jeter, Bowlus & Duss, P.A., 10110 San Jose Boulevard, Jacksonville, Florida 32257. All notices shall be deemed and considered sent when mailed. Any party may change his or its mailing address by written notice to the other party.

24.4 **Enforcing the Provisions of Declaration, Articles and/or Bylaws.** Each Unit Owner, the Developer and the Association shall have the right at law or in equity to enforce the terms and conditions of this Declaration, the Articles and Bylaws. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the Bylaws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter. Unless otherwise provided herein, the Association may levy against any Owner a fine not in excess of \$100 per violation for each day or the highest fine permitted under the Condominium Act that such Owner continues to violate any of the requirements of this Declaration after the Association has given notice of the violation and an opportunity for hearing to the Unit Owner.

24.5 **Remedy for Violations.** The remedy for violation provided by the Condominium Act shall be in full force and effect. In addition thereto, should the Association find it necessary to

institute legal actions, upon a finding by a court in favor of the Association, the defendant Unit Owner shall reimburse the Association for its costs of suit, including reasonable attorney's fees at both trial and appellate level, incurred by it in bringing such action.

24.6 **Gender\Plural Usage.** Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

24.7 **Execution of Documents Required by Government.** The Developer's plan for the development of this Condominium may require from time to time the execution of certain documents required by any governmental agency having jurisdiction over this Condominium. To the extent that said documents require the joinder of Unit Owners, the Association by its duly authorized officers may, as the agent or the attorney-in-fact for the Unit Owners, execute acknowledge and deliver such documents and the Unit Owners, by virtue of their acceptance of deeds to their Units, irrevocably nominate, constitute and appoint the Association, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable.

24.8 **Construction.** The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. The Florida Condominium Act as amended to the date hereof is hereby adopted and made a part hereof. In the event of any conflict between the provisions of this Declaration and the Condominium Act, the provisions of the Condominium Act shall prevail.

24.9 **Parties Bound.** The restrictions and burdens imposed by the Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become owners of Units in the condominium and their respective heirs, legal representatives, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Developer has caused the foregoing Declaration of Condominium to be executed and its corporate seal to be affixed, by its duly authorized officer this 17<sup>th</sup> day of August, 2000.

Signed, sealed and delivered in the Presence of:  
[Signature]  
Print Name TERESA MARIE KENNEY  
[Signature]  
Print Name Laura Reinhardt

WINDSOR POINTE OF JACKSONVILLE, INC.,  
a Florida corporation.

BY: [Signature]  
JOHN K. SISK  
Its: President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of August, 2000, by JOHN K. SISK, the president of Windsor Pointe of Jacksonville, Inc., a Florida corporation on behalf of the corporation.

[Signature]  
(print name)  
Notary Public, State and County aforesaid  
Commission No.: \_\_\_\_\_



He: (please check appropriate statement)  
 is personally known to me  
 produced identification (specify type)  
\_\_\_\_\_

## Exhibit A

## Legal Description

A PORTION OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 28 EAST, CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3888, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), THENCE ALONG AND AROUND THE ARC OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AND ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE A CHORD BEARING AND DISTANCE OF SOUTH 28°12'06" EAST 35.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE SOUTH 73°12'06" EAST 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE AND ALONG AND AROUND THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 640.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 54°38'25" EAST 407.46 FEET; THENCE NORTH 52°27'33" EAST 166.05 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 52°27'33" EAST 45.67 FEET; THENCE SOUTH 37°32'27" EAST 15.33 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 92.00 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 15.33 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE SOUTH 37°32'27" EAST 24.17 FEET; THENCE SOUTH 52°27'33" WEST 83.01 FEET; THENCE NORTH 37°32'27" WEST 24.17 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE NORTH 37°32'27" WEST 15.33 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE NORTH 37°32'27" WEST 92.00 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE NORTH 37°32'27" WEST 15.33 FEET TO THE POINT OF BEGINNING.

**EXHIBIT "B"**

Share of Common Elements, Common Surplus and Common Expenses

Each unit shall have an undivided one eighth (1/8) interest in the Common Elements, Common Surplus and Common Expenses of the Condominium.



# *Tri-State Land Surveyors, Inc.*

8411 Baymeadows Way, Suite 2 • Jacksonville, Florida 32256  
(904) 731-7235

Book 9715 Page 2380

August 15, 2000

Building No. 5 Windsor Pointe of Jacksonville, Inc.

The construction of the improvements is substantially complete so that the material, together with the provisions of the declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements and so that the identification, location, and dimensions of the common elements of each unit can be determined from these materials.

  
Glenn M. Broadstreet, P.S.M #5814  
Florida Professional Surveyor and Mapper

mworks/let/condo

# MAP SHOWING

## PARCEL 5

A PORTION OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 28 EAST, CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3888, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), THENCE ALONG AND AROUND THE ARC OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 25.00 FEET, AND ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE A CHORD BEARING AND DISTANCE OF SOUTH 28°12'06" EAST 35.36 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE SOUTH 73°12'06" EAST 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT; THENCE CONTINUE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE AND ALONG AND AROUND THE ARC OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 640.00 FEET, A CHORD BEARING AND DISTANCE OF SOUTH 54°38'25" EAST 407.46 FEET; THENCE NORTH 52°27'33" EAST 166.05 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 52°27'33" EAST 45.67 FEET; THENCE SOUTH 37°32'27" EAST 15.33 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 92.00 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE SOUTH 37°32'27" EAST 15.33 FEET; THENCE NORTH 52°27'33" EAST 18.67 FEET; THENCE SOUTH 37°32'27" EAST 24.17 FEET; THENCE SOUTH 52°27'33" WEST 83.01 FEET; THENCE NORTH 37°32'27" WEST 24.17 FEET; THENCE NORTH 52°27'33" WEST 15.33 FEET; THENCE SOUTH 52°27'33" WEST 4.67 FEET; THENCE NORTH 37°32'27" WEST 92.00 FEET; THENCE NORTH 52°27'33" EAST 4.67 FEET; THENCE NORTH 37°32'27" WEST 15.33 FEET TO THE POINT OF BEGINNING.

HODGES BOULEVARD  
(200' R/W)  
POINT OF REFERENCE

R = 25.00'  
S28°12'06"E  
35.36'

R = 640.00'  
S54°38'25"E  
407.46'

RICHMOND PARK DR. N.  
(80' R/W)

POINT OF BEGINNING

N52°27'33"E  
166.05'

N52°27'33"E  
45.67'

N37°32'27"W  
15.33'

N52°27'33"E  
4.67'

N52°27'33"E  
4.67'

2. STY. STUCCO

5

S52°27'33"W  
4.67'

N37°32'27"W  
15.33'

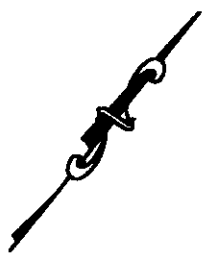
S52°27'33"W  
4.67'

N52°27'33"E  
18.67'

1. STY. STUCCO GARAGE

83.01'

FINAL B. 15.00, 00.3249  
FOUND W.O. 00-2416 6-15-00



CERTIFIED FOR: AMERICAN SHELTER, WINDSOR POINTE OF JACKSONVILLE, INC.

### TRI-STATE LAND SURVEYORS, INC.

8411 BAYMEADOWS WAY SUITE #2, JACKSONVILLE, FLORIDA 32256 (904) 731-7235

- LEGEND**
- CONC. MON
  - IRON COR.
  - (SET WITH CAP # LB 4821)
  - ✕ FENCE
  - IRON COR. (FOUND)
  - ⊙ CROSS CUT
  - B.R.L. BUILDING RESTRICTION LINE
  - ESMT EASEMENT
  - R/W RIGHT-OF-WAY
  - COV. COVERED AREA
  - ⊂ CENTERLINE
  - A/C AIR CONDITIONING PAD
  - (R) RADIAL DISTANCE
  - ▨ CONCRETE

BEARINGS BASED ON R/W LINE AS SHOWN.

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

LARRY G. EDDY, P.L.S. No. 4144  
GLENN M. BROADSTREET, P.S.M. NO. 5814

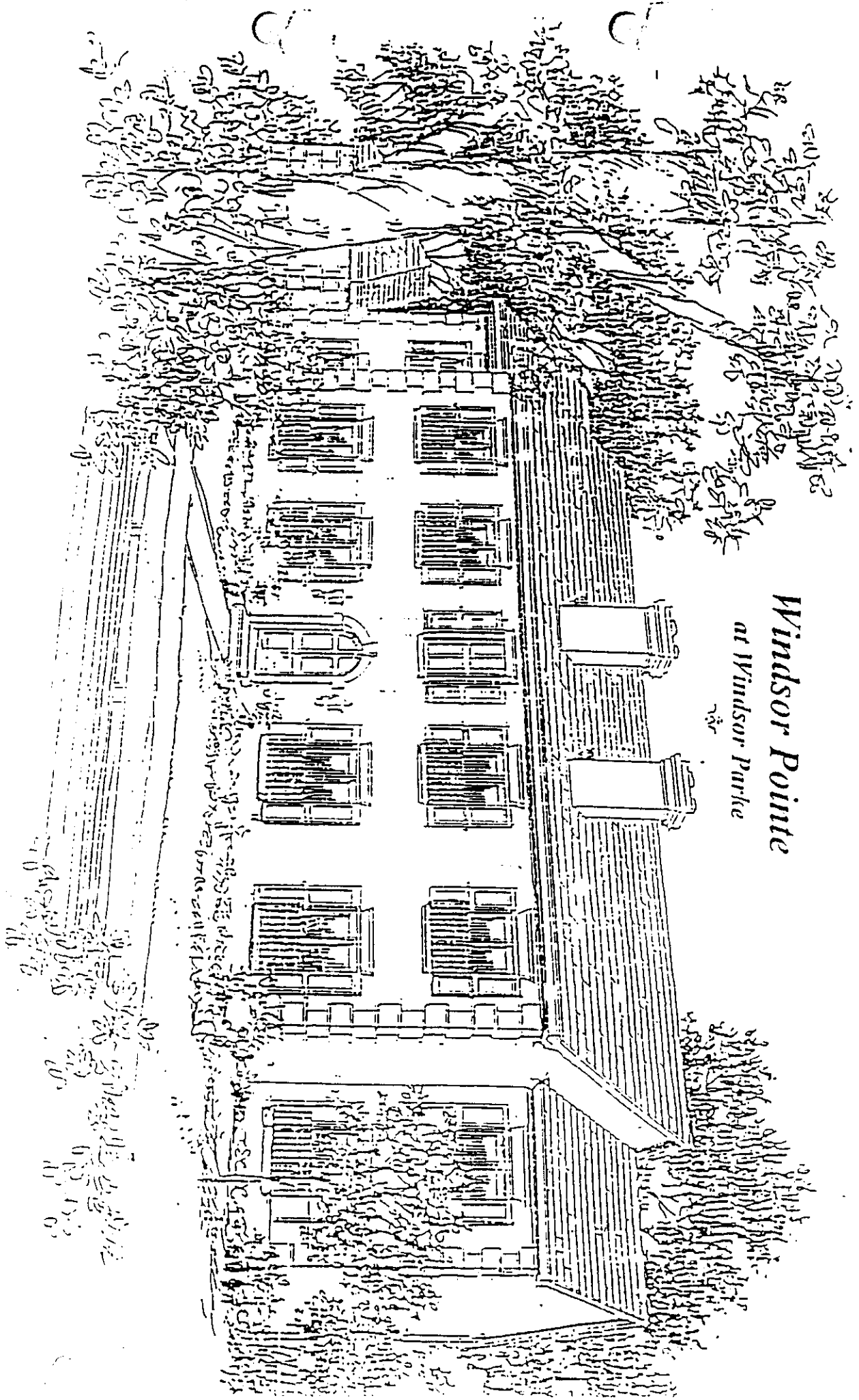
SCALE: 1" = 40'

DATE: 11-10-1998

*(Signature)*  
REGISTERED SURVEYOR AND MAPPER,  
STATE OF FLORIDA (LB #4921)

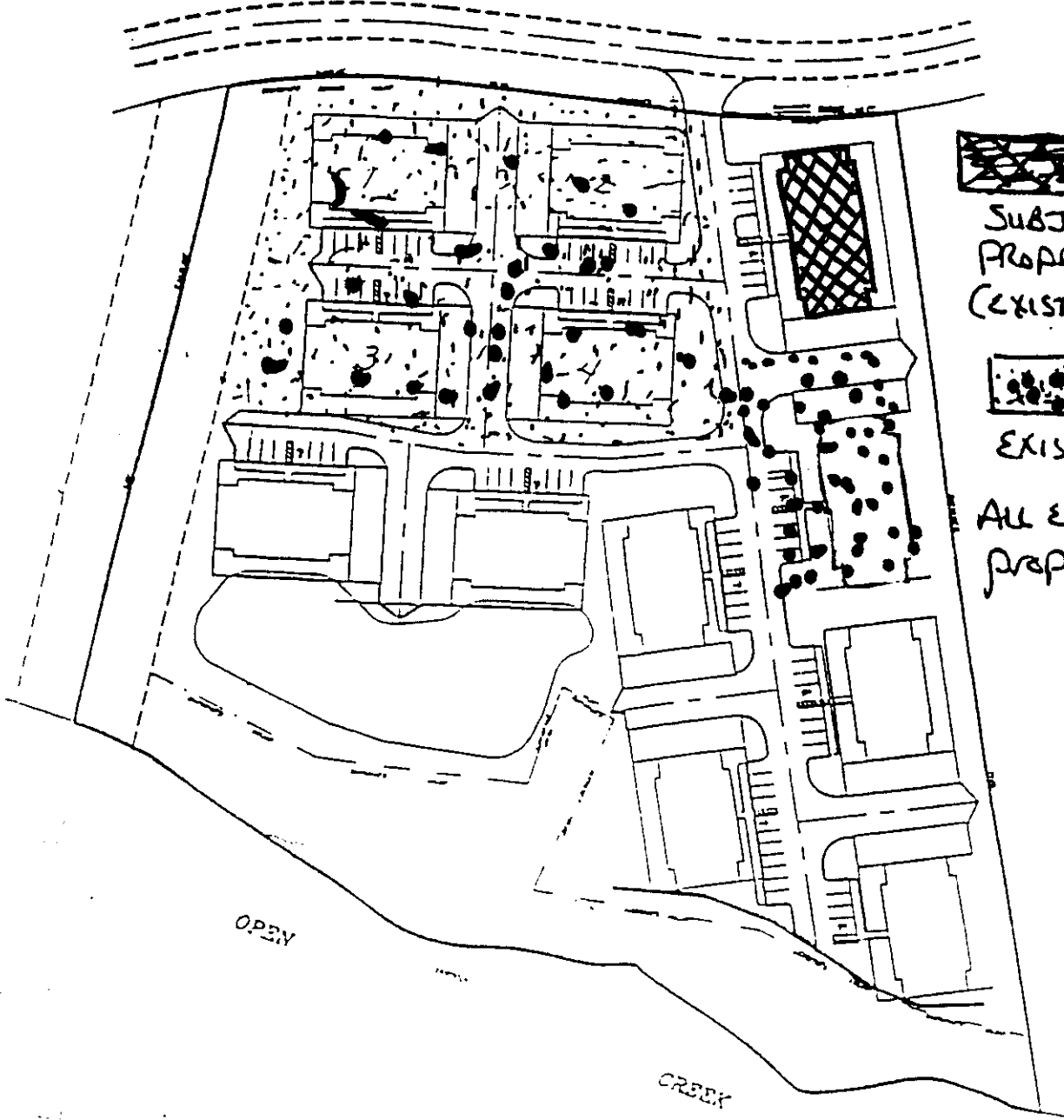








*Windsor Pointe*  
at Windsor Park  
N.Y.

RICHMOND PARK DRIVE NORTH



  
 SUBJECT  
 PROPERTY  
 (EXISTING)

  
 EXISTING

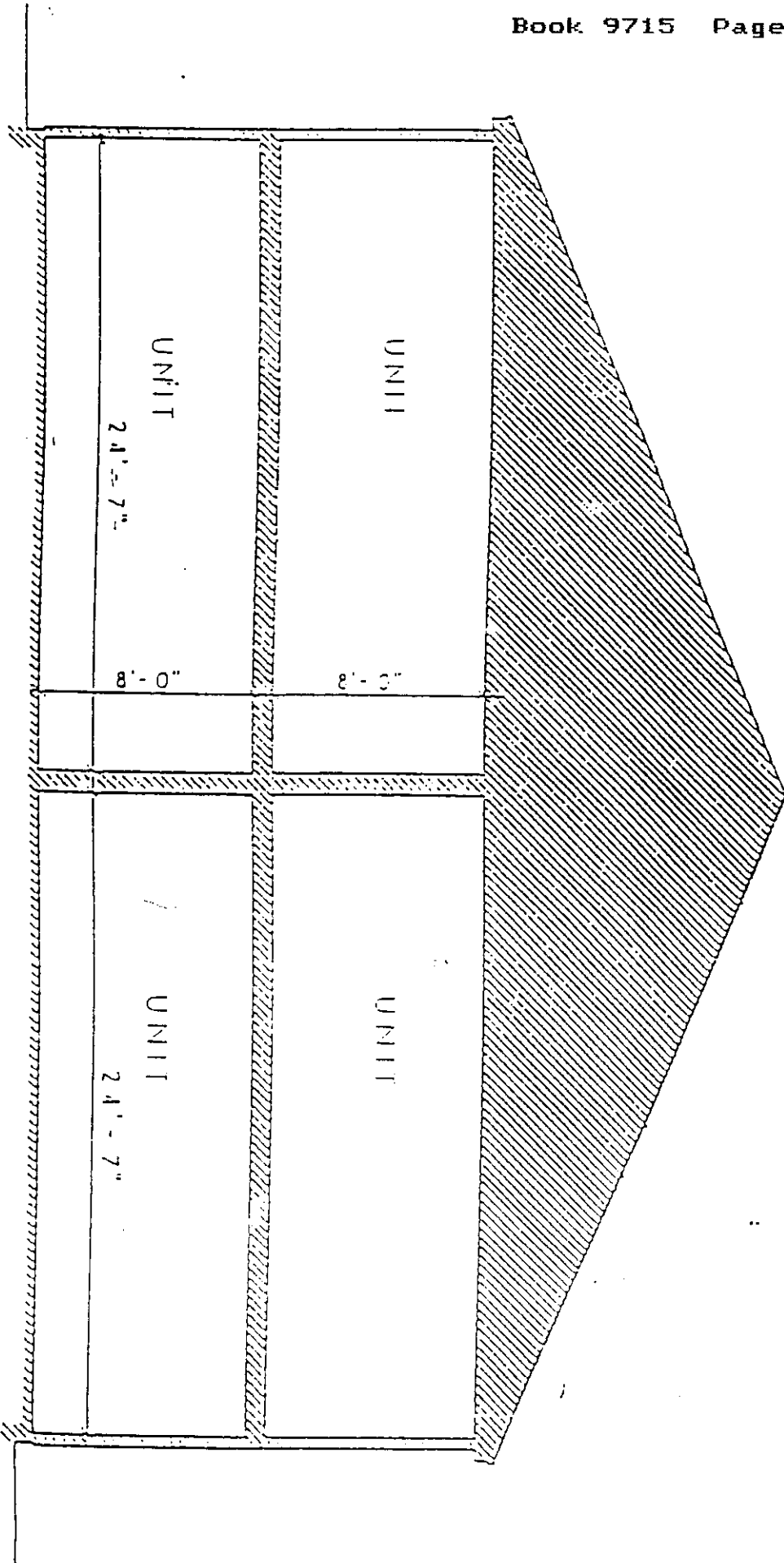
ALL ELSE:  
 PROPOSED.

OPRY

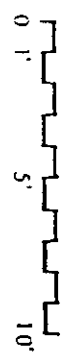
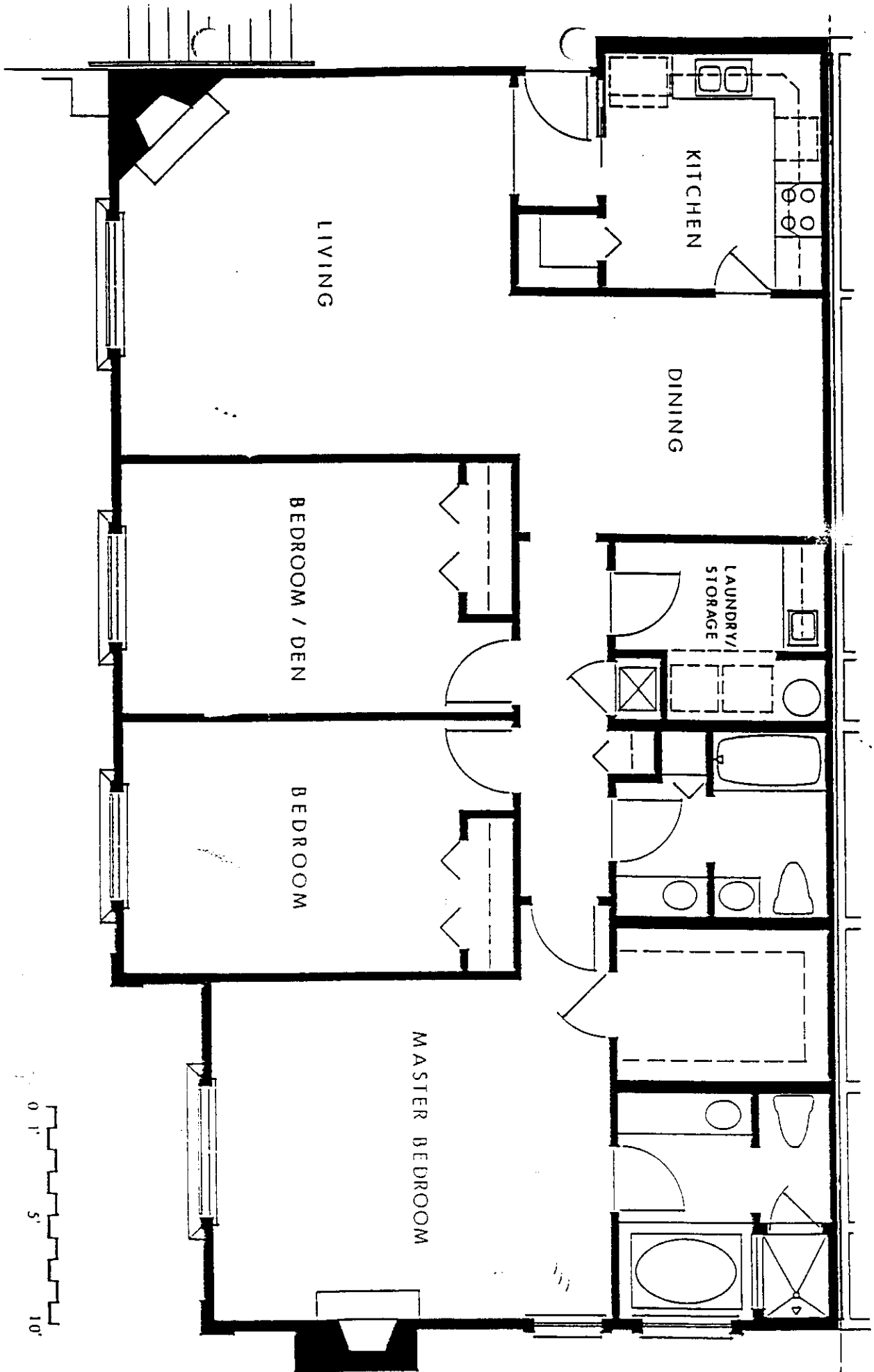
CREEK

PROPOSED BUILDING CROSS SECTION

Shaded area = Common areas  
all else inside unit.



BUILDING CROSS SECTION



ALL AREAS SHOWN ARE PART OF UNIT

# WINDSOR POINTE V, A CONDOMINIUM

Designation of Street Address at 13715 Richmond Park Drive, Unit \_\_\_\_\_

Second Floor

505

First Floor

501



Front view--facing roadway

Second Floor

506

First Floor

502

Second Floor

508

First Floor

503



Rear View

Second Floor

507

First Floor

504

EXHIBIT "D"

# WINDSOR POINTE V, A CONDOMINIUM

## Designation of Unit Designations

*Second Floor*

*Unit 55*

*First Floor*

*Unit 51*



*Front view--facing roadway*

*Second Floor*

*Unit 56*

*First Floor*

*Unit 52*

*Second Floor*

*Unit 58*

*First Floor*

*Unit 53*



*Rear View*

*Second Floor*

*Unit 57*

*First Floor*

*Unit 54*

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# State of Florida



## Department of State

I certify from the records of this office that WINDSOR POINTE V CONDOMINIUM ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on October 25, 1999.

The document number of this corporation is N99000006311.

I further certify that said corporation has paid all fees due this office through December 31, 1999, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 699A00051202-102599-N99000006311-1/1, noted below.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twenty-fifth day of October, 1999

Authentication Code: 699A00051202-102599-N99000006311-1/1



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
WINDSOR POINTE V CONDOMINIUM ASSOCIATION, INC.**

THE UNDERSIGNED hereby associate themselves for the purpose of forming a corporation not for profit under and pursuant to Chapter 617, Florida Statutes, and do certify as follows:

**ARTICLE I.  
NAME**

The name of this corporation is WINDSOR POINTE V CONDOMINIUM ASSOCIATION, INC. The corporation is sometimes referred to herein as the "Association".

**ARTICLE II.  
PURPOSES**

This corporation is organized to operate and manage WINDSOR POINTE V, a Condominium, to be established in accordance with Chapter 718, Florida Statutes, upon real property situate, lying and being in Duval County, Florida; to perform and carry out the acts and duties incident to the administration, operation and management of said condominium in accordance with the terms, provisions, and conditions, contained in these Articles of Incorporation, in the Declaration of Condominium Ownership and any amendments thereto, which will be recorded among the Public Records of Duval, Florida, and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of the Condominium.

The terms used herein shall have the same meaning attributed to them in Chapter 718, Florida Statutes.

**ARTICLE III.  
POWERS**

The association shall have all of the powers of a corporation not for profit existing under the laws of the State of Florida and all the powers now or hereafter granted to Condominium Associations by the Condominium Act, Chapter 718, Florida Statutes, as the

PREPARED BY: THERESA MARIE KENNEY, ESQ. FORD, JETER, BOWLUS & DUSS, P.A. 10110 SAN JOSE BOULEVARD JACKSONVILLE, FLORIDA 32257 FLORIDA BAR NO. 0970468 TELEPHONE (904) 268-7227 FACSIMILE (904) 262-3337
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same may be hereafter amended and all powers reasonably necessary to implement the powers of the Association, which powers shall include, but are not limited to, the power:

A. To make, establish and enforce reasonable rules and regulations governing the use of the Condominium Property;

B. To make, levy and collect assessments against Unit Owners of the said Condominium to provide the funds to pay for Common Expenses of the Condominium as provided for in the Condominium Documents and the Condominium Act, and to use and expend the proceeds of assessments in the exercise of the powers and duties of the Association;

C. To maintain, repair, replace and operate those portions of the Condominium Property that the Association has the duty or right to maintain, repair, replace and operate under the Condominium Documents;

D. To contract for the management and maintenance of the Condominium and to authorize the management agent to assist the Association in carrying out its powers and duties by performing such functions as the collection of assessments, preparation of records, enforcement of rules, and maintenance of the common elements. The Association shall, however, retain at all times the power and duties granted them by the Condominium Act, including, but not limited to, the making of assessments, promulgation of rules, and execution of contracts on behalf of the Association.

E. To employ personnel to perform the services required for the proper operation of the Condominium.

F. To purchase insurance upon the Condominium Property for the protection of the Association and its members;

G. To reconstruct improvements constructed on the real property submitted to Condominium Ownership after casualty or other loss;

H. To make additional improvements on and to the Condominium Property;

I. To approve or disapprove the transfer, mortgage and ownership of Condominium Parcels to the extent such power is granted to it under the Condominium Documents;

J. To acquire and enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including but not limited to country clubs, golf courses, marinas, and other recreational facilities, whether

or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation or other use or benefit of the members of the Association;

K. To enforce by legal action the provisions of the Condominium Documents;

L. To acquire by purchase or otherwise Condominium Parcels in the Condominium.

#### **ARTICLE IV. MEMBERS**

1. Members. The members of the Association shall consist of all owners of the Condominium Parcels in the Condominium, and after the termination of the Condominium shall consist of those persons who are members at the time of such termination.

2. Voting Members. Each Condominium Parcel shall be entitled to one vote, which vote shall be exercised by the Unit Owner designated by the Owner or Owners of a majority interest in a single Condominium Parcel to cast the vote appurtenant to said Parcel. The designation of voting members shall be perfected in the manner provided in the Condominium Declaration.

3. Assignment. Neither the share of a member in the funds and assets of the Association, nor membership in this Association may be assigned, hypothecated or transferred in any manner except as an appurtenance to a Condominium Parcel.

4. The members of the Association shall be subject to all of the terms, conditions, restrictions and covenants contained in the Condominium Documents.

#### **ARTICLE V. TERM**

This corporation shall exist perpetually.

#### **ARTICLE VI. SUBSCRIBERS**

The name and address of the subscriber to these Articles of Incorporation are as follows:

John S. Duss, IV  
10110 San Jose Blvd.  
Jacksonville, Florida 32257

**ARTICLE VII.**  
**BOARD OF DIRECTORS**

The business of the corporation shall be conducted by a Board of Directors, which, shall consist of not less than three (3) nor more than five (5) directors. The Board of Directors shall be elected annually by the members of the Association entitled to vote.

**ARTICLE VIII.**  
**OFFICERS**

The affairs of the Association shall be managed by a President, Vice President, Secretary and Treasurer. The officers of the Association shall be elected annually by the Board of Directors of the Association in accordance with the provision of the By-Laws of the Association.

**ARTICLE IX.**  
**INDEMNIFICATION**

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Association, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

**ARTICLE X.**  
**AMENDMENT OF ARTICLES**

These Articles may be amended by an affirmative vote of three-fourths (3/4ths) of the Voting Members of the Association.

**ARTICLE XI.**  
**BY-LAWS**

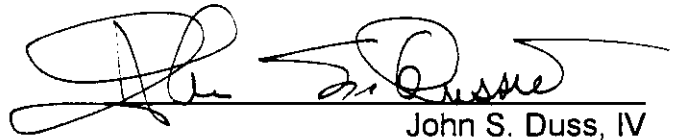
The Association shall adopt By-Laws governing the conduct of the affairs of the Association. These Articles may be amended by an affirmative vote of three-fourths (3/4ths) of the Voting Members of the Association.

**ARTICLE XII.**  
**PRINCIPAL OFFICE, REGISTERED OFFICE AND REGISTERED AGENT**

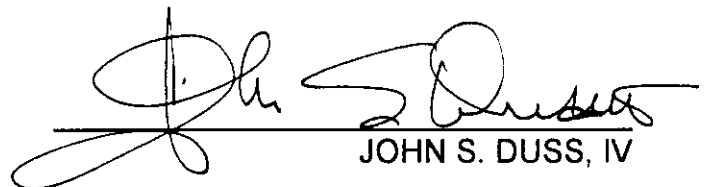
The initial principle office of this corporation shall be located at: 10161 Centurion Parkway North, Suite 150, Jacksonville, Florida, 32256, or at such other place or places as may be designated from time to time by the Board of Directors. The initial registered agent of this corporation shall be:

John S. Duss, IV, whose address is 10110 San Jose Blvd., Jacksonville, Florida, 32257, or such other person as may be designated from time to time by the Board of Directors.

**ACKNOWLEDGMENT:** Having been named to accept service of process for the above stated corporation, at place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provisions of said Act relative to keeping open said place.

  
John S. Duss, IV

IN WITNESS WHEREOF, the subscribing incorporator has hereunto set his hand and seal and caused these Articles of Incorporation to be executed this 25<sup>th</sup> day of October, 1999.

  
JOHN S. DUSS, IV

**BY-LAWS**  
**OF**  
**WINDSOR POINTE V**  
**CONDOMINIUM ASSOCIATION, INC.**

Book 9715 Page 2395

A Corporation Not for Profit  
under the Laws of the State of Florida

These are the By-Laws of Windsor Pointe V Condominium Association. (hereinafter called "Association"), a corporation not for profit, incorporated under the laws of the State of Florida. The Association has been organized for the purpose of administering a condominium created pursuant to Chapter 718, Florida Statutes, as amended (hereinafter called "Condominium Act").

**SECTION 1      ASSOCIATION.**

1.1      Office. The office of the Association shall be Suite 150, 10161 Centurion Parkway North, Jacksonville, Florida 32256, or such other place as shall be selected by a majority of the Board of Directors.

1.2      Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.3      Seal. The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "Not for Profit". Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise attached to the instrument or document being sealed.

1.4      Terms. All terms used herein shall have the same definitions as attributed to them in the Declaration of Condominium Ownership of WINDSOR POINTE V, A CONDOMINIUM.

**SECTION 2      MEMBERS.**

2.1      Qualification. The members of the Association shall consist of all Unit Owners of Condominium Parcels in WINDSOR POINTE V, A CONDOMINIUM, and all unit owners of condominium parcels in each additional condominium which designates the Association for its management and operation.

2.2      Membership. Membership in the Association shall be established by recording in the public records of Duval County, Florida, a deed or other instrument establishing a record title to a Condominium Parcel, and delivery to the Association of a copy of such instrument. The grantee in such instrument shall immediately become a member of the Association. The membership of any prior owner of the same Condominium Parcel shall be terminated upon delivery to the Association of a copy of the deed or other instrument as aforesaid.

2.3      Designation of Voting Representative. If a Condominium Parcel is owned by more than one person, the Unit Owner entitled to cast the vote appurtenant to said Parcel shall be designated by the Owners of a majority interest in the Parcel. A Voting Member must be designated by a statement filed with the Secretary of the Association, in writing, signed by the owners of a majority interest in a Condominium Parcel as the person entitled to cast the vote for all such owners. The designation may be revoked and a substitute Voting Member designated at

any time at least five (5) days prior to a meeting. If a designation of a Voting Member is not filed with the Secretary at least five (5) days prior to any meeting, no vote shall be cast at such meeting by or for said Unit Owner(s).

2.4 Restraint Upon Alienation of Assets. The share of a member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Condominium Parcel.

### SECTION 3 MEMBER'S MEETINGS.

3.1 Place. All meetings of the members of the Association shall be held at the office of the Association or such other place as may be stated in the notice of the meeting.

3.2 Quorum. The percentage of the voting interests required to constitute a quorum at a meeting of the members shall be a majority of the voting interests.

3.3 Membership List. At least ten (10) days before every election of directors, a complete list of the Voting Members of the Association, arranged numerically by unit number, shall be prepared by the Secretary. Such list shall be kept at the office of the Association and shall be open to examination by any member. Changes in the list of Voting Members may be made pursuant to Section 2.3 of these By-Laws.

3.4 Regular Meetings. Regular meetings of the members of the Association shall be held on the first business day of the month of March of each year.

#### 3.5 Special Meetings.

3.5.1 Special meetings of the members for any purpose may be called by the President, and shall be called by the President or Secretary at the request, in writing, of either a majority of the Board of Directors or of a majority of the Voting Members. Such request shall state the purpose of the proposed meeting.

If an adopted budget of the Association requires assessments against the Unit Owners in any fiscal or calendar year which exceed one hundred fifteen percent (115%) of the assessments for the preceding year, the Board, upon written application of ten percent (10%) of the voting interest to the Board of Directors, shall call a special meeting of the Unit Owners within thirty (30) days upon not less than ten (10) days' written notice to each Unit Owner. Provided, however, so long as the Developer shall be in control of the Board of Directors, the adopted budget of the Association shall not require assessments against the Unit Owners in any fiscal or calendar year which exceed one hundred fifteen percent (115%) of the assessments for the preceding year, absent the approval of a majority of the voting interests.

A special meeting of the Unit Owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the voting interests giving notice of the meeting as required for a meeting of Unit Owners, and the notice shall state the purpose of the meeting.

3.5.2 Business transacted at all special meetings shall be confined to the objects stated in the notice thereof.

3.6 Notice. Written notice of every meeting, special or regular, of the members of the Association, stating the time, place and object thereof, shall be delivered to each Condominium Unit or mailed to each Voting Member at such member's address as shown in the books of the Association at least fourteen (14) continuous days prior to such meeting. No notice shall be required to be given to a person who becomes a Voting Member during such fourteen day period. A notice of each meeting shall be posted in the office of the Association during the entire fourteen day period.

3.7 Participation. All members shall be entitled to participate in any meeting of the Association but only Voting Members shall have the right to vote on any matter brought before such meeting.

3.8 Transfer of Control of the Association. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units in the Condominium, the Unit Owners other than the Developer shall be entitled to elect no less than one-third 1/3 of the members of the Board of Directors of the Association. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association:

3.8.1 Three (3) years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

3.8.2 Three (3) months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

3.8.3 When all of the Units that will be operated by ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

3.8.4 When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

3.8.5 Seven (7) years after recordation of the Declaration of Condominium which ever occurs first. The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium operated by the Association. Following the time the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-Owned Units in the same manner as any other Unit Owner except for the purposes of requiring control of the Association or selecting the majority members of the Board of Directors.

3.9 Proxies. At any meeting of the members of the Association, the Voting Member shall be entitled to vote in person or by proxy. No proxy shall be valid unless it is granted to a person who is a Unit Owner.

3.10 Vote Required to Transact Business. When a quorum is present at any meeting, the majority of Voting Members present and voting shall decide any question brought before the meeting. If the question is one which requires more than a majority vote by express provision of the Condominium Act or the Declaration of Condominium Ownership, Articles of Incorporation or

these By-Laws (hereinafter "Condominium Documents"), the express provision shall govern and control the number of votes required.

Voting Members of the Association present in person or represented by proxy, shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise provided by statute or the Condominium Documents. If a quorum is not present at any meeting, the Voting Members may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. Any business may be transacted at any adjourned meeting which could have been transacted at the meeting called.

#### SECTION 4 DIRECTORS.

4.1 Number. The affairs of the Association shall be managed by Board of Directors, consisting of not less than three(3) nor more than five (5) directors. The number of directors shall be determined from time to time by the Voting Members.

4.2 Term. Each director shall be elected to serve for a term of one (1) year or until his successor shall be elected and shall qualify, except that directors elected prior to the Unit Owners' Initial Meeting shall serve only until such meeting.

4.3 First Board of Directors. The first Board of Directors shall consist of three (3) persons appointed by Developer, who shall hold office and exercise all powers of the Board at the pleasure of Developer but not later than the Unit Owners' Initial Meeting.

4.4 Vacancy and Replacement. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining directors at a special meeting of directors duly called for this purpose, shall by closed ballot vote choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred.

4.5 Election of Directors. Election of Directors for the Board of Directors shall be conducted in the following manner:

4.5.1 Method. The Board of Directors shall be elected by closed ballot or voting machine.

4.5.2 Proxies. Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Association in accordance with applicable regulations. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves, for votes taken to waive financial statement requirements, for votes taken to amend the Declaration; for votes taken to amend the articles of incorporation or bylaws; and for any other requiring or permitting a vote of the Unit Owners.

(a) No proxy, limited or general, shall be used in the election of board members either in general elections or elections to fill vacancies caused by resignation, or otherwise.

(b) Provided however, If a majority or more of the existing board is recalled at the meeting, an election, which is subject to the provisions of section

718.301, Florida Statutes, and rules 61B-23.003 and 61B-23.0026, Florida Administrative Code, shall be conducted at the recall meeting to fill vacancies on the board occurring as a result of recall. The voting interests may vote in person or by limited proxy to elect replacement board members in an amount equal to the number of recalled board members.

(c) General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given.

(d) Unit Owners may vote in person at meetings.

(e) Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given.

(f) Every proxy is revocable at any time at the pleasure of the unit owner executing it.

#### 4.6 Notice.

(a) Not less than 60 days before a scheduled election, the Association shall mail or deliver, whether by separate association mailing or included in another association mailing or delivery including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election.

(b) Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the Association not less than 40 days before a scheduled election.

(c) Together with the written notice and agenda as set forth in section 3.5 hereof, the Association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 ½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper.

4.6.1 Handling of Ballots Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter and the Unit or Unit Numbers being voted, and shall contain a signature space for the voter. Once the ballot is completed the voter shall place completed ballot in the smaller inner envelope and seal the envelope. The inner envelope shall be placed within the outer larger envelope, and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person is entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for such signature. The envelope shall either be mailed or hand

delivered to the Association. Upon receipt by the Association, no ballot may be rescinded or changed.

The written ballot shall indicate in alphabetical order by surname, each and every Unit Owner or other eligible person who desires to be a candidate for the Board of Directors and who gave written notice to the Association not less than forty (40) days before a scheduled election, unless such person has prior to the mailing of the ballot, withdrawn his candidacy in writing. No ballot shall indicate which candidates are incumbents on the Board. No write-in candidate shall be permitted. No ballot shall provided a space for the signature of or any other means of identifying a voter. All ballot forms utilized by the Association, both those mailed to voters or cast in a meeting, shall be uniform in color and appearance.

Any envelopes containing ballots shall be collected by the Association and shall be transported to the location of the duly called meeting of the Unit Owners. The Association shall have made available at the meeting additional blank ballots for distribution to eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope in the manner provided above. Each envelope and ballot shall be handled in the following manner, either by the Board or by a person or persons appointed by the Board. At the meeting, as a first order of business, ballots not yet cast shall be collected. Next the signature and Unit identification on the outer envelope shall be checked against a list of qualified voters, unless previously validated as provided below. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted. The voter shall be checked off the list as having voted. Then, in the presence of any Unit Owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall first be removed from the outer envelopes and shall be placed into a receptacle. Upon the commencement of the opening of the outer envelopes the polls shall be closed and no more ballots shall be accepted. The inner envelope shall then be opened and the ballots shall be removed and counted in the presence of the Unit Owners. Any envelope containing more than one ballot shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted. All envelopes or ballots whether disregarded or not shall be retained with the official records of the Association.

If the Association should desire to verify the outer envelope information in advance of the meeting they may do so at a meeting noticed in the manner required for the noticing of Board Meetings, which shall be open to all Unit Owners and which shall be held on the date of the election. An impartial committee designated by the Board may verify the signature and Unit identification on the outer envelope and check the same against the list of qualified voters. These voters shall be checked of the list as having voted. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" or with words of similar import and any ballots contained therein shall not be counted.

4.6.2 Candidacy. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the secretary of the Association not less than forty (40) days before a scheduled election. Written notice shall be effective when received by the Association. Written notice shall be accomplished in accordance with one or more of the following methods: (a) by certified mail, return receipt requested, directed to the Association; or (b) by personal delivery to the Association; or (c) by regular U.S. Mail, facsimile, telegram or other method of delivery to the Association.

(a) Upon receipt by the Association of any timely submitted written notice by personal delivery that a Unit Owner or other eligible person desires to be a candidate for the Board of Directors, the Association shall issue a written receipt acknowledging delivery of the written notice.

(b) Upon the request of a candidate, the Association shall include an information sheet, no larger than 8 ½" x 11" furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be born by the Association. Any candidate desiring the Association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association not less than thirty-five (35) days before the election. The Association shall not edit, alter or otherwise modify the content of the information sheet provided by a candidate. However, if consented to in writing by the candidates involved, two or more candidate information sheets may be consolidated into a single page. The original copy provided by the candidate shall become a part of the official records of the Association.

4.6.3 Quorum. There is no quorum requirement or minimum number of votes necessary for election of the members of the Board of Directors, however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the board of administration.

4.6.4 Notwithstanding the provisions of this section to the contrary, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the board

4.6.5 No Unit Owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. Any Unit Owner violating this provision may be fined by the Association. A unit owner who needs assistance in casting the ballot for the reasons stated in section 101.051, Florida Statutes may obtain assistance in casting the ballot.

4.6.6 Date of the Election. The regular election shall occur on the date of the annual meeting of the Association.

4.6.7 Interim Vacancies. Any vacancy occurring on the Board prior to the expiration of a term except in the case of a vacancy caused by recall, may be filled by the affirmative vote of the majority of the Board of Directors, even if the remaining directors constitute less than a quorum or by the sole remaining director. In the alternative, a Board may in its discretion hold an election to fill the vacancy in which case the election procedures must conform to the requirements set herein. Balloting is not necessary to fill any vacancy unless there are two or more eligible candidates for that vacancy. A board member appointed or elected pursuant to a vacancy shall fill that vacancy until the next regularly scheduled election for any position, regardless of whether the Board Seat to which the member was elected or appointed is scheduled to be filled at that election. If, however, upon appointment, the Association has already mailed or delivered the first notice of election pursuant to this section, the board member appointed or elected as provided herein shall serve until the next election scheduled in the future for any position.

A regular or general election shall be an election to fill a vacancy caused by expiration of a term in office. A regular or general election shall occur at the time and place at which the annual meeting is scheduled to occur, regardless of whether a quorum is present.

4.6.8 Nominating Committees. The Board of Directors shall not create or appoint any committee for the purpose of nominating a candidate or candidates for election to the Board. The Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage qualified persons to become candidates for the Board.

4.6.9 Tie Votes. If two or more candidates for the same position receive the same number of votes, which would result in one or more candidates not serving or serving a lesser period of time, the Association shall conduct a run-off election in accordance with the procedures set forth herein. Within seven (7) days of the date of the election at which the tie vote occurred, the vote shall mail or personally deliver to the voters a notice of a run-off election. The only candidates eligible for the run-off election to the Board position are the run-off candidates who received the tie vote at the previous election. The notice shall inform the voters of the date scheduled for the run-off election to occur, shall include a ballot conforming to the requirements of this rule, and shall include copies of any candidate information sheets previously submitted by those candidates to the Association. The run-off election must be held not less than twenty-one (21) days nor more than thirty (30) days after the date of election at which the tie vote occurred.

4.6.10 Any voter who requires assistance to vote by reason of blindness, disability or inability to read or write, may request the assistance of a member of the Board of Directors or other Unit Owner to assist in casting his vote. If the election is by voting machine, any such voter, before retiring to the voting booth may have a member of the Board of Directors or other Unit Owner or representative without suggestion or interference, identify the specific vacancy or vacancies and the candidates for each. If a voter requests the aide of any such individual, the two shall retire to the voting booth for the purpose of casting the vote according to the voter's choice. All voting machines shall meet the requirements set forth in Rule 61B-23.0021(12) Florida Administrative Code.

4.7 Removal. Directors may be removed with or without cause by an affirmative vote or a majority of the Voting Members. A special meeting of the Voting Members may be called for this purpose by 10% of such members upon giving notice of such meeting to all Voting Members as provided in Section 3.5 hereof, such notice to state the purpose of the special meeting. No director shall continue to serve on the Board, if, during his term of office, his membership in the Association is terminated for any reason.

4.8 Powers and Duties of Board of Directors. All of the powers and duties of the Association under the Condominium Act and the Condominium Documents shall be exercised by the Board of Directors, or its delegate, meeting at which they were elected or as soon thereafter as may be practicable. The Annual meeting of the Board shall be held at the same place as the Voting Members meeting.

4.8.1 Assessments. To make and collect assessments against members to pay the Common Expenses and the expenses incurred by the Association and the power to make and assess members for capital improvements and replacements.

4.8.2 Disburse. To use the proceeds of assessments in the exercise of its powers and duties.

4.8.3 Maintain. To maintain, repair, replace and operate the Condominium Property in the manner provided by the Declaration of Condominium Ownership.

4.8.4 Purchase. To purchase the necessary equipment and tools required for the maintenance, care and preservation referred to above.

4.8.5 Insure. To insure and keep insured the Condominium Property in the manner set forth in the Declaration of Condominium Ownership and to purchase such other insurance as the Board may deem advisable, including officers and directors liability insurance.

4.8.6 Enforce. To enjoin or seek damages from any Unit Owner for violation of these By-Laws and the terms and conditions of the Declaration of Condominium Ownership.

4.8.7 Employ. To employ and contract with a maintenance service contractor or manager, or either of them, for the maintenance, service and management of the Common Elements and to authorize such contractor and manager or either of them to use or exercise any of the powers it possesses; provided, however, the Association shall retain at all times the powers and duties granted to it by the Condominium Act.

4.8.8 Regulate. To make reasonable rules and regulations concerning the use and occupancy of the Condominium Parcels consistent with the Condominium Documents.

4.9 Annual Statement. The Board will present a full and clear statement of the business and condition of the corporation at the annual meeting of the members.

4.10 Compensation. The directors shall not be entitled to any compensation for service as directors.

## SECTION 5 DIRECTORS MEETINGS.

5.1 Organizational Meetings. The first meeting of each new Board elected by the members shall be held immediately upon adjournment of the meeting at which they were elected or as soon thereafter as may be practicable, which meeting shall be properly noticed to all members of the Association in advance in accordance with the provisions of these Bylaws and the Act. The Annual Meeting of the Board shall be held at the same place as the voting members' meeting.

5.2 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of all regular meetings shall be given to each director, personally or by mail, telephone or telegraph, at least 48 hours in advance to the time named for such meeting. Adequate notice of all regular meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting for the attention of the Unit Owners except in an emergency.

5.3 Special Meetings. Special meetings of the Board may be called by the President on 48 hours notice to each director. Special meetings shall be called by the President or Secretary in like manner and on like notice upon the written request of two (2) directors.

5.4 Waiver of Notice. No notice of a Board meeting shall be required if the directors meet by unanimous written consent. The directors may, by resolution duly adopted, establish regular monthly, quarter-annual or semi-annual meetings. If such resolution is adopted, no notice of such regular meetings of the Board shall be required.

5.5 Adjourned Meetings. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.6 Quorum. A quorum at a directors' meeting shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present, shall constitute the act of a Board, except when approval by a greater number of directors is required by the Condominium Documents.

5.7 Joinder in Meeting by Approval of Minutes. The joinder of a director in any action taken at a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of such director except for the purpose of determining a quorum, or as a vote for or against the action taken.

5.8 Presiding Officer. The presiding officer of a directors' meeting shall be the President of the Association. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

## SECTION 6 OFFICERS.

6.1 Officers. The executive officers of the Association shall be a President, Vice President, Treasurer, and Secretary, each of whom shall be elected at the annual meeting of the Board of Directors. Any two of said officers may be held by one person except that the President shall not also be the Secretary or an Assistant Secretary of the corporation. The Board may elect more than one Vice President. The Board may appoint such other officers and agents that it may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

6.2 Qualification. No person shall be entitled to hold office except a Voting Member or an officer of a corporate Voting Member. No officer except the President need be a member of the Board.

6.3 Term. The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of three-fourths (3/4) of the Voting Members of the Association.

6.4 The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and directors; shall be an ex-officio member of all standing committees; shall have general management of the business of the corporation, and shall see that all orders and resolutions of the Board are carried into effect.

### 6.5 The Secretary.

6.5.1 The Secretary shall keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose.

6.5.2 He shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law.

6.5.3 He shall be custodian of the corporate records and of the seal of the corporation.

6.5.4 He shall keep a register of the name and post office address of each member and each Voting Member.

6.5.5 In general, he shall perform all duties incident to the office of the Secretary and such other duties as may be assigned to him by the President or by the Board of Directors.

6.6 The Vice President. The Vice President shall have all the duties of the President in his absence, and such other duties as may be prescribed by the Board of Directors.

6.7 The Treasurer.

6.7.1 The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit all monies and other valuable effects in the name of and to the credit of the corporation in such depositories as may be designated by the Board of Directors or these By-Laws.

6.7.2 He shall disburse the funds of the corporation as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors at the regular meetings of the Board an account of all his transactions as Treasurer, and of the financial condition of the corporation.

6.8 Vacancies. If any office becomes vacant by reason of death, resignation, disqualification or otherwise, the remaining directors by a majority vote may choose a successor or successors who shall hold office for the unexpired term.

6.9 Resignations. Any director or other officer may resign his office at any time. Such resignation shall be in writing, and shall take effect at the time of its receipt by the corporation, unless some time be fixed in the resignation, and then from the date so fixed. The acceptance of a resignation shall not be required to make it effective.

## SECTION 7 APPROVAL BY VOTING MEMBERS.

7.1 The Association shall act through its Board of Directors and only the following matters shall require an affirmative vote of the Voting Members of the Association:

<u>Matter to be approved</u>	<u>Approval Required</u>
(i) In the absence of casualty reconstruction, alteration, additions to the Common Elements, exclusive of the Limited Common Elements.	3/4 of the Voting Members owning Units in the Condominium.
(ii) Alteration, improvements or additions to the Limited Common Elements.	A majority of the Voting Members representing Units entitled to use such Limited Common Elements with the concurrence of a majority of the Board.

- |        |  |  |
|--------|--|--|
| (iii)  | Termination of the Project when 90% of the value of the Condominium Property is destroyed. | 1/4 of the Voting Members in the Condominium to be terminated.   |
| (iv)   | Approval of changes in building plans for reconstruction after casualty.                   | 3/4 of the Voting Members owning Units in the affected Condominium; and all of the Voting Members in the affected units.                           |
| (v)    | Amendment of By-Laws and Articles of Incorporation.  | 3/4 of the Voting Members.   |
| (vi)   | Amendment of the Declaration   | 2/3 of the Voting Members owning Units in the Condominium the Declaration of which is to be amended.   |
| (vii)  | Termination of Condominium   | 4/5 of the Voting Members owning Units in the Condominium Which is to be terminated terminated except as provided in item (3) of this Section 7.1. |
| (viii) | Election of Directors and Officers.  | Plurality of Voting Members.   |
| (ix)   | Removal of Directors and Officers.   | A majority of the Voting Members.  |
| (x)    | Making Agreements of Use of Off-Site Recreational Facilities.                              | A majority of the Voting Members.  |
| (xi)   | Approval of the Purchase of a Condominium Parcel by the Association.                       | 3/4 of the Voting Members.   |

**SECTION 8 CONDUCT OF MEETING.**

All meetings of the members and of the Board shall be governed by Robert's Rules of Order.

**SECTION 9 FISCAL MANAGEMENT.**

The provisions for fiscal management of WINDSOR POINTE V, A CONDOMINIUM, and other condominiums managed and operated by the Association, as set forth in the Declaration of Condominium Ownership, are supplemented by the following provisions:

9.1 Accounts. The funds and expenditures of the Association shall be credited and charged to the appropriate account as set forth below.

9.1.1 Current Expenses. All funds to be expended during the year for the maintenance of the Common Elements and for the operation and working capital of the Association shall be held in the Current Expense Account. Any balance in this fund at the end of each year may be used to pay Common Expenses incurred in any successive year or may be placed in the Reserve Fund Account. Each Unit Owner except Developer shall upon becoming a member of the Association shall contribute to the Current Expense Account a sum equal to 1/12 of the annual assessment with respect to his Unit. Initial capital contributions made by a Unit Owner in connection with the purchase of their condominium unit shall not be used for Common Expenses accruing prior to the time the Developer is responsible for the payment of assessments on Condominium Units owned by it (i.e., prior to the "Guarantee Expiration Date" as defined in the Declaration).

9.1.2 Reserve Fund Account. All funds to be expended for replacement, acquisition, and repair of capital improvements which are a part of the Common Elements or Limited Common Elements shall be held in the Reserve Fund Account.

9.2 Budget. The Board of Directors shall adopt a detailed budget for each calendar year which budget will include the estimated funds required to pay the Common Expenses and provide and maintain funds for the foregoing accounts according to good accounting practices and as may be required by the Condominium Act. If an adopted budget requires assessment against the Unit Owners in any year of an amount exceeding 115% of the assessments for the preceding year, and if 10% of the Unit Owners file objections to the budget within thirty (30) days after the date of adoption thereof, the Board of Directors shall call a special meeting of the Unit Owners and a majority vote of the Unit Owners shall be required to ratify the budget. If not ratified, the budget shall be revised so as to provide for assessment of not more than 115% of the prior year's assessments. Provided, however, so long as the Developer shall be in control of the Board of Directors, the adopted budget of the Association shall not require assessments against the Unit Owners in any fiscal or calendar year which exceed one hundred fifteen percent (115%) of the assessments for the preceding year, absent the approval of a majority of the voting interests.

9.2.1 Notwithstanding the foregoing, the portion of the budget representing assessments for Windsor Parke Property Owners Association, Inc. ("Community Association") shall not be included in the budget for purposes of calculation of the percentage increase of the budget.

9.2.2 In determining whether the assessment exceeds 115% of similar assessments in a prior year reasonable reserves for repairs or replacements, expenses which cannot be reasonably anticipated to be incurred on a regular or annual basis, and assessments for betterments shall not be considered in the computation.

9.2.3 The Estimated Operating Budget which is Attachment 3 to the Prospectus is the budget the Developer intends to adopt as the formal budget for the Condominium. The owners of Units that have been sold by the Developer will be assessed for Common Expenses at the rates as stated in said budget and the Developer will be assessed for the amounts by which the Common Expenses exceed the amounts assessed against the owners of Units sold by the Developer.

9.2.4 In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into

account any changes in estimates of or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to budgets in which the members of an Association have, by a majority vote at a duly called meeting of the Association, determined for a fiscal year to provide no reserves or reserves less adequate than required by this subsection.

9.2.5 Prior to turnover of control of the Association by the Developer to the Unit Owners other than the Developer pursuant to s. 718.301, Florida Statutes, the Developer has elected to fund reserves for the first 2 years of the operation of the Association, after which time reserves may only be waived or reduced upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the Association.

It is understood and agreed that the Developer's liability for current expenses as specified herein shall be limited to that necessary to maintain the Condominium in unreasonably good condition, normal wear and tear excepted, expressly recognizing that such normal wear and tear will occur. It is further and specifically understood and agreed that incident to such normal wear and tear the Condominium will not remain in its original new unused condition and Developer expressly and specifically shall be under no duty or obligation to maintain it in such condition and shall have no duty or obligation to replace or refurbish the Condominium, or any portion thereof, except as included in the aforesaid duty to maintain the Condominium in reasonably good condition, normal wear and tear excepted.

9.2.6 If a meeting of the unit owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

9.2.7 Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, voting in person or by limited proxy at a duly called meeting of the Association. Prior to turnover of control of an Association by the Developer to Unit Owners other than the Developer pursuant to section 718.301, Florida Statutes, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the Association.

(a) Assessments. Assessments against individual Unit Owners for their shares of the items of the budget shall be made for the calendar year annually in advance on or before December 20 preceding the year for which the assessments are made. Such assessments shall be payable in twelve (12) equal monthly installments on the first day of each month of the year for which the assessments are made. The Board of Directors shall annually adopt a budget for use during that year. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly payments thereon shall be due upon the first day of each month until changed by an amended assessment. The budget and assessments therefor may be amended at any time by the Board of Directors.

(b) Depository. The funds of the Association will be deposited in such banks or savings and loan associations as shall be designated from time to time by the Board of Directors. Withdrawals of funds from such accounts shall be only by checks signed by such persons as authorized by the Board.

(c) Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this

paragraph the terms "persons who control or disburse funds of the Association" includes but is not limited those individuals authorized to sign checks and the president, secretary and treasurer of the Association. The Association shall bear the cost of bonding.

## SECTION 10 RULES AND REGULATIONS.

10.1 As to Common Elements. The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing the operation, use, maintenance, management and control of the Common Elements. The Secretary shall from time to time post in a conspicuous place on the Condominium Property, a copy of such rules and regulations. Any rules and regulations adopted pursuant hereto shall be reasonable and non-discriminatory.

10.2 As to Condominium Units. The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing and restricting the use and maintenance of the Condominium Units, provided, however, that copies of such rules and regulations are furnished to each Unit Owner prior to the time the same shall become effective. Where applicable or desirable, a copy thereof shall be posted in a conspicuous place on the Condominium Property, and shall be delivered to each Unit. Any rules and regulations adopted pursuant hereto shall be reasonable and non-discriminatory.

10.3 A copy of the initial rules and regulations for the Condominium Property is attached hereto as Annex I.

10.4 Fines. Upon reasonable notice and an opportunity for hearing the Association may levy a fine against the Unit Owner of a Unit or its occupant, licensee, or invitee, for failure to abide by any provision of the Declaration, the Association By-Laws, or Rules of the Association. This section does not apply to unoccupied Units.

10.4.1 No fine shall become a lien against a Unit.

10.4.2 No fine shall exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing (as set forth below), provided that no such fine may exceed an aggregate amount of \$1,000.00.

10.5 Prior to the levying of such a fine, the Unit Owner and, if applicable, any licensee or invitee must be given reasonable notice of at least fourteen (14) days and an opportunity for hearing. The notice shall include:

10.5.1 A statement of the date, time and place of the hearing;

10.5.2 A statement of the provisions of the Declaration, Association By-Laws, or Association Rules which have allegedly been violated; and

10.5.3 A short and plain statement of the matters asserted by the Association.

10.5.4 A party against whom the Association seeks to levy a fine is entitled to a hearing held before a committee of other Unit Owners. Said party shall have the opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. If the committee of other Unit Owners does not agree with the fine, it shall not be levied.

SECTION 11 DEFAULT.

11.1 Foreclosure. In the event a Unit Owner does not pay any assessments required to be paid to the Association within thirty (30) days from the due date, the Association, acting in its own behalf or through the Manager acting on behalf of the Association may foreclose the lien encumbering said Unit Owner's Parcel created by non-payment of the required monies in the same manner as mortgage liens are foreclosed. The Association shall be entitled to the appointment of a receiver if it so requires. The Association shall have the right to bid on the Condominium Parcel at a foreclosure sale and to acquire, hold, mortgage and convey the same and in so doing shall not be subject to the restriction in Section 7.1(11) of these By-Laws unless the price bid exceeds the amount of the judgment held by the Association. In lieu of foreclosing its lien, or in addition thereto, the Association may bring suit to recover a money judgment for assessments required to be paid to the Association against a Unit Owner, and the Association shall be entitled to recover the costs thereof, together with a reasonable attorney's fee.

11.2 Association Expenses. If the Association becomes the owner of a Condominium Parcel by reason of foreclosure, it may offer said Parcel for sale and, when the sale is consummated, it shall deduct from such proceeds all sums of money due it from monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the Condominium Parcel, which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurbishing of the Unit in question. All monies remaining after deducting the foregoing items of expenses shall be added to Common Surplus.

11.3 Enforcement. In the event of violation of the provisions of the Condominium Documents as the same are now or may hereafter be constituted, the Association, on its own behalf, may bring appropriate action to enjoin such violation, to enforce the provisions of the Condominium Documents, to sue for damages, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate.

11.4 Consent to the Foregoing Provisions. Each Unit Owner for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and injunctive relief, regardless of the harshness of the remedy available to the Association, and regardless of the availability of other equally adequate legal procedures. It is the intent of all Unit Owners to give to the Association a method and procedure which will enable it at all times to operate on a business-like basis, to collect those monies due and owing it from Unit Owners and to preserve each Unit Owner's right to enjoy his Condominium Parcel free from unreasonable restraint and nuisance.

SECTION 12 MORTGAGE OF UNIT.

12.1 The Association shall maintain a suitable register for the recording of the name and address of mortgagees of Condominium Parcels. Any mortgagee of a Condominium Parcel, may, but is not obligated to, notify the Association in writing, of its mortgage, in which case its name and address will be entered in the register. If notice of default is thereafter given any member, under any applicable provision of the Condominium Documents, a copy of such notice shall be mailed to the mortgagee named in the register.

SECTION 13 AMENDMENT OF BY-LAWS.

13.1 By-Laws. The By-Laws of the corporation may be altered, amended or repealed, unless specifically prohibited herein, at any regular or special meeting of the members by a three-fourths (3/4) vote of the Voting Members of the Association. No modification or amendment to the By-Laws shall be valid unless set forth or annexed to a duly recorded amendment to the Declaration of Condominium Ownership.

ANNEX I

INITIAL RULES AND REGULATIONS OF THE CONDOMINIUM

1. The Units shall be used only for residential purposes.
2. The Unit Owners shall not use nor permit the use of their premises in any manner which will disturb or be a nuisance to other owners or in such a way as to be injurious to the reputation of the property nor for any unlawful purposes.
3. Common Elements shall not be obstructed, littered, defaced or misused in any manner.
4. No structural changes or alterations shall be made in any Units or to any Common Elements except as provided in the Declaration of Condominium.
5. All of the restrictions, limitations and obligations of members as provided in the Declaration of Condominium are incorporated herein by reference.
6. Nothing shall be hung or displaced on the outside of windows or placed on the outside of walls on a building and no sign, awning, canopy, shutter, radio or TV antenna affixed to or placed upon the exterior walls or roof or any part thereof except with the approval of the Board of Directors.
7. There shall be no storage or parking of baby carriages or play pens, bicycles, wagons, toys, vehicles, boats, boat trailers or house trailers, benches or chairs on any part of the Common Elements except that such personal property may be stored in a common storage area designated for that purpose and recreational areas may be used for their intended purpose.
8. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise designed for profit, altruism, exploration or otherwise shall be conducted, maintained or permitted on any part of the property or in any Condominium Parcel therein. Nor shall any "sold" or "for sale" or "for rent" signs or window displays advertising be maintained or permitted on any part of the property in or on any Condominium Parcel except as provided in the Declaration of Condominium.
9. No Unit Owner shall park vehicles other than passenger automobiles or station wagons in any parking area. No signs or markings of a commercial nature shall appear on any vehicles unless approved by the Association. Both may be given special permission if granted in writing by the Board of Directors.
10. Complaints regarding maintenance shall be made in writing to the Board of Directors.
11. Unit Owners, residents, their families, guests, servants, employees, agents and visitors shall not at any time for any reason whatsoever enter upon or attempt to enter upon the roof, equipment rooms or power rooms of any building.
12. Flammable, combustible or explosive fluid material, chemical or substance shall not be kept in any Unit except for normal household use.
13. No Unit Owner shall make any adjustment whatsoever to any of the equipment located on the Common Elements or Limited Common Elements without first obtaining the permission of the Association.

14. Exotic pets or any "tamed" wild animals shall not be permitted on any portion of the Condominium Property permanently or temporarily.
15. Dogs shall be walked on a leash at all times.
16. Patios and balconies shall be kept free of brooms, mops and other unsightly articles which may be seen from the beach or road.
17. Any Unit Owner furnishing his Unit with draperies, blinds, shutters, or other interior window screens in colors other than white or cream shall line or back such drapes, blinds, shutters, or other interior window screens with white or cream lining or backing.
18. Parking spaces will not be assigned to Unit Owners and may be used by Unit Owners and their guests on a first-come, first-serve basis.

ARTICLES OF INCORPORATION  
OF  
WINDSOR POINTE  
MASTER ASSOCIATION, INC.

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THE UNDERSIGNED hereby associate themselves for the purpose of forming a corporation not for profit under and pursuant to Chapter 617, Florida Statutes, and do certify as follows:

ARTICLE I  
NAME

The name of this corporation is WINDSOR POINTE MASTER ASSOCIATION, INC. The corporation is sometimes referred to herein as the "Corporation.

ARTICLE II  
DEFINITIONS

Section 2.1 Declaration: Declaration of Master Community Covenants for Windsor Pointe to be recorded in the current public records of Duval County, Florida.

Section 2.2 Master Association: Windsor Pointe Master Association, Inc., a Florida not for profit corporation, its successors and assigns.

Section 2.3 Member: A person who is a record owner of a Residential Parcel.

Section 2.4 Common Area: Those portions of the Property which are conveyed to the Master Association from time to time by the Developer.

Section 2.5 Parcel(s): The Residential Parcels.

Section 2.6 Resident: Any person or persons occupying a residence or living unit on a Parcel.

Section 2.7 Residential Parcel: Each portion of the Property subjected to the Declaration and designated by Developer, as provided

in Section 9.5 thereof, for occupancy by a single family and each living unit on a Parcel which has been subject to the Declaration and submitted to condominium ownership as a residential condominium.

ARTICLE III  
PRINCIPAL OFFICE AND AGENT

The principal place of business of the Corporation is 1650 Prudential Drive, Suite 100, Jacksonville, Florida 32207. The registered agent of the Corporation is John S. Duss, IV, Esquire whose office is located at 50 North Laura Street, 2800 Barnett Center, Jacksonville, Florida 32202.

ARTICLE IV  
OBJECTS, PURPOSES AND POWERS

Section 4.1 This corporation is a corporation not for profit. No part of its net earnings shall inure to the benefit of any private shareholder or Member.

Section 4.2 The objects and purposes for which this Corporation is organized are as follows:

4.2.1 To establish, maintain, operate and provide all community services of every kind and nature required or desired by the Members including without limitation those services and functions described in the Declaration.

4.2.2 To provide for the enforcement of the Declaration.

4.2.3 To engage in such other activities as may be to the mutual benefit of the Members and the owners of portions of the Subdivision.

4.2.4 To own, operate and manage properties conveyed to it in accordance with the Declaration.

4.2.5 To do such other things as may be necessary and proper to carry out and accomplish the above objects and purposes.

Section 4.3 In furtherance of the aforesaid objects, purposes and powers, the Corporation shall have all of the powers of a

Corporation Not for Profit organized and existing under the laws of the State of Florida, which powers shall include, but are not limited to, the power:

4.3.1 To make, levy and collect assessments from its Members and to expend the proceeds of such assessments and charges for the benefit of its Members.

4.3.2 To contract with others to provide the services, benefits and advantages desired.

4.3.3 To enforce by legal action suits on behalf of the Corporation.

4.3.4 To make, establish and enforce reasonable rules and regulations governing the use of the property owned by the Corporation.

4.3.5 To maintain, repair, replace and operate those portions of the property that the Corporation has the duty or right to maintain, repair, replace and operate under these Articles and the Bylaws of the Corporation.

4.3.6 To contract for the management of its property and to delegate to such contractors all powers and duties of the Corporation.

4.3.7 To employ personnel to perform the services required or authorized by these Articles and by the Bylaws of the Corporation.

4.3.8 To purchase insurance upon its property for the protection of the Corporation and its Members.

4.3.9 To reconstruct improvements constructed on its property after casualty or other loss.

4.3.10 To make additional improvements to its property.

4.3.11 To acquire and enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including but not limited to marinas, lakes and other recreational facilities, whether or not contiguous.

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4.3.12 To enforce by legal action the provisions of these Articles, the Bylaws of the Corporation, and the Declaration.

ARTICLE V  
MEMBERS

Section 5.1 The Members of this Corporation shall consist of all owners of record title to Residential Parcels, but shall not include mortgagees or other holders of security interests only. The first Board of Directors named in these Articles of Incorporation and other Directors selected by the Class B Member, regardless of such ownership of real property in the Subdivision shall also be Members of the Corporation until termination of the Class B membership as provided in Section 5.3 hereof.

Section 5.2 Membership in this Corporation cannot be assigned, hypothecated or transferred in any manner except as may be provided in the Bylaws.

Section 5.3 The Corporation shall have two classes of membership: Class A and Class B.

Class A Members shall be all persons owning one or more Residential Parcels.

Class B Members shall be the Developer.

The Class B membership shall terminate at such time as (1) the then Class B Member so designates in a writing delivered to the Corporation, (2) when seventy-five percent (75%) of the Residential Parcels are owned by persons other than Developer, or (3) on December 31, 1998, whichever shall first occur.

Each Residential Parcel shall be entitled to one vote. When more than one (1) person holds an ownership interest in any Parcel, the vote for such Residential Parcel shall be exercised as the owners of all such interests determine among themselves, but in no event shall more than one vote be cast with respect to each Residential Parcel. In the event of a disagreement among such persons and an attempt by two (2) or more of them to cast the vote of such Residential Parcel, such vote shall not be recognized and the Residential Parcel shall not be counted for any purpose until such dispute is resolved.





corporations, associations, trusts or other organizations to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. No disposition of the Corporation's assets shall be effective to divest or diminish any right or title of any Member vested in him under recorded covenants and restrictions applicable to such assets unless made in accordance with the provisions of such covenants and restrictions.

ARTICLE XI  
AMENDMENT OF ARTICLES

These Articles may be amended at any time by an affirmative vote of three-fourths (3/4) or more of the Members of the Corporation entitled to vote in accordance with the limitations set forth in Article V of these Articles.

ARTICLE XII  
BYLAWS

The Corporation shall adopt Bylaws governing the conduct of the affairs of the Corporation. Until the time at which the Class B membership terminates and the Class A membership is entitled to vote as provided for in Article V of these Articles, the Bylaws may be amended upon a majority vote of the Board of Directors. After such time as the Class A Members shall be entitled to vote, these Bylaws may be amended by three-fourths (3/4) of the members of the Association entitled to vote.

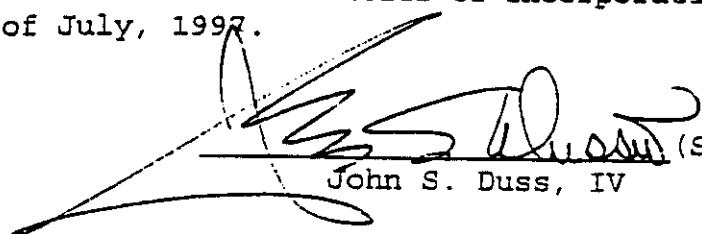
ARTICLE XIII  
SUBSCRIBERS

The names and residences of the subscribers to these Articles of Incorporation are as follows:


John S. Duss, IV  
50 North Laura Street  
2800 Barnett Center  
Jacksonville, Florida 32202

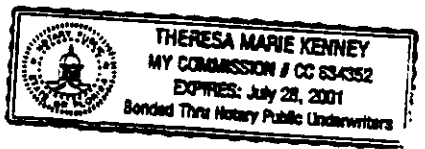
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IN WITNESS WHEREOF, the subscribing incorporator has hereunto set their hand and seal and caused these Articles of Incorporation to be executed this 17th day of July, 1997.

 (SEAL)  
John S. Duss, IV

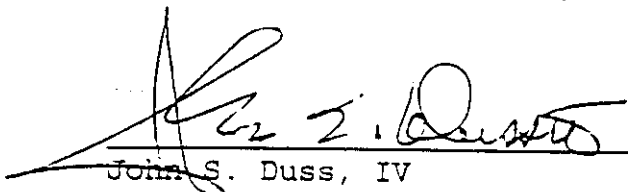
SWORN TO AND SUBSCRIBED BEFORE ME this 17th day of July, 1997, by John S. Duss, IV

  
Theresa Marie Kenney  
Notary Public, State and County  
aforesaid  
My Commission expires:  
Commission No.: \_\_\_\_\_



He: (please check appropriate statement)  
 is personally known to me  
 produced identification (specify type)  
\_\_\_\_\_

ACKNOWLEDGMENT: Having been named to accept service of process for the above stated corporation, at place designated in this certificate, I hereby agree to act in this capacity, and agree to comply with the provisions of said Act relative to keeping open said place.

  
John S. Duss, IV

BYLAWS  
OF  
WINDSOR POINTE  
MASTER ASSOCIATION, INC.

A Corporation Not for Profit  
Under the Laws of the State of Florida

These are the Bylaws of WINDSOR POINTE MASTER ASSOCIATION, INC. (hereinafter for convenience called "Master Association" or "Corporation") a corporation not for profit, incorporated under the laws of the State of Florida.

ARTICLE I  
ASSOCIATION

Section 1.1 Office. The office of the Master Association shall be at c/o John S. Duss, IV, 200 West Forsyth Street, Suite 1600, Jacksonville, Florida 32201, or such other place as shall be selected by a majority of the Board of Directors.

Section 1.2 Fiscal Year. The fiscal year of the Master Association shall be the calendar year.

Section 1.3 Seal. The corporate seal of the Master Association shall consist of two concentric circles, between the edges of which shall be engraved the words: WINDSOR POINTE MASTER ASSOCIATION, INC., Florida, Not for Profit, and across the center thereof the words: Corporate Seal, as shown by an imprint of such seal in the margin of these Bylaws. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE II  
DEFINITIONS

Section 2.1 Declaration. Declaration of Covenants and Restrictions for Windsor Pointe, recorded in Volume \_\_\_\_\_, pages \_\_\_\_\_ to \_\_\_\_\_ inclusive, of the Current Public Records of Duval County, Florida.

Section 2.2 Master Association. Windsor Pointe Master Association, Inc., a Florida not for profit corporation, its successors and assigns.

Section 2.3 Member. A person who is a record owner of a Residential Parcel.

Section 2.4 Common Area. Those portions of the Property which are conveyed to the Master Association from time to time by the Developer.

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Section 2.5 Parcel(s). The Residential Parcels.

Section 2.6 Resident. Any person or persons occupying a residence or living unit on a Parcel.

Section 2.7 Residential Parcel. Each portion of the Property subjected to the Declaration and designated by Developer, as provided in Section 9.5 thereof, for occupancy by a single family and each living unit on a Parcel which has been subject to the Declaration and submitted to condominium ownership as a residential condominium.

ARTICLE III  
MEMBERSHIP

The Members of the Association shall be those persons described in Article V of the Articles of Incorporation.

ARTICLE IV  
VOTING RIGHTS

Each class of membership shall have the voting rights set forth in Article V of the Articles of Incorporation of the Master Association.

ARTICLE V  
BOARD OF DIRECTORS

Section 5.1 Selection; Terms of Office. Until the time at which the Class B membership terminates, the Board of Directors shall consist of three (3) Members, who shall be elected at the times and in the manner set forth in Section 5.2 hereof. After the time at which the Class B membership terminates the Board of Directors shall consist of five (5) Members, who shall be elected at the time set forth in Section 5.3 and in the manner set forth in Article VI of these Bylaws.

Section 5.2 Designation of Directors by the Class B Member. Until the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the Board of Directors shall consist of three (3) Members who shall be designated by the Class B Member.

Any Director or Directors designated by the Class B Member may be removed at any time, with or without cause, by the Class B Member at any regular or special meeting thereof, and the successor of such removed Director may be designated by the Class B Member.

Section 5.3 Election of Directors by the Class A Members. After the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the Board of Directors shall consist of five (5) Members who shall be elected in the following manner:

5.3.1 The incumbent Board of Directors designated by the Class B Member shall hold office until the election of their successors by the Class A Members at the first meeting of the Class A Members which shall be held for this purpose within sixty (60) days after the termination of the Class B membership.

5.3.2 . At the first meeting of the Class A Members there shall be elected in the manner set forth in Article VI of these Bylaws five (5) Directors, three (3) such Directors being elected for two (2) years, and two (2) such Directors being elected for one (1) year.

Section 5.4 Vacancies. Vacancies on the Board of Directors shall be filled by the majority of the remaining Directors, any such appointed Director to hold office until his successor is elected by the Class A Members or the Class B Member, as the case may be, who were entitled to elect the Director, at the next annual meeting of the Members or at any special meeting duly called for that purpose.

#### ARTICLE VI ELECTION PROCEDURE

Section 6.1 Election of Directors. Votes cast for persons nominated for election to the Board of Directors shall be by written ballot as hereinafter provided. Each Member shall have the right to cumulate his votes and to give one candidate the number of votes equal to the number of Directors to be elected, or may distribute such votes on the same principle among any number of such candidates. The persons receiving the largest number of votes shall be elected.

Section 6.2 Nominations Committee. Nominations for a full slate of Directors for election to the Board of Directors by the Class A Members shall be made by the Nominations Committee. The Nominations Committee shall consist of three (3) persons appointed each year by the Board of Directors, two (2) of whom shall be directors, and one (1) of whom shall be non-director. Members of the Nominations Committee shall be appointed each year by the Board of Directors at least sixty (60) days before the date on which the election for the Members of the Board of Directors is to be held. The slate of Directors to be nominated by the Nominations Committee shall be completed and mailed to each Member at least fourteen (14) days before the date of such election.

In addition, nominations for the Board of Directors may be made by petition signed by more than ten (10) Members of the Association, provided that such petitions are filed with the Secretary of the Association at least thirty (30) days before the date of the meeting at which the Directors are to be elected.

Section 6.3 Ballots. All elections to the Board of Directors shall be made on a written ballot which shall describe the vacancies and those nominated by petition timely filed with the Secretary of the Association. Such ballots shall be prepared and mailed by the Secretary of the Association to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the date for the annual meeting or special meeting called for election).

Section 6.4 Voting Procedures. The Member designated by the Owners of a Residential Parcel to cast the vote for the Parcel shall receive the ballot for such Parcel. Each Member shall indicate next to the name of each nominee on the ballot the number of votes he casts for the election of such nominee to the Board of Directors. All ballots shall be signed by the Member casting it and returned to the Secretary of the Association. On the date of the annual meeting, ballots shall be turned over to an Elections Committee which shall consist of three (3) Members appointed by the Board of Directors. The Elections Committee shall then adopt a procedure which shall:

6.4.1 Establish that the number of ballots turned in by each Member correspond with the number of Residential Parcels owned by such Member or his proxy identified on the ballot.

6.4.2 Establish that the signature of the Member or his proxy on the ballot is genuine; and

6.4.3 If the vote is by proxy, establish that a proxy has been filed with the Secretary as provided in Article XII of these By-Laws and that such proxy is valid.

Said procedure by the Elections Committee shall be taken in such a manner that the vote of any Member or his proxy shall not be disclosed to anyone, including the Elections Committee.

If any ballot is found to contain more than the number of votes which the Member signing such ballot is entitled to cast, all votes on such ballot shall be disqualified and shall not be counted and the Residential Parcel by which such ballot was cast shall not be counted for any purpose. The result of the election shall be announced at the next meeting of the Members. After the announcement of the results by the Elections Committee, unless a review of the procedure is demanded by thirty-five percent (35%) of the Members casting ballots in the election within ten (10) days

after election, the ballots shall be destroyed and the results shall thereupon be final.

ARTICLE VII  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. The Board of Directors shall have the powers set forth in the Articles of Incorporation.

Section 7.2 Director Absences. In the event that any Member of the Board of Directors of the Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may at the meeting during which said third absence occurs, declare the office of said absent Director to be vacant and the provisions relating to the filling of a vacancy of the Board of Directors as set forth in these Bylaws shall become operative.

Section 7.3 Duties. It shall be the duty of the Board of Directors:

7.3.1 To keep a complete record of all its acts and corporate affairs and to make reports thereon to the Members at the annual meeting of the Members.

7.3.2 To supervise all officers, agents and employees of the Association.

7.3.3 To fix the amount of the annual assessment against each Residential Parcel owned by a Member at least thirty (30) days in advance of the date of any payment of such assessment is due.

7.3.4 To prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the offices of the Association and shall be open to inspection by any Member thereof and, to send written notice of each assessment to every Member subject thereto.

7.3.5 To issue, or cause an appropriate officer to issue upon demand by any person, a certificate setting forth whether all assessments against a Residential Parcel have been paid and if not identifying the amount of any unpaid assessment and the period to which such unpaid assessment relates. Such certificate shall be conclusive evidence to the person to whom it is addressed of payment of any assessment therein stated to have been paid.

7.3.6 To maintain in good repair the Common Areas.

7.3.7 To obtain and maintain a liability insurance policy for the protection of the Association covering the Common

Areas and covering such risks and with such deductible amounts as the Board of Directors shall determine.

7.3.8 Subject to Developer's rights under the Declaration, to approve or disapprove plans for construction of improvements on Residential Parcels, including the proposed location thereof, construction materials, and outward appearance, whether initial construction or changes and additions to an existing improvement and to establish uniform procedures for applying for approval of such plans.

ARTICLE VIII  
DIRECTORS MEETINGS

Section 8.1 Time and Place. Meetings of the Board of Directors may be held at any place within or without the State of Florida. The Board of Directors shall meet within fourteen (14) days following the close of the annual meeting of the Members. Regular meetings of the Board of Directors may be held at such time and place as shall from time to time be determined by the Board of Directors.

Section 8.2 Notice. No notice of regular meetings of the Board of Directors is required. If the day for a regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday.

Section 8.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by an officer of the Association or by any two (2) Directors after not less than forty-eight (48) hours notice to each Director except in the case of an emergency.

Section 8.4 Waivers, Consents and Approvals. The transaction of any business of any meeting of the Board of Directors, however called and noticed, or wherever held, shall be valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such a meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and shall be made a part of the minutes of the meeting.

Section 8.5 Quorum. The majority of the Board of Directors shall constitute a quorum thereof.

Section 8.6 Adjourned Meetings. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have

been transacted at the meeting as originally called, may be transacted without further notice.

ARTICLE IX  
OFFICERS

Section 9.1 Officers. The officers shall be a President, a Vice President, a Secretary, and a Treasurer. The President and the Vice President shall be Members of the Board of Directors.

Section 9.2 Majority Vote. The officers shall be chosen by majority vote of the Directors.

Section 9.3 Term. All officers shall hold office during the pleasure of the Board of Directors.

Section 9.4 President. The President shall preside at all meetings of the Board of Directors, and shall see that orders and resolutions of the Board of Directors are carried out, and sign all notices, checks, leases, mortgages, deeds and any other written instruments as may be incidental to the orders and resolutions of the Board of Directors.

Section 9.5 Vice President. The Vice President shall preform all the duties of the President in his absence.

Section 9.6 Secretary. The Secretary shall be "ex officio" the Secretary of the Board of Directors, and shall record the vote and keep the minutes of all proceedings in a book to be kept for such purpose. He shall keep the records of the Association. He shall record in a book kept for such purpose the names of all Members of the Association together with their addresses as registered by such Members.

Section 9.7 Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board.

Section 9.8 Bookkeeping. The Treasurer shall keep proper books of account and cause an annual audit of the Association's books to be made at the completion of each fiscal year. He shall prepare the annual budgets and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

ARTICLE X  
COMMITTEES

Section 10.1 Standing Committees. Each standing committee shall consist of a Chairman, and two (2) or more Members and shall include a Member of the Board of Directors. The standing committees shall be appointed by the Board of Directors immediately after each annual meeting to serve until the close of the next annual meeting.

Section 10.2 Executive Committee. The Board of Directors shall have the power to appoint an executive committee from among its membership and may delegate to any such executive committee any of its powers, duties and functions.

Section 10.3 Review of Complaints. It shall be the duty of each committee to receive complaints from Members on any matter involving Association functions, duties and activities in its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to the Board of Directors.

ARTICLE XI  
MEETINGS OF MEMBERS

Section 11.1 Annual Meeting. Until the time at which the Class B membership terminates, as provided in Article V of the Articles of Incorporation, the regular annual meeting of the Class B Member shall be on the anniversary date of the date of incorporation of the Association, or within two (2) weeks thereafter, at a time and place to be agreed upon by the Class Member.

Until the time at which the Class B membership terminates, there shall be no annual or regular meeting of the Class A membership.

The first annual meeting of the Class A Members shall be held within sixty (60) days after the termination of the Class B membership. Thereafter, the regular annual meeting of the Members shall be held at 8:00 p.m., on the first Thursday in March of each year (beginning the year in which said meeting date is more than twelve months following the initial meeting), provided, however, if the day is a legal holiday, the meeting shall be held at the same hour on the following Thursday. The place of the annual meetings shall be determined by the Board of Directors.

Section 11.2 Special Meetings. Special meetings of Members may be called at any time by the President, the Vice President, the Secretary or the Treasurer, or by any two (2) or more members of the Board of Directors. In addition, special meetings of Class A Members must be called upon the written request of the Members who

have a right to vote one-fourth (1/4) of the total votes entitled to be cast under the provisions of Article V of the Articles of Incorporation at the time such written request is made.

Section 11.3 Notice. Notice of meetings of Class A Members shall be given to the Members by the Secretary either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary, and notices of meetings shall be mailed to him at such address. Notice of any regular or special meeting shall be mailed at least six (6) days in advance of the meeting, and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve an election governed by Article VI, notice of such meeting shall be given or sent as therein provided.

Section 11.4 Quorum. The presence at the meetings of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the vote of the class of membership so meeting shall constitute a quorum for any actions governed by these Bylaws unless it is provided otherwise in the Declaration, or the Articles of Incorporation, or elsewhere in these Bylaws.

#### ARTICLE XII PROXIES

Section 12.1 Form of Vote. At all meetings of Members, each Member entitled to vote may vote in person or by proxy.

Section 12.2 Proxies. All proxies shall be in writing filed with the Secretary of the Association. No proxy shall extend beyond a period of twelve (12) months, and every proxy shall automatically cease if the persons granting the proxy ceases to be a Member. No one person may hold more than five (5) proxies.

#### ARTICLE XIII INSPECTION OF BOOKS AND PAPER

Section 13.1 The bookkeeping records of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member.

ARTICLE XIV  
PARLIAMENTARY RULE

Section 14.1 Roberts Rules of Order (latest edition) shall govern the conduct of the Association proceedings when not in conflict with the Declaration or the Articles of Incorporation.

ARTICLE XV  
AMENDMENTS

Section 15.1 Until the time at which the Class B membership terminates and the Class A membership is entitled to full voting privileges, as provided for in Article V of the Articles of Incorporation, these Bylaws may be amended upon a majority vote of the Board of Directors. After such time as the Class A Members shall be entitled to full voting privileges, these Bylaws may be amended by three-fourths (3/4) of the Members of the Association entitled to vote.

ARTICLE XVI  
CONFLICTS

Section 16.1 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

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**Exhibit I**

**Master Association Property**

The Master Association shall own all areas of the property surrounding the Condominium Building that are not incorporated into the Building itself, including without limitation, all roadways, grounds, drainage facilities and parking areas.

The Master Association shall also own and benefit from that certain Declaration of Easement executed by the Developer/Declarant of even date herewith as a Benefitted Party, as such term is defined therein, a copy of said Declaration of Easement being recorded in the current public records of Duval County, Florida.

THIS INSTRUMENT PREPARED BY:  
RECORD AND RETURN TO:

THERESA MARIE KENNEY, ESQ.  
LEBOEUF, LAMB, GREENE & MACRAE, LLP  
50 NORTH LAURA STREET, SUITE 2800  
JACKSONVILLE, FLORIDA 32202

RP: 8687  
Pg: 1242 - 1260  
Doc# 97171554  
Filed & Recorded  
08/01/97  
11:05:11 A.M.  
HENRY W. COOK  
CLERK CIRCUIT COURT  
DUVAL COUNTY, FL  
REC. # 87.00

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
WINDSOR POINTE**

This DECLARATION is made this 18th day of July, 1997, by WINDSOR POINTE OF JACKSONVILLE, INC., a Florida corporation (the "Declarant").

**WITNESSETH:**

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by all parties, the undersigned hereby declares that the real property described on Exhibit A hereto, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all persons having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1.  
DEFINITIONS**

**Section 1.1** "Additional Lands" means real property owned by the Declarant, which may be made subject to the provisions of this Declaration as provided in Article 10 hereof.

**Section 1.2** "Association" means Windsor Pointe Master Association, Inc., a Florida not for profit corporation, its successors and assigns.

**Section 1.3** "The Windsor Pointe Community" means all residential developments now existing on the Property, or which may hereafter be developed and made subject to this Declaration, and which will share in the use and enjoyment of, and the expense of maintaining, the Common Areas and Common Roads.

**Section 1.4** "Common Areas" means all property from time to time owned by the Association or designated for ownership by the Association for the common use and enjoyment of all Owners, together with all improvements, fixtures, and tangible personal property now or hereafter situated thereon and all appurtenant easements.

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**Section 1.5** "Common Roads" means those portions of the Common Areas that have been paved or otherwise improved for use as streets, roads or rights-of-ways, and those streets, roads or rights-of-ways not within the Common Areas over which the Association or the Owners have been granted easements for ingress and egress, excluding however parking lots, parking areas, driveways and cul-de-sacs located within the legally described boundaries of a condominium which are maintained by the condominium association.

**Section 1.6** "Declarant" means Windsor Pointe of Jacksonville, Inc., a Florida corporation, its successors and assigns, with respect to all or substantially all of the Property, or any Person to whom Declarant has expressly assigned its rights and obligations as Declarant hereunder.

**Section 1.7** "Legal Documents" collectively means this Declaration of Covenants and Restrictions, and any supplemental declarations made in accordance herewith, as amended from time to time, the Association's Articles of Incorporation (the "Articles") and the Association's By-Laws (the "By-Laws"), as the same may be amended from time to time.

**Section 1.8** "Lot" means any plot of land shown on any recorded subdivision plat of all or a part of the Property, which is designated thereon as a residential lot including Condominium Parcels, excluding any areas designated as Common Areas or for utilities or drainage uses or dedicated to public use.

**Section 1.9** "Mortgagee" means any institutional holder of a first mortgage encumbering a portion of the Property as security for the performance of an obligation including a bank, savings and loan, insurance company, any real estate or mortgage investment trust, and other insurers or guarantors of mortgages including, without limitation, Federal National Mortgage Association, Governmental National Mortgage Association, or any lender generally recognized as an institutional lender.

**Section 1.10** "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Residential Dwelling Unit which is a part of the Properties, including contract sellers, but excluding those holding such interest merely as security for the performance of an obligation. Declarant is an Owner to the extent it owns Lots or Residential Dwelling Units.

**Section 1.11** "Person" means any natural person or artificial entity having legal capacity.

**Section 1.12** "Property" or "Properties" means that certain real property described on Exhibit A together with improvements thereon, and such additional lands that hereafter may be made subject to the provisions of this Declaration in the manner provided herein.

**Section 1.13** "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are

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necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**Section 1.14 "Regulations"** means any rules and regulations regarding the use of the Property duly adopted by the Association in accordance with the Legal Documents.

**Section 1.15 "Residential Dwelling Unit"** means any substantially completed residential property intended for use as a single dwelling unit, including without limitation, any single family detached or attached home, garden home, patio home, condominium unit, townhouse unit, cooperative apartment unit, or apartment unit, which is constructed within the Property.

**Section 1.16 "The Work"** means the initial development of all or any portion of the Property as a residential community by the construction and installation of streets, utility systems, community facilities, buildings, and other improvements, and the sale, lease, or other disposition of the Property in parcels, but does not include the construction of Residential Dwelling Units by Persons other than Declarant. Such term is to be broadly construed to include any and all activities, uses, structures, and improvements necessary, convenient, or desirable to accomplish such construction and disposition.

ARTICLE 2.  
PROPERTY RIGHTS

**Section 2.1 Title to Common Areas and Owner's Easements of Enjoyment.** The Declarant will convey or cause to be conveyed to the Association within one year of the date of this Declaration the title to those Common Areas serving the Property described on Exhibit A hereto. As all or part of the Additional Lands are made subject to this Declaration, Declarant shall convey or cause to be conveyed to the Association title to those Common Areas intended to serve the Property or The Windsor Pointe Community within a reasonable time, not to exceed five (5) years, following the recordation of a plat, declaration of condominium, or other instrument establishing or providing for Lots or Residential Dwelling Units on the Property. Conveyances of Common Areas to the Association may be subject to taxes for the year of conveyance, restrictions, conditions, and limitations of record, and easements for drainage and public utilities. Every Owner and his lessees have a nonexclusive right and easement of enjoyment in and to the Common Areas that is appurtenant to, and passes with, the title to every Lot and Residential Dwelling Unit, subject to the easements and other property rights granted in this Article and to the following:

2.1.1 **Fees.** The Association's right to charge reasonable fees for the use of any recreational facility situated upon the Common Area.

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2.1.2 Suspension. The Association's right: (i) to suspend any Owner's and his lessee's right to use any recreational facility owned or controlled by the Association for any period during which any assessment against such Owner remains unpaid; and (ii) to suspend any Owner's and his lessee's right to the use of any such recreational facility for a period not to exceed sixty (60) days for any material infraction of the Association's Regulations.

2.1.3 Dedication. The Association's right to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members of the Association. Such dedication or transfer must be approved by at least two-thirds (2/3) of each class of those members present in person or by proxy and voting at a meeting duly convened for such purpose, and shall be evidenced by a recorded certificate of the Association.

2.1.4 Easements. The right of the Association by its Board of Directors to grant to any public or private utility or public authority, utility or drainage easements on any part of the Common Areas.

2.1.5 Regulations. The Association's right to adopt, amend, receive and enforce reasonable Regulations for the use of the Common Areas, including the right, but not the obligation, of the Association to control and regulate all types of traffic and parking on Common Roads including the right to regulate speed of vehicles and to prohibit the use of Common Roads by vehicles or traffic which may damage the Common Roads.

The foregoing easement is limited to using the Common Areas for their intended purposes in a reasonable manner, and with respect to any particular use or activity, it is limited to those portions of the Common Areas from time to time improved or otherwise suitable for such use or activity.

Section 2.2 Delegation of Use. Any Owner may delegate his right of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

Section 2.3 Common Roads. The Declarant hereby reserves the right to grant further non-exclusive easements over the Common Roads to property owners adjacent to the Property; provided that the adjacent property owners shall enter into an agreement with the Association agreeing on behalf of themselves and their successors and assigns to pay a pro rata share of the maintenance and repairs for the Common Roads which shall set forth the method of computation of the respective contributions to the maintenance and repairs thereof.

ARTICLE 3.  
MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Membership.

3.1.1 General. Every Owner (including Declarant) of a Lot or Residential Dwelling Unit shall be a member of the Association. Except as hereinafter provided regarding Declarant's Class B membership, membership shall be appurtenant to and may not be separated from ownership of any Lot or Residential Dwelling Unit, and no Person other than Declarant may be a member of the Association except an Owner.

3.1.2 Declarant. The Declarant is a member of the Association as to all proposed Lots or Residential Dwelling Units that, under applicable zoning ordinances and regulations, may from time to time be developed within the Property or the Additional Lands. As Declarant assigns or conveys to third parties the right to develop Lots or Residential Dwelling Units within the Property, or sells Lots or Residential Dwelling Units to Owners other than developers, Declarant shall from time to time (but not less frequently than annually) deliver to the Association a certificate signed by Declarant stating: (i) the then maximum number of Lots or Residential Dwelling Units permitted by zoning ordinances; (ii) the number of Residential Dwelling Units with reference to which Declarant has assigned or conveyed its development rights; (iii) the number of Lots and Residential Dwelling Units Declarant has sold to Owners other than such third party developers; and (iv) the remaining number of proposed Lots or Residential Dwelling Units.

Section 3.2 Classes of Membership. The Association shall have two classes of voting membership:

3.2.1 Class A. For so long as there is a Class B membership, Class A members shall be all Owners, with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot or Residential Dwelling Unit owned. When more than one Person holds title to any Lot or Residential Dwelling Unit, all such Persons shall be members. The vote for such Lot or Residential Dwelling Unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Residential Dwelling Unit or Lot, and no fractional votes are permitted.

3.2.2 Class B. The Class B member shall be the Declarant who shall be entitled to three (3) votes for each Lot or Residential Dwelling Unit owned, and for three (3) votes each proposed Lot or proposed Residential Dwelling Unit that could be developed on the remaining Property using the maximum density permitted under zoning regulations from time to time applicable to the Additional Lands. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;

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(b) Seven (7) years from the date of recording this Declaration.

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**Section 3.3** Declarant Control. In the event that the Veterans Administration (the "VA") or the Federal Housing Administration (the "FHA") approves The Windsor Pointe Community and guarantees any mortgage on the Property, it is acknowledged and recognized that for the period of time that the Declarant is in control of the Association, the Declarant shall not amend, change or modify any provisions of this Declaration without the approval of the VA and FHA.

**Section 3.4** Co-Ownership. If more than one Person holds the record title to any Lot or Residential Dwelling Unit, all such Persons are members but only one vote may be cast with respect to such Lot or Residential Dwelling Unit, and no fractional votes are permitted. Each co-owner must file the name of the voting co-owner with the secretary of the Association to be entitled to vote at any meeting, unless such co-owners have filed a general voting authority with the secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot or Residential Dwelling Unit is held by husband and wife, either co-owner is entitled to cast the vote for such Lot or Residential Dwelling Unit unless and until a written voting authority is filed with the Association designating a voting co-owner. If title is held by a corporation, the secretary of the corporation shall file with the Association a certificate designating the authorized voting representative of the corporation, which shall be effective until rescinded by the corporation.

**Section 3.5** Extraordinary Action. The Association's Articles of Incorporation provide that certain actions of the Association as described in the Articles require the approval of a super-majority of the members. In addition, any such action shall require the written approval of the Declarant for so long as the Declarant is a member of the Association.

**Section 3.6** Amplification. The members of the Association shall elect the Board of Directors of the Association, who shall manage the affairs of the Association. The Board of Directors shall appoint officers of the Association to administer the operation of the Association. The provisions of this Article are amplified by the Association's Articles and By-Laws, but no such amplification shall alter or amend substantially any of the rights or obligations of the Owners set forth in this Article. Declarant intends that the provisions of this Declaration and the Articles and By-Laws be interpreted and enforced to avoid inconsistencies or conflicting results. If any such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles or By-Laws to the contrary.

ARTICLE 4.  
COVENANT FOR MAINTENANCE ASSESSMENTS

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**Section 4.1**      Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot and Residential Dwelling Unit within the Properties, hereby covenants, and each Owner of any Lot or Residential Dwelling Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- 4.1.1      annual assessments; and
- 4.1.2      special assessments, as hereinafter provided; and
- 4.1.3      special assessments for property taxes assessed against the Common Areas, as hereinafter provided; and
- 4.1.4      specific assessments against a particular Lot or Residential Dwelling Unit that are established pursuant to any provisions of the Legal Documents, as hereinafter provided; and
- 4.1.5      all excise taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.

All sums assessed to a Lot or Residential Dwelling Unit, together with interest, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a lien upon the Lot or Residential Dwelling Unit in favor of the Association. In the case of co-ownership of a Lot or Residential Dwelling Unit, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

**Section 4.2**      Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas and the Common Roads in the Properties.

Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

**Section 4.3**      Maximum Annual Assessment.

4.3.1      Until January 1, 1998, the maximum annual assessment shall be FIVE HUNDRED FIFTY FIVE DOLLARS (\$555.00) and shall be payable in equal monthly installments of not more than FORTY SIX DOLLARS AND 25/100 (\$46.25).

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4.3.2 From and after January 1, 1998, the maximum annual assessment for the following year shall be set by the Board of Directors of the Association at its annual meeting, provided that the maximum annual assessment may not be increased more than fifteen percent (15%) above the prior year's maximum annual assessment, unless two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

4.3.3 The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. In the absence of Board action, the annual assessment then in effect will continue for the next fiscal year.

4.3.4 The Association in determining the annual assessments shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and Common Roads.

**Section 4.4 Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas or Common Roads, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 4.5 Property Taxes.** The Association shall timely pay all ad valorem real estate taxes, special assessments and other taxes, if any, levied on the Common Areas, and shall assess each Owner for the cost thereof. The amount of the assessment shall be determined by dividing the amount of such taxes by the number of Residential Dwelling Units and Lots within the Property. At the Board's discretion, such assessment may be payable in a lump sum within thirty (30) days after notice or all or any portion thereof may be assessed as a part of the annual assessment described above. Each year the Board shall determine, within forty-five (45) days after receiving notice of the amount of taxes due, whether such assessment shall be levied, and its amount.

**Section 4.6 Specific Assessments.** Any indebtedness of an Owner to the Association arising under any provision of the Legal Documents, including any indemnity, or by contract express or implied, or because of any act or omission of the Owner or any occupant of such Owner's Lot or Residential Dwelling Unit, also may be assessed by the Association against the Owner's Lot or Residential Dwelling Unit after the Owner fails to pay it when due and the default continues for thirty (30) days after written notice.

**Section 4.7 Notice and Quorum for any Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized

under Section 3 or 4 shall be sent to all members not less than 14 days nor more than 30 days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

**Section 4.8 Uniform Rate of Assessments.** The annual maintenance assessment and any special assessments for the Common Areas must be uniform throughout the Property, except that the annual maintenance assessment against any Lot or Residential Dwelling Unit owned by Declarant and which is not being occupied as a residence may be fixed by the Board of Directors for so long as there is a Class B membership in an amount not less than twenty-five percent (25%) of the amount of the annual maintenance assessment against Lots or Residential Dwelling Units owned by the Class A members then in effect; provided that Declarant shall have agreed to fund the deficits, if any, between the aggregate amount assessed Class A members and Declarant, and the total expenses of the Association during the applicable period. Declarant shall be obligated to fund such deficits only as they are actually incurred by the Association. The Declarant shall cease to pay any portion of the deficit of the annual operating expenses of the Association under the provisions of this paragraph when Declarant is no longer entitled to elect a majority of the Board of Directors of the Association. Declarant shall not pay any assessments with reference to proposed Lots or Residential Dwelling Units which are used for determining Declarant's voting rights under Article 3 hereof.

**Section 4.9 Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots or Residential Dwelling Units on the first day of the month following the first conveyance of a Lot or Residential Dwelling Unit to an Owner. The Board of Directors shall fix the amount of the annual assessment against each Lot and Residential Dwelling Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The annual assessment shall be payable monthly, and unless specifically changed by the Board of Directors, shall be due on the first day of each month. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot or Residential Dwelling Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot or Residential Dwelling Unit is binding upon the Association as of the date of its issuance.

**Section 4.10 Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot or Residential Dwelling Unit and the exercise of one remedy by the Association shall not be deemed to be an election of remedies prohibiting the exercise of additional remedies. No Owner may waive or otherwise escape liability for the assessments provided for herein by

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nonuse of the Common Area or Common Road or abandonment of his Lot or Residential Dwelling Unit.

**Section 4.11 Subordination of the Lien to Mortgages.** The lien for the assessments provided in this Article is subordinate to the lien of any Mortgage. Sale or transfer of any Lot or Residential Dwelling Unit does not affect the assessment lien, except that the sale or transfer pursuant to a Mortgage foreclosure or any proceeding or conveyance in lieu thereof, extinguishes the assessment lien as to payment that became due before such sale or transfer, unless such assessment was secured by a claim of lien for assessments that is recorded prior to recording of said Mortgage. Any assessment extinguished by the foreclosure of a Mortgage or conveyance in lieu thereof, shall be deemed to be an expense of the Association collectible from all Owners (including the foreclosing mortgagee) in accordance with the Association's normal assessment procedures. No such sale or transfer relieves such Lot or Residential Dwelling Unit from liability for assessments thereafter becoming due, or from the Association's lien. The Association shall report to any Mortgagee of a Lot or Residential Dwelling Unit any assessments remaining unpaid for more than 60 days and shall give such Mortgagee 30 days in which to cure such delinquency before instituting foreclosure proceedings against such Lot or Residential Dwelling Unit, provided the Mortgagee has given the Association written notice of its mortgage, designating by a proper legal description the Lot or Residential Dwelling Unit encumbered and stating the address to which notices shall be given.

**Section 4.12 Exempt Property.** All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida shall be exempt from the assessment created herein, except no land or improvements devoted to dwelling use shall be exempt from assessments.

## ARTICLE 5. ARCHITECTURAL CONTROL

**Section 5.1 Design Criteria.** It is the Declarant's intent to create and maintain a community in harmony with its surroundings and the natural elements of The Windsor Pointe Community. Residential Dwelling Units constructed or to be constructed within The Windsor Pointe Community must be designed and constructed to be compatible with each other and to meet established construction standards.

**Section 5.2 Necessity of Architectural Review and Approval.** No buildings, Residential Dwelling Units, structures, or improvement of any kind, including fences, walls or other structures, which are visible from outside a Residential Dwelling Unit, other than those erected by the Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or alteration, including without limitation, a change in the exterior color, be made until the plans and specifications showing the nature, kind,

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shape, height, materials, and location of the same shall have been submitted to and approved in writing (as to harmony of external design and location to surrounding structures and topography) by the Declarant, or by an architectural committee composed of three (3) or more representatives appointed by the Declarant. The Declarant, or the architectural review committee may promulgate rules and regulations and architectural standards implementing the review and approval right herein established. In the event the Declarant, or their designated committee, fails to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to them, they shall be deemed to have been approved. In the event that there is a disagreement between architectural board established herein and a condominium or homeowners association or their respective architectural review boards, the decision of the Declarant's architectural review board herein established shall prevail. Declarant reserves the right to assign its rights under this Article to the Association.

ARTICLE 6.  
USE RESTRICTIONS

**Section 6.1** Common Areas and Common Roads. The Common Areas and Common Roads shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the use and enjoyment of the Owners. There shall be no obstruction or alteration of, nor shall anything be stored, altered or constructed in, or removed from, the Common Areas or Common Roads without the prior written consent of the Association.

**Section 6.2** Insurance. No use shall be made of the Common Areas or Common Roads which will increase the rate of insurance without the prior consent of the Association. No Owner shall permit anything to be done or kept on the Common Areas or Common Roads which will result in cancellation of insurance on any part of the Common Areas or Common Roads, or which will be in violation of any law. No waste shall be committed in the Common Areas. The Association shall determine whether any activity violates this provision.

**Section 6.3** Nuisances. No noxious or offensive activity shall be allowed upon the Property, nor any use or practice which is the source of annoyance or nuisance to Owners or guests or which interferes with the peaceful possession and proper use of the Property by Owners. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor shall any fire hazards be allowed to exist.

**Section 6.4** Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

**Section 6.5** Animals. No animals except usual household pets shall be kept on the Properties. No more than two (2) four-footed pets will be permitted in any household. No household pet may be kept on the Property for breeding or commercial purposes. Dogs shall be leashed at all times.

**Section 6.6** Regulations. Reasonable regulations and rules concerning the use of the Property may be promulgated, amended or rescinded from time to time by the Board of Directors of the Association, or by fifty-one percent (51%) of members of each class of those members present in person or by proxy and voting at a meeting duly convened for such purpose. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners and residents of the Properties upon request.

**ARTICLE 7.  
WATERWAYS**

**Section 7.1** Water Level and Use. With respect to any waterways now existing or which may hereafter be contained within or adjoining the Property only the Declarant (and following transfer of control, the Association) shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters or other structure shall be erected on or over the waterways, except as may be erected by the Declarant (following transfer of control, the Association). Gas and diesel driven boats shall be permitted only as designated by the Association. Canoes and small non-combustion powered boats will be permitted. All permitted boats shall be stored screened from public view or as otherwise designated by the Declarant (and following transfer of control, the Association) and, shall be stored either within existing structures on the Owner's property or in designated areas within a condominium or in other planned unit development or behind landscaping approved by the architectural review committee.

**Section 7.2** Maintenance Obligations. Subject to the provisions of Section 7.1 of this Article, the Association shall have the right and, as permitted by law, the obligation to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in and on such waterways. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District (the "District"). Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the District. Notwithstanding anything contained herein to the contrary, the embankments shall be maintained by the Owner of the adjacent Lot or Residential Dwelling Unit. Such owners may include condominium or homeowners associations when the embankments form a portion of the common elements or common areas of such association, or this Association when the

embankments are within the Common Areas. The embankments shall be maintained by the appropriate Owner or association so that grass, planting or other lateral support shall prevent erosion of the embankment and the height, grade and contour of such embankments shall not be changed without the prior written consent of the Declarant or the architectural review committee established hereunder. If the owner required to maintain the embankment fails to maintain such embankment or area as part of the landscape maintenance obligations in accordance with the foregoing, the Declarant (and following transfer of control, the Association) or its agent or representative shall have the right, but not the obligation, to enter upon the Owner's property to perform such maintenance work which may be reasonably required, all at the expense of the Owner or association.

**Section 7.3**

**Easements for Use and Enjoyment.**

Owners are hereby granted the right to reasonable use and benefit of the waterways now existing or which may hereafter be contained within, or adjoin the Property subject to governing law and the right of Association to adopt reasonable Regulations from time to time in connection with the use of the waterways by members of the Association and subject to the Declarant's reserved right to ingress and egress over the waterways. The ingress and egress to the waterways shall be solely at those access points designated by the Declarant. The Declarant (and following transfer of control, the Association) shall have the right to deny such use to any person who in the opinion of Declarant or the Association may create or participate in a disturbance or nuisance on any part of the waterways. The right to reasonable use and benefit of the waterways may be subject to riparian rights of others and may be further granted to such other Persons, as may be designated by Declarant from time to time.

**Section 7.4**

**Ingress and Egress Maintenance Easement.**

Declarant hereby reserves a perpetual, non-exclusive easement for itself and the Association across all Lots and all waterways and over all areas of the surface water or storm water management system for access, ingress and egress for the reasonable operation maintenance, repair and care of any portion of the waterways, the stormwater management system or their respective embankments. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the District.

ARTICLE 8.

## EASEMENTS

**Section 8.1** Reservation of Easements. Declarant reserves for itself, its successors and assigns, a right-of-way and easement to erect, maintain and use electric and telephone poles, wires, cables, conduits, storm sewers, drainage swales, sanitary sewers, water mains, gas, sewer, water lines or other public conveniences or utilities, on, in and over the Property, which as to Lots or Residential Dwelling Units shall be limited to easements reserved on Plats or in declarations of condominiums or declarations of covenants and restrictions.

**Section 8.2** Drainage Easements. Owners shall not obstruct or divert drainage flow from drainage easements or change the drainage of surface waters as established by Declarant as part of the Work. Declarant may cut drainways for surface waters and establish easements therefor wherever and whenever such action may appear to Declarant to be necessary to maintain reasonable standards of health, safety and appearance. These easements include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other action reasonably necessary to install utilities and to maintain reasonable standards of health and appearance; provided however the foregoing shall not include the right to disturb any Residential Dwelling Units or the improvements erected on Property, unless such other improvements are restored to their condition prior to such disturbance promptly thereafter.

**Section 8.3** Additional Easements. Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way over portions of the Property owned by Declarant. In addition, Declarant hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas or Common Roads so long as Declarant shall own any portion of the Property. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with use and enjoyment of the Common Areas of Common Roads.

**Section 8.4** Cable Television Easement. Declarant, reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of radio and television cables within Common Roads and Common Areas and the rights-of-way and easement areas referred to herein.

**Section 8.5** Encroachments. Declarant, may in its discretion grant Owners the right to encroach upon easements or Common Areas and Common Roads where necessary for the preservation of trees or the maintenance of overall aesthetics in The Windsor Pointe Community.

**Section 8.6** Access by Association. The Association has a right of entry on to each Lot to the extent reasonably necessary to exercise any right granted, or to discharge any duty imposed, by the Legal Documents, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted, by the Legal

Documents. Such right of entry must be exercised in a peaceful and reasonable manner upon reasonable notice whenever circumstances permit, except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage. No Owner shall withhold consent arbitrarily to entry by the Association for the purposes herein set forth. The Association's right of entry may be exercised by its agents, employees, contractors, and managers.

## ARTICLE 9. RIGHTS OF MORTGAGEES

**Section 9.1 - Rights of Mortgagees.** Any Mortgagee and insurers or guarantors of Mortgages have the following rights:

9.1.1 Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Legal Documents and Regulations and the books, records, and financial statements of the Association; and

9.1.2 Financial Statements. Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association, provided, however, the Association may make a reasonable, uniform charge to defray its cost incurred in providing such copies; and

9.1.3 Meetings. To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon.

9.1.4 Notices. By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable, uniform annual fee that the Association from time to time may establish for the purpose of defraying its costs, any Mortgagee, insurer, or guarantor of a Mortgage shall be entitled to receive any notice that is required to be given to the Class A members of this Association under any provision of the Legal Documents. Additionally, any such Mortgagee, insurer, or guarantor of a Mortgage giving written notice to the Association shall be entitled to written notice of: (i) any condemnation or casualty loss affecting a material portion of the Property or any Lot or Residential Dwelling Unit encumbered by its Mortgage; (ii) any 60 day delinquency in the payment of assessments or charges owed by the Owner of any Lot or Residential Dwelling Unit encumbered by its Mortgage; (iii) lapse, cancellation or material modification of any insurance coverage or fidelity bond maintained by the Association; and (iv) any proposed action requiring the consent of a specified percentage of mortgage holders.

## ARTICLE 10. ANNEXATION OF PROPERTY

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**Section 10.1 Declarant's Annexation.** The Declarant shall have the right until seven (7) years from the date of recording the Declaration, from time to time and in its sole discretion, to annex to the Properties additional lands.

**Section 10.2 Members Annexation.** The Owners may annex additional lands to the Properties with the approval of two-thirds (2/3) of the Owners of Lots or Residential Dwelling Units within the Properties.

**Section 10.3 Supplemental Declarations.** Any such additions authorized in Section 1 or 2 above may be made by filing of record one or more supplemental declarations with respect to the Additional Lands or other annexed property. A supplemental declaration shall contain a statement that the real property that is the subject of the supplemental declaration constitutes additional property which is to become a part of the Properties subject to this Declaration. Such supplemental declaration shall become effective upon being recorded in the public records of Duval County, Florida.

**Section 10.4 Effect of Annexation.** In the event that any additional property is annexed to the Property pursuant to the provisions of this Article, then such lands shall be considered within the definition of Properties for all purposes of this Declaration, and each Owner of a Lot or Residential Dwelling Unit shall be a Class A Member and the votes of Class A and B members shall be adjusted accordingly.

**Section 10.5 Additional Declarations.** Declarant intends, as the Property is developed and offered for sale to subject portions thereof to specific Declarations of covenants or condominiums which apply only to each portion as defined and described in each declaration. Such additional declarations of covenants or condominiums shall be subject to the provisions hereof so that The Windsor Pointe Community remains an integrated development.

ARTICLE 11.  
RECONSTRUCTION OR REPAIR AFTER CASUALTY

In the event that any portion of the Common Area or Common Roads is damaged or destroyed by casualty, it shall be repaired or restored to substantially its condition prior to the damage or destruction by the Association. Repair or reconstruction of the Common Area or Common Roads shall be substantially in accordance with the plans and specifications pursuant to which the same were originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds are insufficient, the deficit shall be assessed against all Owners as a special assessment. If there is a surplus of insurance proceeds, it shall become the property of the Association.

**ARTICLE 12.  
GENERAL PROVISIONS**

**Section 12.1 Enforcement.** The Declarant, the Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Further, the District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in these Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**Section 12.2 Severability.** Invalidation of any part of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 12.3 Binding Effect.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless sixty-seven percent (67%) of the then Owners vote to terminate the restrictions as evidenced by an instrument executed by such Owners and recorded during the six (6) month period immediately preceding the beginning of any renewal period.

**Section 12.4 Amendment.**

12.4.1 **Declarant.** The Declarant reserves and shall have the sole right without the joinder or consent of any Owner, the Association, the holder of any mortgage, lien or other encumbrance affecting the Property, or any other Person: (i) to amend this Declaration to comply with any requirements of a governmental agency, institutional Mortgagee, or other Person willing to make, insure, guaranty, or purchase mortgage loans secured by a Lot or Residential Dwelling Unit; or (ii) to amend this Declaration or the other Legal Documents to cure any ambiguity or error or any inconsistency between these provisions and the other Legal Documents or any Plat.

12.4.2 **Owners.** Subject to specific provisions of this Declaration which shall supersede the provisions of this paragraph, this Declaration may be amended by the Association with the formalities from time to time required of a deed under the laws of the State of Florida and signed by not less than sixty-seven percent (67%) of all Owners. No amendment shall be effective until recorded.

12.4.3 **District Approval Required.** Any amendment to these Covenants and Restrictions which alter any provision relating to the surface water or stormwater management

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system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the District.

**Section 12.5 Reservation of Right to Release Restrictions.** Subject to applicable zoning regulations, in each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon any easement area or the Common Area or violates some provision of this Declaration, Declarant reserves for itself the right to release the Lot or Residential Dwelling Unit from the encroachment and to grant an exception to permit the violation or the encroachment by the structure over the easement area or the Common Areas without the consent or joinder of any Person irrespective of who owns the easement areas, so long as Declarant, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots or Residential Dwelling Units and the overall appearance of the Property. Upon granting of an exception to an Owner, the exception granted shall be binding upon all subsequent Owners of the affected Lots.

IN WITNESS WHEREOF, the undersigned has executed this Declaration of Covenants and Restrictions as of this 18 day of July, 1997.

Signed, sealed and delivered in the presence of:

Windsor Pointe of Jacksonville, Inc., a Florida corporation.

[Signature]  
Theresa M. Kenney

[Signature]  
John S. Duss, IV

By: [Signature]  
JOHN K. SISK  
Its: President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of July, 1997 by JOHN K. SISK, the president of Windsor Pointe of Jacksonville, Inc., a Florida corporation on behalf of the corporation.

[Signature]  
(print name)  
Notary Public, State and County aforesaid  
Commission No.:



HE: (PLEASE CHECK APPROPRIATE STATEMENT)  
 IS PERSONALLY KNOWN TO ME  
 PRODUCED IDENTIFICATION (SPECIFY TYPE)

EXHIBIT A

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A PORTION OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 28 EAST, CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH (AN 80 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED) WITH THE EASTERLY RIGHT-OF-WAY LINE OF HODGES BOULEVARD (COUNTY ROAD NO. 3888, A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED), SAID POINT BEING SITUATE ON A CURVE LEADING SOUTHEASTERLY; THENCE IN A SOUTH-EASTERLY DIRECTION ALONG SAID RICHMOND PARK DRIVE NORTH, THE FOLLOWING THREE COURSES AND DISTANCES: COURSE NUMBER ONE, THENCE ALONG AND AROUND THE ARC OF THE CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 28°2'06" EAST, 36.38 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE NUMBER TWO, THENCE SOUTH 73°2'06" EAST, 274.28 FEET TO THE POINT OF CURVATURE OF A CURVE LEADING SOUTHEASTERLY; COURSE NUMBER THREE, THENCE ALONG AND AROUND THE ARC OF THE CURVE, CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 640.00 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 54°41'00" EAST, 406.55 FEET TO THE POINT OF BEGINNING; THENCE NORTH 42°4'07" EAST, DEPARTING FROM SAID CURVE AND SAID NORTHEASTERLY RIGHT-OF-WAY LINE, 133.19 FEET; THENCE SOUTH 37°32'27" EAST, 200.52 FEET; THENCE SOUTH 52°26'30" WEST, 119.58 FEET; THENCE NORTH 36°51'00" WEST, 29.13 FEET; THENCE NORTH 52°27'33" EAST, 99.22 FEET; THENCE NORTH 37°32'27" WEST, 143.43 FEET; THENCE SOUTH 42°4'07" WEST, 113.95 FEET TO A POINT SITUATE ON THE AFOREMENTIONED CURVE LYING ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF RICHMOND PARK DRIVE NORTH; THENCE ALONG AND AROUND THE ARC OF THE CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 640.00 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 35°03'47" WEST, 24.60 FEET TO THE POINT OF BEGINNING.

LANDS THUS DESCRIBED CONTAIN 9539 SQUARE FEET/0.22 ACRES, MORE OR LESS.

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DECLARATION OF COVENANTS AND RESTRICTIONS FOR

WINDSOR PARKE

NOT IN PROPERTIES

THIS DECLARATION is made this 16<sup>th</sup> day of DEC, 1992, by JTB LAND DEVELOPMENT, INC., a Florida corporation, 6900 Southpoint Drive, North, Suite 230, Jacksonville, Florida 32216, Windsor Parke Golf Limited Partnership, a Florida limited partnership, 3500 Southpoint Drive, North, Suite 230, Jacksonville, Florida 32216, Essex Windsor Parke-II Limited Partnership, a Florida partnership, 6900 Southpoint Drive, North, Suite 230, Jacksonville, Florida 32216, and M. W. P. Ltd., a Florida limited partnership, 6900 Southpoint Drive, North, Suite 230, Jacksonville, Florida 32216 as the owners of the real property described on Exhibit A attached hereto and made a part hereof, hereinafter called the "Property", which declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, assessments, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Apartment Tract" shall mean and refer to any improved portion of the Property containing Residential Dwelling Units under common ownership which are rented or leased to members of the public pursuant to non-transient rental agreements. A parcel shall not be deemed improved as an Apartment Tract until such time as improvements constructed thereon are sufficiently completed so as to be certified for occupancy by the applicable authorities of Duval County, Florida, or if such certification is not available, at such time as the improvements are substantially completed in accordance with applicable plans and specifications.

(b) "Class A Member" and "Class B Member" shall have the meanings set forth in Article IV of this Declaration and in the Articles of Incorporation of the Association.

(c) "Club Property" shall mean and refer to any portions of the Property that are devoted to use as a golf course, clubhouse, and for similar recreational uses, including buffer areas of the golf course, parking lots, and the like associated with such facilities, the use of which is conditioned upon membership in, or the payment of use charges or fees, to the club entity operating such facilities. The Club Property shall not include any of the Property which constitutes Common Area as defined herein.

(d) "Commercial Unit" shall mean and refer to any improved portion of the Property intended for use and designed to accommodate public, commercial, governmental or business enterprises to serve residents of the Property and/or the public, including but not limited to business and professional offices, facilities for the retail sale of goods and services, banks and other financial institutions, automobile parking facilities and gasoline stations provided, however, that Commercial Units shall not include any of the foregoing which constitute Common Area, as defined herein. A Commercial Unit shall also not include any Club Property, as such term is herein defined.

(e) "Commercial Tract" shall mean and refer to any improved parcel of land within the Property upon which Commercial Units have been constructed. A Commercial Tract shall not be deemed to be improved with Commercial Units until such time as improvements constructed thereon are sufficiently completed so as to be certified for occupancy by the applicable authorities of

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Duval County, Florida, or if such certification is not available, at such time as the improvements are substantially completed in accordance with applicable plans and specifications.

(f) "Common Areas" shall mean and refer to any interest in real property from time to time owned by the Association for the common use, benefit and enjoyment of the Owners and all improvements, fixtures and personal property located thereon, and all appurtenant easements. The Common Area shall not include any of the Property which constitutes the Club Property or any Development Tract, as defined herein.

(g) "Declaration" shall mean and refer to this Declaration of Covenants and Restrictions for Windsor Parke, as the same may be amended from time to time.

(h) "Developer" shall mean and refer to JTB Land Development, Inc., a Florida corporation, and its successors and assigns to which the rights of the Developer hereunder are specifically assigned. Developer may assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Property. In the event of a partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any assignment may be made on a non-exclusive basis. Reference in this Declaration to JTB Land Development, Inc., as the Developer of the Property is not intended and shall not be construed to impose upon JTB Land Development, Inc. any obligations, legal or otherwise, for the acts or omissions of third parties who purchase parcels within the Property from JTB Land Development, Inc. and develop and resell the same.

(i) "Development Tract" shall mean and refer to any portion of the Property (i) which has not been platted into Residential Lots; (ii) upon which no Residential Dwelling Units, Commercial Units, or Hotel Units have been constructed; or (iii) which is not Club Property or Common Areas.

(j) "Hotel Tract" shall mean and refer to any improved portion of the Property intended for use as one or more transient public lodging establishments subject to regulation pursuant to Chapter 509, Florida Statutes, or other similar legislation. A parcel shall not be deemed improved as a Hotel Tract until such time as improvements constructed thereon are sufficiently completed so as to be certified for occupancy by the applicable authorities of Duval County, Florida, or if such certification is not available, at such time as the improvements are substantially completed in accordance with applicable plans and specifications.

(k) "Hotel Unit" shall mean and refer to any room or suite located within a hotel or motel complex intended for transient occupancy. For purposes of this Declaration, condominium units shall be considered Residential Dwelling Units and not Hotel Units.

(l) "Master Association" or "Association" shall mean and refer to Windsor Parke Property Owners Association, Inc., a Florida corporation not for profit, its successors and assigns.

(m) "Master Plan" shall mean and refer to the conceptual plan for the future development of Windsor Parke and adjacent properties maintained by the Developer from time to time, including the plan of development as described by the PUD. All references to the Master Plan shall be references to the latest revisions thereof.

(n) "Members" shall mean and refer to the members of the Association as defined and described in Article IV of this Declaration and in the Articles of Incorporation of the Association.

(o) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title of any part of the Property subject to this Declaration, including contract sellers (but not contract purchasers) and Developer, but excluding utility companies owning utility sites and governmental units receiving dedications of right of ways or utility sites.

(p) "Property" or "Properties" shall mean and refer to that certain real property as described on Exhibit A attached hereto and made a part hereof and such additions and deletions thereto as may be made in accordance with the provisions of this Declaration.

(q) "PUD" shall mean and refer to Planned Unit Development Ordinance Number 86-749-660 enacted by the City Council for the City of Jacksonville, Duval County, Florida, as the same may be amended from time to time.

(r) "Residential Dwelling Unit" or "RDU" shall mean and refer to any improved portion of the Property intended for use as a single family or multi-family residential dwelling, including without limitation, any single family dwelling, garden home or patio dwelling, condominium unit, apartment unit, or townhouse unit. Improvements shall constitute a Residential Dwelling Unit at such time as construction of the improvement is sufficiently completed to receive final building inspection approval from the applicable governmental authorities of Duval County, Florida or if such approval is not available, at such time as the improvements are substantially completed in accordance with applicable plans and specifications. Residential Dwelling Units shall specifically exclude any Hotel Units, as such term is herein defined, unless such Hotel Units have been made subject to independent ownership as separate legally defined units.

(s) "Residential Lots" shall mean and refer to any parcels of land located within the Property which have been platted into lots for use as sites for single family detached dwellings, townhouses, garden homes or patio dwellings, as such lots are described in a final subdivision plat recorded in the public records of Duval County, Florida.

(t) "Windsor Parke" shall mean and refer to the multi-use commercial, residential and recreational development contemplated by the Developer from time to time of the real property described in the PUD and the Master Plan.

#### ARTICLE II

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

Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Duval County, Florida, and is legally described on Exhibit A attached hereto and made a part hereof.

Section 2. Additions of Property. Additional lands may become subject to this Declaration in the following manner:

(a) Developer's Additions. The Developer shall have the right, at any time and from time to time, to bring within the scheme of this Declaration the lands, or any portion thereof, constituting part of the Master Plan. Developer shall also have the right, at any time and from time to time, to bring within the scheme of this Declaration additional properties, provided that (i) any such additional properties shall be adjacent or contiguous to Property already subjected to this Declaration (for purposes of this Declaration, property separated by public or private roads, lakes, golf courses, conservation areas, or open landscaped areas shall be deemed contiguous), (ii) the addition of such property

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shall be reasonably consistent with the common scheme for development set forth in this Declaration and in the Master Plan, and (iii) such additional properties and the Owner or Owners thereof other than the Developer shall become, upon their inclusion within the Property, subject to assessments for Association expenses.

(b) Other Additions. The Members may also annex additional lands to the Property upon the affirmative vote of Members holding not less than two-thirds (2/3) of the voting interest of the Association and upon the express written approval of the Class B Member for so long as there exists a Class B Member, at a regular meeting of the Association or at a special meeting duly called for such purpose, and upon obtaining any such county or governmental approval as may be required by law.

(c) Supplementary Declaration. The addition of property to this Declaration shall be made and evidenced by filing in the public records of Duval County, Florida, a supplementary declaration of covenants and restrictions with respect to the property to be added. In addition, such supplementary declaration may contain such additions to or modifications of the provisions of this Declaration, including modifications in the method or rate of assessment for common expenses, which may be applicable to the additional property and as may be necessary or desirable to reflect the different character, if any, of the additional property that is subject to the supplementary declaration, provided that all such modifications are reasonably consistent with the common scheme for development set forth in the Declaration and in the Master Plan. Such supplementary declaration shall become effective upon being recorded in the public records of Duval County, Florida. Developer reserves the right to so amend and supplement this Declaration without the consent or joinder of this Association, or the Owners or mortgagees of the Property, or any portion thereof, or any other party. Provided however, if the Veterans Administration has insured or guaranteed any mortgages encumbering lands within the Property, any such annexation: (i) must be evidenced by a supplementary declaration recorded within fifteen (15) years of the date this Declaration is recorded; and (ii) shall be subject to a determination by the Veterans Administration that such annexation is in accord with the general plan previously approved by the Veterans Administration, which determination shall be deemed to have been affirmatively made and approval granted, if the Veterans Administration shall not have disapproved the proposed annexation within thirty (30) days of the date of submission of the requested approval.

(e) Additional Declarations. Developer reserves the right, as the Property is developed and offered for sale, to subject portions thereof to additional specific covenants and restrictions which apply only to each portion as defined and described in each such set of additional covenants and restrictions. Such additional covenants may also provide for additional property owners' associations having administrative responsibility and control over certain portions of the property. All such additional covenants and restrictions shall be reasonably consistent with the common scheme of development set forth in this Declaration and in the Master Plan.

## ARTICLE III

RIGHTS AND DUTIES OF THE ASSOCIATION

Section 1. Title to Common Areas. Initially, there are no Common Areas that are contemplated to be owned by the Association. However, the Developer reserves the right without the consent or concurrence of any person or entity, to designate any private roads, lakes, drainage systems and structures, landscaped areas, buffer areas, recreational areas, conservation areas, wetland preserves, water and sewer utility improvements, irrigation wells and sprinkler systems, utilities or drainage easements, use rights,

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or any other areas or interests in real property or the improvements located thereon as Common Areas, provided that such areas or facilities are for the principal use or benefit of the Owners in accordance with the Master Plan or this Declaration. At such time as construction or installation of improvements within such areas shall be completed or such earlier time elected by Developer, the Developer shall convey, and the Association shall accept, title to such areas or real property interests. The conveyance of the Common Areas shall be subject to taxes for the year of conveyance, covenants, restrictions, conditions and limitations of record, and may be subject to easements for drainage, utilities, cable television and radio, ingress and egress, non-exclusive use rights of the Members of the Association and such other non-exclusive use rights as may be granted by Developer prior to such conveyance. Any roads, buffer areas, lake bottoms or other areas or property interests that are for the primary use and benefit of only the Owners of a particular area may, at the discretion of the Developer, be conveyed to a property owners' association for such area.

Section 2. Owners' Easement of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to the property of such Owner, subject to the following:

(a) the right of the Association (in accordance with its Articles of Incorporation and Bylaws), to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said properties, subject to the easement of use and enjoyment granted herein;

(b) the right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure;

(c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility;

(d) all provisions of this Declaration, any plat of all or any part of the Property and restrictions contained on any and all plats of all or any part of the Common Areas, or restrictions filed separately but in conjunction with such platting, and the Articles of Incorporation and Bylaws of the Association;

(e) rules and regulations governing use and enjoyment of the Common Area adopted by the Association;

(f) the right of the Developer and, following the conveyance of the Common Areas to the Association, the Board of Directors of the Association to grant easements for utilities or drainage across all or any part of the Common Areas; and

(g) the provisions of applicable laws and all construction, water quality, environmental protection and other permits issued in connection with the development of the Property.

Section 3. Maintenance Obligations of Association.

(a) Common Areas. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and the paving, street lighting fixtures and appurtenances, landscaping, irrigation wells and sprinkler systems, pumps, improvements and other structures (except utilities owned and maintained by entities providing water, sewer, electrical, cable television or telephone or similar utilities to the Property, or any portion thereof) situated on the Common Areas, if any.

(b) Stormwater and Surface Water Management. Except as otherwise provided herein or in the permits hereinafter described, the Association shall maintain all lakes, drainage easements, and control structures comprising the stormwater discharge and surface water management systems constructed by the Developer and shall preserve and protect littoral zones below the ordinary high water line and all designated conservation areas within the Property (notwithstanding that all or a portion of such surface water management system and conservation areas may be located on lands owned by the Developer or other Owners) in accordance with all permit requirements and conditions contained in dredge and fill and stormwater permits issued for Windsor Parke by the United States Army Corps of Engineers, Florida Department of Environmental Regulation and St. Johns River Water Management District, and in compliance with all statutes, rules, regulations and requirements pertaining to stormwater management, drainage and water quality promulgated by the St. Johns River Water Management District, the Florida Department of Environmental Regulation, and all other local, state and federal authorities having jurisdiction. The provisions of this paragraph do not supersede the obligations of lake parcel Owners to maintain the lake shoreline and littoral areas landward of the ordinary high water line, as set forth in Article VI hereof. If the Association is dissolved, the property consisting of the stormwater management system that is located on the Common Areas, if any, shall be conveyed to an appropriate agency of local government, and those portions of the property owned by Developer or other Owners on which are located parts of the stormwater management system shall be subject to easements to such agency of local government to operate and maintain the stormwater management system. If the conveyance is not accepted by the local government agency, then the stormwater management system must be conveyed to a not-for-profit corporation similar to the Association. Any modification of the Common Areas that would adversely affect the stormwater management system must have the prior approval of the St. Johns River Water Management District.

(c) Landscaping and Signage. The Association shall maintain the landscaping, sprinkler systems, pumps and other related improvements installed by Developer or designated by Developer for maintenance by the Association located in public rights-of-way, at entrances to subdivisions within the Property, on or adjacent to lift station sites or other utility parcels within the Property, and any landscaped buffer zones designated on the Master Plan, except portions to be maintained by Owners under the provisions of this Declaration. The Association shall also maintain signage within the Property identifying the Windsor Parke PUD. Windsor Park Golf Limited Partnership, its successors and assigns (the "Owner of the Club Property") and Developer hereby grant to the Association a license to use the water drawn from the lakes and irrigation wells within the Property and supplied to Association for the purpose of irrigating the above described landscaped areas, subject to applicable permits and the rights of the Owner of the Club Property and the Developer. The Owner of the Club Property and Developer reserve the sole right to allocate the usage of the water among themselves, the Association and others, but agree to provide lake water to the Association for irrigation provided the lake level is above sixteen (16) feet on the certified scale maintained as part of the surface water management system. The Owner of the Club Property shall periodically provide to the Association a statement setting forth the total cost of operating and maintaining the irrigation wells, pumps and related facilities and equipment required to draw water from the lakes and irrigation wells, and the Association's share of such costs based on the relative usage. The Association shall reimburse the Owner of the Club Property for its share of such total costs within thirty (30) days of each statement which reimbursement may be made by the Owner of the Club Property deducting the Association's share of such costs from the assessments paid to the Association by the Owner of the Club Property.

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(d) Access by Association. The Association has a right of entry on to each parcel within the Property (but not in the Residential Dwelling Unit located thereon) to the extent reasonably necessary to exercise any right granted, or to discharge any duty imposed by the Declaration, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted to the Association. Such right of entry must be exercised in a peaceful and reasonable manner upon reasonable notice whenever circumstances permit, except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage. No Owner arbitrarily shall withhold consent to entry by the Association for the purposes herein set forth. The Association's right of entry may be exercised by its agents, employees, contractors, and managers.

(e) General. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association.

Section 4. Insurance. The Association shall keep the improvements located on the Common Areas or which are the maintenance responsibility of the Association, including fixtures and personal property of the Association insured to the maximum insurable replacement value, as determined by the Board of Directors, but only to the extent such improvements are insurable or customarily insured. The insurance shall provide coverage against loss or damage by fire or other hazards covered by a standard extended coverage endorsement and such other risks as from time to time are customarily covered with respect to improvements similar in construction, location and use. The Association shall carry public liability insurance in amounts and with coverage as determined by the Board of Directors, but not less than \$1,000,000 for bodily injury and property damage for any single occurrence. To the extent from time to time available, the Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of unintentional acts or omissions. If the Veterans Administration guarantees or insures any mortgages encumbering portions of the Property, all insurance is subject to approval by the Veterans Administration.

Section 5. Rules and Regulations. The Association from time to time may adopt, amend, rescind, and enforce reasonable rules and regulations governing the use of the Property so long as such rules and regulations are consistent with the rights and duties established by the Declaration and the Articles of Incorporation and By-Laws of the Association. No Owner or other Person occupying any portion of the Property, or any invitee, shall violate the Association's regulations for the use of the Property, and at all times shall do all things reasonably necessary to comply with the regulations. The validity of the Association's Regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property. The regulations initially shall be promulgated by the Board of Directors and may be amended by a majority vote of the Board of Directors, or may be amended or rescinded by a majority of both classes of membership present and voting at any regular or special meeting convened for such purpose. No regulation, decision, amendment or other action that reasonably may have the effect of waiving, lessening, or otherwise interfering with the scope or enforcement of any restriction imposed on the Property by this Declaration will be valid without the written approval of the Developer. The Association's procedures for enforcing its rules and regulations at all times shall provide the affected Owner with reasonable prior notice and opportunity to be heard, in person or through representatives of the Owner's choosing.

ARTICLE IVMEMBERSHIP AND VOTING RIGHTSSection 1. Members.

(a) The Members shall consist of the Owners, including the Developer, of parcels within the Property and all such Owners shall be Members of the Association. In the event that any portion of the Property is owned by more than one person or by a corporation or other entity, such persons or entity shall constitute one (1) Member and shall designate a representative as provided in the Articles of Incorporation of the Association to represent the interests of such Member. No fractional votes shall be permitted.

(b) Each such membership is appurtenant to the parcel upon which it is based and is transferred automatically by conveyance of title whereupon the membership of the previous Owner automatically terminates as to the portion conveyed. Except as hereinafter provided regarding Developer, membership in the Association may not be transferred or encumbered except by the transfer of title to a parcel within the Property.

Section 2. Classification. The Association has two classes of voting membership:

(a) Class A. So long as there is Class B membership, Class A members are all Owners except Developer. Class A members are entitled to one vote for each Residential Dwelling Unit assessment equivalent ("RDU Assessment Equivalent") as defined in Article V, Section 5 hereof applicable to the portions of the Property owned by the Member. Upon termination of Class B Membership, Class A members are all Owners, including Developer so long as Developer is a member of the Association.

(b) Class B. The Class B member is Developer who is entitled to three votes for each RDU Assessment Equivalent applicable to improved portions of the Property that are Apartment Tracts, Commercial Tracts, Hotel Tracts, Residential Dwelling Units or Residential Lots owned by Developer, and three votes for each RDU Assessment Equivalent applicable to other portions of the Property owned by Developer. As of the date of this Declaration, Developer holds 7,395 votes, Windsor Parke Golf holds 130 votes, Essex Windsor Parke-II Limited Partnership holds 57 votes and M.W.P. Ltd holds 48 votes. The provisions of Article V, Section 7 of the Declaration exempting portions of the Property owned by the Developer from the Association's assessments during the Development Period (as defined therein) do not affect the calculation of the Class B Member's voting rights under these Articles. Upon the conveyance of an unimproved portion of the Property by Developer to another party, the total votes allocated to the Developer shall be recalculated based on the remaining portions of the Property owned by the Developer. The Class B membership will cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs first: (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or (ii) the date upon which the Class B voting rights are waived in writing by the Class B Member; or (iii) ten (10) years from the date that this Declaration is recorded with the Public Records of Duval County, Florida.

Section 3. Co-Ownership. When any portion of the Property is owned by two (2) or more persons or an entity or entities, whether as fiduciaries or in any other banner of joint or common ownership, such persons or entities shall designate a representative among them who shall be authorized to exercise the vote or votes attributable to such portion of the Property, which shall be evidenced by a written voting certificate signed by each of the

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Owners and filed with the Secretary of the Association. Notwithstanding the foregoing, if title to any Residential Lot or Residential Dwelling Unit is held by husband and wife, either Co-owner is entitled to cast the vote for such Residential Lot or Residential Dwelling Unit, unless a written voting authority has been filed with the Association designating a voting co-owner.

**Section 4. Extraordinary Action.** The Articles of Incorporation of the Association provide that certain actions of the Association as described in the Articles require the approval of a super-majority of the members. In addition, any such action shall require the written approval of the Developer for so long as the Developer is a member of the Association.

**Section 5. Amplification.** The Members of the Association shall elect the Board of Directors of the Association, who shall manage the affairs of the Association. The Board of Directors shall appoint officers of the Association to administer the operation of the Association. The provisions of this Article are amplified by the Articles and By-Laws, but no such amplification shall alter to amend substantially any of the rights or obligations of the Developer or the Owners set forth in this Article. Developer intends that the provisions of this Declaration and the Articles and By-Laws be interpreted and enforced to avoid inconsistencies or conflicting results. However, if any such conflict necessarily results, Developer intends that the provisions of this Declaration shall control.

## ARTICLE V

## COVENANTS FOR ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation for the Assessments.** Each Owner of any Residential Dwelling Unit, Residential Lot, Commercial Tract, Club Property, Apartment Tract, Hotel Tract, or Development Tract by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association (1) any annual or supplemental assessments or charges, and (2) any special assessments for capital improvements or major repair. Assessments shall be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from due date at the highest lawful rate and costs of collection thereof, including reasonable attorneys' fees, shall be a charge on the land and shall be a lien upon that portion of the Property against which each such assessment is made and shall be the personal obligation of the Owner of that portion of the Property at the time the assessment was made. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or common services, or abandonment.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Owners of the Property and Windsor Parke, and in fulfilling the duties of the Association set forth herein. The foregoing includes the improvement and maintenance of the Common Areas and the improvements located thereon, and common services for the benefit of residents and occupants of the Property, which may include, but shall not be limited to road maintenance, landscape and grounds maintenance, surface water management, security services, street lighting, water and sewer utility service and maintenance, cable television and radio service, taxes, insurance, labor, equipment, materials, and property management as well as for such other purposes as are permissible activities of the Association. The Association shall establish and maintain adequate reserve funds for the repair and replacement of improvements and personal property that the Association is obligated to maintain under the provisions

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of the Declaration and applicable permits. Reserves, as determined from time to time by the Board of Directors, shall be funded from the annual maintenance assessment.

Section 3. Annual Assessments. The Board of Directors of the Association (the "Board") shall fix annual assessments in accordance with the provisions of this Article V to meet the projected financial needs of the Association. Subject to Section 6 of this Article, the Board's decision as to the amount of the annual assessment and manner of collection shall be dispositive. The Board shall fix the date of commencement, the amount of the assessments, and the payment schedule at least thirty (30) days in advance of the beginning of the fiscal year. The Board shall prepare or cause to be prepared a roster of the Owners and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member during normal business hours. Written notice of the assessment shall be sent to every Owner subject thereto not later than fourteen (14) days after approval of the assessment by the Board. In the absence of Board action the annual maintenance assessment then in effect will continue for the next fiscal year. The Association shall, upon reasonable demand at any time, furnish to any Owner liable for such assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 4. Special Assessment for Capital Improvements and Major Repairs. In addition to any annual or supplemental assessments, the Association may levy in any assessment year, special assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair, maintenance or replacement of any of the Common Area or other areas the Association is obligated to maintain pursuant to the terms of this Declaration, including the necessary fixtures and personal property related thereto. Any such special assessment shall be approved by two-thirds (2/3) of each class of those members of the Association present in person or by proxy and voting at a meeting of the Members duly convened. Notice of meetings at which special assessments will be considered shall be given at least thirty (30) but not more than sixty (60) days prior to such meeting.

Section 5. Rate of Assessment. Annual, supplemental and special Assessments shall be levied against the following categories of the Property according to the rates of assessment stated hereafter:

(a) Residential Dwelling Units and Residential Lots shall be assessed a uniform amount as established by the Board in accordance with Section 3 of this Article. For purposes of this Declaration, the annual assessment amount assessed against each Residential Dwelling Unit and Residential Lot shall be referred to as one (1) RDU Assessment Equivalent.

(b) A Commercial Tract shall be assessed in annual assessment amount equal to one (1) RDU Assessment Equivalent for each two thousand five hundred (2,500) square feet of gross, covered space constituting the Commercial Units located within such Commercial Tract. For purposes of this subsection, all Commercial Units shall be rounded to the nearest five hundred (500) square feet for each fraction of such square footage amount; provided that any Commercial Tract with a Commercial Unit located thereon with less than two thousand five hundred (2,500) square feet of gross, covered space shall be assessed one (1) RDU Assessment Equivalent.

(c) The Club Property shall be assessed an annual assessment amount equal to one hundred thirty (130) RDU Assessment Equivalents.

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(d) Each Apartment Tract shall be assessed a total annual assessment amount equal to one (1) RDU Assessment Equivalent for each Residential Dwelling Unit within the improvements constructed on such Apartment Tract.

(e) Each Hotel Tract shall be assessed an annual assessment amount equal to one (1) RDU Assessment Equivalent for each Hotel Unit located within the improvements constructed on such Hotel Tract. For purposes of this Declaration, each hotel room or suite which can be occupied independently shall be treated as an individual Hotel Unit, notwithstanding that such rooms or suites may be combined and occupied jointly from time to time.

(f) Each Development Tract shall be assessed an annual assessment amount equal to one (1) RDU Assessment Equivalent for each ten (10) acres of land included within such Development tract. For purposes of this subsection, Development Tract acreage shall be rounded to the nearest ten (10) acres for each fraction of such acreage amount, provided that any Development Tract containing less than ten (10) acres shall be assessed one (1) RDU Assessment Equivalent.

(g) The Owner of any assessable Property as to which the assessment category changes during an assessment period, or which becomes subject to assessment during an assessment period, shall pay the amount attributable to such new assessment category for the prorated portion of the year remaining subsequent to such change or creation of assessment category. In the event of any question as to (i) the category of any portion of the Property (ii) the rate of assessment applicable to any portion of the Property, including whether any portion of the Property is exempt from assessments; (iii) the commencement date of assessments as to any portion of the Property; or (iv) the date of a change in category as to any portion of the Property, the interpretation of this Declaration by the Board shall be dispositive; provided that any interpretation or determination that affects property owned by Developer or the amount of assessments payable by the Developer shall require the written concurrence of the Developer before it shall become effective.

#### Section 6. Amount of Assessments.

(a) Until January 1 of the year immediately following the date of recording of this Declaration, the maximum annual maintenance assessment shall be Ninety Dollars (\$90.00) for each RDU assessment equivalent. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(b) Commencing with the fiscal year beginning January 1 of the year immediately following the date of recording of this Declaration and for each fiscal year thereafter, the Board of Directors shall set the amount of the maximum annual maintenance assessment for the following year for each RDU Assessment Equivalent, provided that the maximum annual maintenance assessment may not be increased more than five percent (5%) above the maximum annual maintenance assessment for the previous year unless approved by two-thirds (2/3) of each class of those Members present in person or by proxy and voting at a meeting duly convened. Notice of such a meeting shall be given at least thirty (30) but not more than sixty (60) days prior to such meeting. A quorum of sixty percent (60%) of the Association's membership shall be required at such meeting. If that quorum requirement is not met, a second meeting may be called at which the quorum shall be thirty percent (30%) of the membership.

Section 7. Uniformity of Assessments. The annual maintenance assessment and any special assessments must be uniform throughout the Property, except that the annual maintenance assessment against Development Tracts or Residential Lots owned by Developer may be reduced or waived by the Board of Directors; provided that

## OFFICIAL RECORDS

Developer shall have agreed to fund the deficits, if any, between the aggregate amount assessed Class A members and Developer, and the total expenses of the Association during the applicable period, excluding casualty losses. Developer shall be obligated to fund such deficits only as they are actually incurred by the Association. The Developer shall cease to pay any portion of the deficit of the annual operating expenses of the Association under the provisions of this paragraph on the first to occur of: (i) notice to the Association that Developer will no longer pay for operating deficits of the Association; or (ii) when Developer is no longer entitled to elect a majority of the Board of Directors of the Association. Thereafter, the Developer shall pay an annual maintenance assessment amount attributable to any Development Tract or Residential Lots then owned by Developer at twenty-five percent (25%) the rate otherwise assessable. This provision is not and shall not be construed as a guaranty or representation as to the level of assessment imposed under the provisions of this Article. Upon transfer of title of a Developer owned parcel (except a transfer of all Property owned by Developer with a concurrent assignment of all Developer rights under this Declaration), such parcel shall be assessed in the applicable amount established against parcels owned by the Class A members of the Association, prorated as of, and commencing one month following the date of transfer of title. In no event shall the Developer be obligated to pay for assessments or operating deficits of the Association after the Developer no longer owns any Residential Dwelling Units, Residential Lots, Commercial Tracts, Club Property, Apartment Tracts, Hotel Tracts, or Development Tracts within the Property.

Section 8. Date of Commencement of Annual Assessments and Due Dates. The assessments shall commence on the first day of a specified month fixed by the Board to be the date of commencement. Assessments shall be collected in advance on an annual or quarterly basis as determined by the Board of Directors. The payment schedule and due date of any assessments shall be fixed in the resolution authorizing such assessments.

Section 9. Negligence. Any Owner shall be liable to the Association for the expense of any maintenance, repair or replacement of the Common Areas or other areas, equipment, or facilities maintained by the Association rendered necessary by his act, neglect or carelessness or by that of his family or his guests, employees, agents, contractors or other invitees. This expense shall become part of the assessment to which such Owner is liable under this Article. Accordingly, such expense shall be a lien upon that portion of the Property owned by such Owner and shall become due and payable immediately upon demand by the Association.

Section 10. Effect of Non-Payment of Assessment; Lien, Personal Obligation, Remedies of Association. The lien of the Association shall be effective from and after recording in the public records of Duval County, Florida, a claim of lien stating the description of the portion of the Property encumbered thereby, the name of the Owner, the amount, and the due date. Such claim of lien shall secure assessments, interest, and costs of collection which shall specifically include court costs, reasonable attorneys' fees, and advances to pay taxes and prior encumbrances and interest thereon, which are due and payable when the claim of lien is recorded and which may accrue thereafter and prior to voluntary payment or the entry of a final judgment of foreclosure or a personal judgment against the affected Owner(s). Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Owner shall pay the cost of such satisfaction.

If any assessment is not paid within fifteen (15) days after its due date, such assessment shall bear interest from its due date at the highest lawful rate, and the Association may at any time

thereafter bring an action in foreclosure and/or a suit on the personal obligation of the Owner(s).

Section 11. Subordination to Lien of Mortgages. The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any first mortgage to a federal or state chartered bank, mortgage company, life insurance company, federal or state savings and loan association or credit union, real estate investment trust, or institutional purchaser of such mortgages on the secondary mortgage market, or guarantor or insurer of such mortgages including but not limited to Federal National Mortgage Association, the Department of Veterans Affairs, the Federal Housing Administration and the United States Department of Housing and Urban Development. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the affected portion of the Property by deed in lieu of foreclosure or pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure, of such mortgage. The total amount of assessments which remains unpaid as a result of a first mortgagee or its assignee obtaining title to the Lot shall be added to the total budget of the Association and paid by all Owners including the first mortgagee or its assignee on a pro rata basis. No sale or other transfer shall relieve any portion of the Property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. A written statement of either the Developer or the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

Section 12. Exempt Property. The following portions of the Property shall be exempt from the payment of assessments, and the charge and lien created hereby:

(a) Any right of way or easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) All of the Common Areas;

(c) Utility sites and easement areas owned by the local public authority or utility companies when used in connection with the providing of utility services to the Property.

(d) Any of the Property exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association.

Section 13. Allocation and Apportionment. The Board shall not be required to allocate or apportion the funds collected by it or the expenditures made on behalf of the Association between or among Owners of the Property, nor shall the Board be required to allocate or apportion the funds collected pursuant to this Declaration or expenditures therefrom among the various purposes specified in this Declaration, and the judgment of the Board as to the expenditure of said funds shall be final.

#### ARTICLE VI

##### USE RESTRICTIONS

###### Section 1. Wetlands.

(a) Subject to the rights of governmental authorities, only the Developer and the Owner of the Club Property shall have the right to withdraw, pump or otherwise remove any water from any lake within the Property or adjacent or near thereto for the purpose of irrigation or any other use. The Association's license to receive water as described in Article III is subordinate to the right of the Developer and the Owner of the Club Property as set forth in Article III. All such use shall be in strict accordance

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with all permit requirements and conditions contained in applicable consumptive use, dredge and fill and surface water permits issued by the United States Army Corps of Engineers, Florida Department of Environmental Regulation, and St. Johns River Water Management District, and all other local, state, and federal authorities having jurisdiction. The Developer, the Owner of the Club Property and the Association shall have the sole and absolute right to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. Except for boats used in connection with maintenance or repair activities or operation of the Club Property, no boat, canoe or watercraft of any kind shall be permitted to be operated on any lake. No swimming, fishing or any other activity (except as herein permitted in connection with the operation of the Club Property) shall be permitted on the Lakes. All parcels within the Property which now are, or may hereafter be, adjacent to, or include a portion of, a lake (the "lake parcels"), shall be maintained by the Owner thereof so that such grass, planting or other lateral support prevents erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, any provisions of this Section 1 to the contrary notwithstanding, the control of nuisance shoreline vegetation and maintenance of permitted littoral areas landward of the ordinary high water line shall be the responsibility of the Owners of lake parcels. The ordinary high water line shall be deemed to be the water line designed to be maintained by the surface water management system. Such Owners shall consult with the Association, however, prior to removing or otherwise disturbing shoreline vegetation to determine whether applicable environmental permits allow such disturbance. In no event shall any such Owner use herbicide waterward of the landward extent of any lake. If the Owner of any lake parcel fails to maintain such parcel in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel, which expense shall be secured by a lien and be collectable by the Association in the manner provided by this Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith, which riparian rights shall remain the property of the Developer or the Developer's successors, assigns and designees. No docks, bulkheads, or other structures shall be constructed on such embankments unless and until same shall have been approved by the Developer.

(b) The City of Jacksonville, Florida and the Association are hereby granted, perpetual drainage easements through those lakes, lagoons, marshes and other wetlands situated in whole or in part on the Property that are a part of the master surface water management system for Windsor Park for use and maintenance as an outfall for the drainage of stormwaters. Each lakefront parcel is subject to an easement to the City of Jacksonville, and the Association from the top of the lake embankment to the rear lot lines (including any submerged portions of the parcel) for the installation, use, maintenance, repair and replacement of stormwater filtration and retention systems. The City of Jacksonville, Florida, and the Association shall have perpetual easements across each lake parcel for ingress and egress to such lake for the purposes of exercising any right or performing any obligation provided in this Declaration, on a plat or by applicable permits.

(c) Reference is made to the St. Johns River Water Management District ("SJRWD") Permit No. 4-031-0307 and other surface water management permits issued by SJRWMD, the State of Florida Department of Environmental Regulation and the United States Army Corp of Engineers for the Property. No construction of improvements and no dredging or filling activities are permitted waterward of the wetlands limit lines as shown on the plans submitted in connection with said permits, as amended and

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supplemented, except as allowed by said permits and as may be allowed by future permits. By delivery of a deed to a parcel, Developer shall be deemed to have assigned to the Owner the obligation to comply with all such permit terms, and each Owner by acceptance of a deed to a portion of the Property agrees to comply with the requirements of all such permits. The foregoing provisions may be enforced by the SJRWMD and may not be amended without its approval of the SJRWMD.

WITH RESPECT TO WATER QUALITY, WATER LEVELS, WILDLIFE AND LAKE BANKS, SLOPES AND LAKE BOTTOMS, ALL PERSONS ARE REFERRED TO ARTICLE VII, SECTION 9 HEREOF.

Section 2. Irrigation and Landscaping.

(a) The sources of water to be used for irrigation within the Property shall be surface water, shallow wells or other alternative systems excluding potable water. All in-ground sprinkler systems in the single family residential areas shall be supplied by shallow wells.

(b) Native and drought resistant landscaping plants shall be used in at least 80 percent of the contiguous landscaped areas over 1/2 acre in size. Landscape plans, submitted to the Planning Commission of the City of Jacksonville, Florida for review and approval, shall provide that mulch, liquid resinous adhesives with hydroseeding, or sod shall be used on landscape areas.

Section 3. Construction Activities.

(a) Each Owner of a parcel adjacent to the wetlands of Open Creek shall install at the time improvements are constructed, a one foot high substantially continuous berm, upland of the Florida Department of Environmental Regulations and U.S. Army Corps of Engineers jurisdictional lines (whichever is more restrictive). The Owners of each such parcel shall be responsible for maintenance of the berm and shall not remove or alter the berm.

(b) Resinous adhesives or other measures as approved by the Bio-Environmental Services Division for the City of Jacksonville, Florida shall be used during construction activities for dust suppression on large barren areas which include roads, parking lots and material stockpiles.

(c) Owners shall remove or cause to be removed all soil or other materials deposited on paved streets, driveways, or parking areas resulting from construction or development activities of the Owners or their agents.

(d) All open areas impacted by construction or earth moving activities shall be mulched or landscaped in a manner sufficient to curtail wind and water erosion within 30 days of construction activities.

Section 4. General Prohibitions and Indemnity. No activity is permitted, nor shall any object or substance be kept, stored, or emitted, within the Property in violation of applicable laws, regulations or ordinances. Except for the rights herein reserved for the operation and maintenance of the Club Property no noxious, destructive, or offensive activity is permitted within the Property, nor shall anything be done within the Property that may constitute a nuisance to any other Person lawfully occupying any portion of the Property. Construction activities shall be conducted in a manner to not unreasonably interfere with the use and enjoyment of other parcels within the Property. Each Owner shall defend, indemnify, and hold the Association and other Owners harmless against all loss from damage or waste caused by such Owner, or by any occupant of such Owner's parcel. Notwithstanding the foregoing, or any other provision of the Declaration to the contrary, an Owner's liability to the Association for unintentional

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acts or omissions is limited to the available proceeds of any and all insurance maintained by such Owner or the Association. If, at the time of such act or omission, such Owner or the Association has a reasonable amount of insurance in force. Collection of such proceeds is at the Association's risk. To the extent from time to time available, the Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of any unintentional act or omission for which such Owner is responsible under this paragraph.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Duration and Remedies for Violation. The covenants and restrictions contained in this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Developer, the Association and the Owner(s) of any portion of the Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded in the public records of Duval County, Florida, after which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument executed by the President and Secretary of the Association upon approval by two-thirds (2/3) of the total votes allocated to the Members pursuant to the Articles of Incorporation of the Association has been recorded, agreeing to change or terminate these Covenants and Restrictions in whole or in part. Violation or breach of any condition, covenant or restriction herein contained shall give the Developer, the Association, or Owner(s) in addition to all other remedies, the right to proceed at law or in equity to compel compliance with the terms of said conditions, covenants or restrictions, and to prevent the violation or breach of any of them, and the expenses of such litigation shall be borne by the then Owner or Owners of the portion of the Property responsible for the violation, provided such proceeding results in a finding that such Owner was in violation of this Declaration. Expenses of litigation shall include reasonable attorneys' fees incurred by Developer or the Association in seeking such enforcement, whether incurred for trial, appeal or otherwise.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement.

(a) Owners, Developer and Association. Owners, the Developer or the Association shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction contained in this Declaration, either to restrain violation or to recover damages, and to enforce any lien created by these covenants against the applicable portion of the Property. The failure by the Association, the Developer or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any such action brought to enforce any provision of this Declaration, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party for both trial and appeal.

(b) Surface Water and Stormwater Management System. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance,

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operation and repair of the surface water or stormwater management system.

Section 4. Severability. Invalidation of any portion of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Effective Date. This Declaration shall become effective upon its recordation in the current public records of Duval County, Florida.

Section 6. Delegation of Services/Management. The Association and the Board shall be authorized to delegate any, some, or all of the services to be provided by the Association under the terms of this Declaration to a private company, public agency, or publicly regulated authority or agency which, in the opinion of the Board, shall make such services available to the Association in a reasonable manner. The Board shall also have the right to designate such party as the Board shall select as a manager to provide or cause to be provided the services for which assessments are levied as set forth in this Declaration and to administer all activities of the Association. Any such manager shall be entitled to a reasonable management fee for the provision of such services which fee shall constitute part of the expenses of the Association to be funded by the annual or supplemental assessments set forth herein. All management contracts between the Association and any third party shall permit either party to terminate the contract without cause on ninety (90) days prior written notice.

Section 7. Amendments.

(a) Developer. The Developer reserves and shall have the sole right, without the joinder or consent of any Owner, the Association, the holder of any mortgage, lien or other encumbrance affecting the Property, or any other person: (i) to amend this Declaration to comply with any requirements of a governmental agency, institutional first mortgagee, or other person willing to make, insure, guaranty, or purchase mortgage loans secured by a portion of the Property (including the Federal National Mortgage Association, Veterans Administration, and the Federal Housing Administration); or (ii) to amend this Declaration or the Articles of Incorporation or By-Laws of the Association to cure any ambiguity or error or any inconsistency between these provisions and the PUD, City of Jacksonville, Florida Resolution 86-1220-409, or the Articles of Incorporation and By-Laws of the Association; or (iii) to comply with the requirements of a governmental entity imposed pursuant to any law, ordinance, rule, regulation or authority.

(b) Owners. Subject to specific provisions of this Declaration which shall supersede the provisions of this paragraph, this Declaration may be amended by an affirmative vote of not less than two-thirds of all Owners at a duly called and convened meeting of the Association, and shall be evidenced by a certificate signed by the President and Secretary of the Association with the formalities from time to time required of a deed under the laws of the State of Florida and which certifies that the requisite vote was obtained at the duly called and convened meeting of the Association. No amendment shall be effective until recorded. No amendment under this subsection recorded after the recording of a mortgage encumbering all or a portion of the Club Property shall be binding on the holder of such mortgage without the written consent of the holder of the mortgage. So long as the Developer, as the Class B Member, is entitled to elect a majority of the members of the Board of the Association, no amendment to this Declaration shall be effective without the written joinder and consent of the Developer.

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(c) Surface Water or Stormwater Management System.

Any amendment to this Declaration which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

Section 8. Effect of Declaration. Notwithstanding anything contained in this Declaration to the contrary, neither this Declaration nor any term or provision hereof, including without limitation the obligation to pay assessments or lien therefor, shall constitute a defect, encumbrance, lien or cloud upon the title of any portion of the property included within the Master Plan or any property other than the real property as described on Exhibit A attached hereto, until such time as this Declaration is specifically supplemented to include such additional property by recording of a supplementary declaration as to such property in the public records of Duval County, Florida, as provided in Article II hereof. Nothing contained herein shall be deemed to require the Developer to include any of the property constituting part of the Master Plan within this Declaration or subject to any such property to administration by Association and such inclusion shall be at the sole option of Developer.

Section 9. Disclaimers as to Water Bodies. EXCEPT AS MAY BE SPECIFICALLY IMPOSED BY APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCIES OR AUTHORITIES AS REFERENCED IN THIS DECLARATION, NEITHER THE DEVELOPER, THE ASSOCIATION NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OF SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER BODY WITHIN WINDSOR PARKE. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF WINDSOR PARKE LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES WITHIN WINDSOR PARKE AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF WINDSOR PARKE MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY PROPERTY WITHIN WINDSOR PARKE, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ANY AND ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION, OR TOPOGRAPHY OR ANY LAKE BANKS, SLOPES, OR LAKE BOTTOMS LOCATED WITHIN WINDSOR PARKE.

Section 10. Other Approvals. All of the following actions require the prior approval of the Developer (for so long as Developer is a member of the Association), and, as the same may be required while there is a Class B membership, the Federal Housing Administration, the Veterans Administration and the United States Department of Housing and Urban Development: (a) amendment of the Articles of Incorporation of the Association or of the Declaration, except as expressly provided in Article VII, Section 7(a) of the Declaration; (b) dedication or encumbrancing of all or any portion of the Common Areas; (c) the merger, consolidation, or dissolution of the Association; and (d) the annexation of additional lands or the extension of the provisions of the Declaration to lands other than the Property, except the

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annexation of additional lands by Developer pursuant to Article II, Section 2(a) hereof.

ARTICLE VIII

THE CLUB PROPERTY

Section 1. Golf Easements. Windsor Parke Golf Limited Partnership hereby reserves to itself, its designees, successors and assigns, and Developer and M.W.P., Ltd., a Florida limited partnership hereby grant to Windsor Parke Golf Limited Partnership and the Windsor Parke Golf Club and its members, guests and invitees, easements over the Property for the purpose of doing any and every act or thing necessary and proper in connection with the playing of the game of golf on the Club Property and maintaining the Club Property. These easements include, without limitation, the unintentional hitting of golf balls over and on the Property, the recovery of golf balls from the Property, including any parcel therein, the use of necessary and usual equipment upon such golf course, and the noise level associated therewith, together with all normal and usual activities associated with playing golf and maintaining and operating a golf course and club. Windsor Parke Golf Limited Partnership and the Windsor Parke Golf Club shall not be responsible for and shall have no liability in connection with any damage to the Property, including any parcel or improvement thereon, or injury to any person or property which may result from or in connection with the use by any person of the golf easements granted herein.

Section 2. Joinder. Windsor Parke Golf Limited Partnership, Essex Windsor Parke-II Limited Partnership, and M.W.P. Ltd join in this Declaration solely for the purpose of subjecting the lands owned by each of them to the terms of this Declaration. Windsor Parke Golf Limited Partnership, Essex Windsor Parke-II Limited Partnership, or M.W.P. Ltd. shall not be deemed to be the Developer hereunder by virtue of this joinder, and each of these parties hereby expressly disclaim any right or obligation of the Developer under this Declaration, and all benefits or liabilities associated therewith, unless it accepts a written assignment of such rights or obligations pursuant to Article I, Section 1(b) hereof.

Windsor, Inc  
10/13/92

Signed, sealed and delivered  
in the presence of:

JTB LAND DEVELOPMENT, INC., a  
Florida corporation

[Signature]

By: [Signature]  
Gus Barkers, Vice President

Print: Alex Alexander

Print: Duncan E. Forward

(CORPORATE SEAL)

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WINDSOR PARKE GOLF LIMITED PARTNERSHIP

By: Group IV Golf, Inc., general partner

By: Gus Bankers, President

(CORPORATE SEAL)

M.W.P., LTD.

By: Windsor Parke Development Limited Partnership, general partner

By: AmMed Properties, Inc. general partner

By: Gus Bankers, President

(CORPORATE SEAL)

ESSEX WINDSOR PARKE-II LIMITED PARTNERSHIP

By: Windsor Parke Development Limited Partnership, general partner

By: AmMed Properties, Inc. general partner

By: Gus Bankers, President

(CORPORATE SEAL)

Duncan E. Bowman  
Print Name DUNCAN E. BOWMAN  
Alec Alexander  
Print Name ALEC ALEXANDER

Duncan E. Bowman  
Print Name DUNCAN E. BOWMAN  
Alec Alexander  
Print Name ALEC ALEXANDER

Duncan E. Bowman  
Print Name DUNCAN E. BOWMAN  
Alec Alexander  
Print Name ALEC ALEXANDER

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of December, 1992, by Gus Bankers, the Vice President on behalf of JTB Land Development, Inc., a Florida corporation.



OFFICIAL SEAL  
PAMELA S. BUENGER  
My Commission Expires  
Oct. 6, 1996  
Comm. No. CC 233714

Pamela S. Buenger  
Notary Public, State and  
County aforesaid.  
Print Name Pamela S. Buenger

My commission expires: 10-6-96

Personally known \_\_\_\_\_ or produced identification  Type of identification \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF DUVAL

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The foregoing instrument was acknowledged before me this  
15<sup>th</sup> day of November, 1992, by Gus Swales  
the President on behalf of Group IV Golf, Inc., general  
partner of Windsor Parke Golf Limited Partnership, a Florida  
limited partnership.



OFFICIAL SEAL  
PAMELA S. BUENGER  
My Commission Expires  
Oct. 6, 1996  
Comm. No. CC 233734

Pamela S. Buenger  
Notary Public, State and  
County aforesaid.  
Print Name: Pamela S. Buenger  
My commission expires: 10-6-96

Personally known \_\_\_\_\_ or produced identification X. Type of  
identification Business License.

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this  
15<sup>th</sup> day of November, 1992 by Gus Swales  
the President on behalf of Anned Properties, Inc., the  
general partner of Windsor Parke Development Limited Partnership,  
general partner of H. W. P., Ltd., Florida limited partnership.



OFFICIAL SEAL  
PAMELA S. BUENGER  
My Commission Expires  
Oct. 6, 1996  
Comm. No. CC 233734

Pamela S. Buenger  
Notary Public, State and  
County aforesaid.  
Print Name: Pamela S. Buenger  
My commission expires: 10-6-96

Personally known \_\_\_\_\_ or produced identification X. Type of  
identification \_\_\_\_\_.

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OFFICIAL RECORDS

ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING IN SECTIONS 2 AND 11, TOWNSHIP 3 SOUTH, RANGE 28 EAST, DUVAL COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE COMMENCE AT THE POINT WHERE THE CENTERLINE OF J. TURNER BUTLER BOULEVARD (GENERALLY A 300-FOOT RIGHT-OF-WAY AS ESTABLISHED BY DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAPS, PROJECT NO. 72292-3504) INTERSECTS THE CENTERLINE OF HODGES BOULEVARD (GENERALLY A 200-FOOT RIGHT-OF-WAY AS ESTABLISHED BY DEED RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN VOLUME 5549, PAGE 1546) AND RUN NORTH 1° 00' 29" WEST ALONG SAID HODGES BOULEVARD CENTERLINE, A DISTANCE OF 613.97 FEET TO A POINT; RUN THENCE NORTH 88° 59' 31" EAST, A DISTANCE OF 100.0 FEET TO AN IRON PIPE FOUND ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID HODGES BOULEVARD AT THE MOST NORTHERLY CORNER OF LANDS CONVEYED FOR ADDITIONAL RIGHT-OF-WAY FOR RAMPING AS DESCRIBED IN DEED RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN VOLUME 5561, PAGE 723 FOR THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED RUN NORTH 1° 00' 29" WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID HODGES BOULEVARD, A DISTANCE OF 2211.57 FEET TO AN IRON PIPE FOUND AT THE POINT OF CURVATURE; RUN THENCE IN A NORTHERLY DIRECTION ALONG THE ARC OF A CURVE IN SAID EASTERLY RIGHT-OF-WAY LINE, SAID CURVE BEING CONCAVE TO THE EAST AND HAVING A RADIUS OF 5629.58 FEET, A CHORD DISTANCE OF 1742.50 FEET TO AN IRON PIPE FOUND AT THE POINT OF TANGENCY OF SAID CURVE, THE BEARING OF THE AFOREMENTIONED CHORD BEING NORTH 7° 53' 42" EAST; RUN THENCE NORTH 16° 47' 53" EAST CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 5033 FEET, MORE OR LESS TO THE RUN OF OPEN CREEK, RUN THENCE IN A SOUTHEASTERLY, EASTERLY AND NORTHEASTERLY DIRECTION ALONG THE MEANDERINGS OF SAID OPEN CREEK RUN, A DISTANCE OF 3500 FEET, MORE OR LESS TO A POINT ON THE EASTERLY LINE OF SAID SECTION 2 THAT BEARS NORTH 1° 35' 00" WEST, 2468 FEET, MORE OR LESS, FROM THE SOUTHEASTERLY CORNER THEREOF; RUN THENCE SOUTH 1° 35' 00" EAST ALONG SAID EASTERLY LINE OF SECTION 2, A DISTANCE OF 2468 FEET, MORE OR LESS, TO A CONCRETE MONUMENT FOUND AT THE SOUTHEASTERLY CORNER THEREOF; RUN THENCE SOUTH 1° 07' 03" EAST ALONG THE EASTERLY LINE OF SAID SECTION 11, A DISTANCE OF 1082.54 FEET TO THE NORTHEASTERLY CORNER OF LANDS DESCRIBED IN DEED RECORDED IN THE OFFICIAL RECORDS OF SAID COUNTY IN VOLUME 2816, PAGE 547; RUN THENCE SOUTH 88° 52' 57" WEST ALONG THE NORTHERLY LINE OF LAST MENTIONED LANDS, A DISTANCE OF 1328.90 FEET TO THE NORTHWESTERLY CORNER THEREOF; RUN THENCE SOUTH 1° 07' 03" EAST ALONG THE WESTERLY LINE OF LAST MENTIONED LANDS, A DISTANCE OF 2220.47 FEET TO A CONCRETE MONUMENT FOUND AT THE SOUTHWESTERLY CORNER THEREOF ON THE EASTERLY LINE OF SAID SECTION 11; RUN THENCE SOUTH 18° 08' 42" WEST ALONG LAST MENTIONED EASTERLY LINE, A DISTANCE OF 1196.97 FEET TO A CONCRETE MONUMENT FOUND AT AN ANGLE POINT; RUN THENCE SOUTH 39° 38' 39" EAST CONTINUING ALONG THE EASTERLY LINE OF SAID SECTION 11, A DISTANCE OF 925.32 FEET TO AN IRON PIPE SET ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID J. TURNER BUTLER BOULEVARD; RUN THENCE SOUTH 88° 35' 59" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1368.14 FEET TO AN IRON PIPE FOUND AT THE MOST EASTERLY CORNER OF SAID LANDS CONVEYED FOR ADDITIONAL RIGHT-OF-WAY FOR RAMPING; RUN THENCE NORTH 87° 10' 19" WEST ALONG THE NORTHERLY LINE OF LAST MENTIONED LANDS, A DISTANCE OF 447.98 FEET TO AN IRON PIPE FOUND AT AN ANGLE POINT; RUN THENCE NORTH 83° 54' 26" WEST CONTINUING ALONG LAST MENTIONED NORTHERLY LINE, A DISTANCE OF 140.57 FEET TO AN IRON PIPE FOUND AT A SECOND ANGLE POINT; RUN THENCE NORTH 90° 24' 50" WEST CONTINUING ALONG LAST MENTIONED NORTHERLY LINE, A DISTANCE

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OF 575.95 FEET TO AN IRON PIPE FOUND AT A THIRD ANGLE POINT;  
RUN THENCE NORTH 18° 12' 48" WEST CONTINUING ALONG LAST  
MENTIONED NORTHERLY LINE, A DISTANCE OF 291.16 FEET TO THE  
POINT OF BEGINNING.

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FILED AND RECORDED  
IN PUBLIC RECORDS  
OF OUVAN COUNTY FLA.

92-0152080

CLERK OF CIRCUIT COURT

*[Signature]*

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