

The following pages are the covenants, conditions, restrictions, etc. for:

Whispering Pines in Auburndale, FL.

These documents have been provided to us by the homeowner, the Homeowner's Association (HOA), and/or we have located them in Polk County Public Records.

This may not be all relevant documents in their entirety. In addition, these documents may be amended at any time without notice.

This information is being provided as a courtesy. However it is your responsibility as the tenant to contact the Homeowner's Association for any additional documents, information, and/or updates that may not be included here.

Prepared by and Return to:
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**DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR WHISPERING PINES**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHISPERING PINES (hereinafter referred to as the "Declaration") is made on the date hereinafter set forth by INVESTMENT GROUP OF FLORIDA POLK DEVELOPMENT, LLC, a Florida limited liability corporation (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Polk County, Florida, which is more particularly described in Exhibit "A" attached hereto, (hereinafter collectively referred to as the "Property"); and

WHEREAS, Declarant desires to develop within WHISPERING PINES (as defined herein), a residential community of single family residences; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in WHISPERING PINES and for the maintenance of entryway features, entrance walls, perimeter landscaping, common landscaping, stormwater management system areas as described on the Master Plan, drainage areas and other common facilities as may be specifically designated on the plat and any subsequent plat of the property and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each subsequent owner of all or part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in WHISPERING PINES, to create a homeowner's association to which should be delegated and assigned the powers of owning, maintaining and administering the common area properties and facilities, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Declarant has incorporated or will incorporate under the laws of the State of Florida, a non-profit corporation called Whispering Pines of Polk Homeowner's Association, Inc. (hereafter referred to as the "Association"), for the purposes of exercising the functions described herein.

NOW, THEREFORE, Declarant, hereby declares that all of the residential properties described above shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the following easements, restrictions, covenants and conditions which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with the real property and be binding on all parties having and/or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

At Declarant's option, additional property may be added and subjected to the provisions hereof by filing a Supplemental Declaration.

ARTICLE I **DEFINITIONS**

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

(a) **"Architectural Review Committee" or "ARC"** shall mean and refer to the committee established by the Board of Directors of WHISPERING PINES OF POLK HOMEOWNER'S ASSOCIATION, INC. and described in Article VII hereof.

(b) **"Articles"** shall mean and refer to the Articles of Incorporation filed with the office of the Secretary of State of the State of Florida for WHISPERING PINES OF POLK HOMEOWNER'S ASSOCIATION, INC., as the same may be amended from time to time.

(c) **"Association"** shall mean and refer to WHISPERING PINES OF POLK HOMEOWNER'S ASSOCIATION, INC., a Florida Not-for-Profit corporation, its successors and assigns.

(d) **"Board" or "Board of Directors"** shall mean and refer to the Board of Directors of the Association.

(e) **"Bylaws"** shall mean and refer to the Bylaws of the Association, as the same may be amended from time to time.

(f) **"Common Areas" or "Common Property"** shall mean and refer to all real property (including any improvements thereto) owned by the Association for the common use and enjoyment of the Owners (as the term is hereinafter defined), as reflected on the Plat or Plats of Whispering Pines.

(g) **"Conservation Easement"** shall mean and refer to easements or dedications granted by the Declarant pursuant to and in compliance with Section 170(h) of the

Internal Revenue Code of 1986, and as required by Polk County and the Southwest Florida Water Management District, as their requirements are amended from time to time.

(h) **"Declaration"** shall mean and refer to this Declaration of Easements, Covenants, Conditions and Restrictions for Whispering Pines, as it may from time to time be amended.

(i) **"Eligible Member"** shall mean and refer to a member of the Association who is in good standing and entitled to vote, not delinquent in payment of association dues, and has no action pending against them for delinquent dues or violations of the provisions of this Declaration, the requirements of the Architectural Review Committee, or any other rules and regulations promulgated by the Association.

(j) **"Lot"** shall mean and refer to any plot of land shown upon which any recorded subdivision map or plat of the Property upon which is located, a single family residential dwelling. The reference to a Lot shall also include the residential unit once constructed.

(k) **"Maintenance"** shall mean and refer to, but shall not be limited to, the following: clean-up, landscaping and ground care, silt removal, chemical treatment and other services as related to the retention/detention ponds and drainage ditches, and the stormwater management drainage system; common areas, sidewalks and rights of way; upkeep of landscaping decorative walls and entry way features including signage; and repair and all other such functions incidental to the services of the Association.

(l) **"Master Plan"** shall mean and refer to the most recent land use plan from time to time approved by Polk County, Florida, for the development of the Property.

(m) **"Member or Membership"** shall mean and refer to all those Owners who are Members of the Association as provided in Article III hereof.

(n) **"Open Space"** shall mean and refer to an exterior open area from the ground and upward devoid of residential and commercial buildings, accessory structures and impervious areas; except, however, those buildings, structures, or areas used exclusively for recreational purposes by the Members may be included as Open Space.

(o) **"Owner"** shall mean and refer to the owner shown by the records of the Association (whether it be the Declarant, one or more person, firm or legal entities) of fee simple title to any Lot located within the Property. 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 fee simple title pursuant to foreclosure or a similar proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(p) **"Plat"** shall mean and refer to the Plat of Whispering Pines, and upon approval, shall be recorded in the Public Records of Polk County, Florida, and such other plats or

Additional Lands as may be recorded from time to time.

(q) **"Property or Properties"** shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(r) **"Residential Unit"** shall mean and refer to a dwelling unit constructed on a Lot for which a certificate of occupancy has been issued by the applicable governmental authorities, and which dwelling unit is intended to be used and occupied as a residence by not more than one family. Residential Unit shall not include manufactured or pre-fabricated homes.

(s) **"Surface Water or Storm Water Management System"** shall mean and refer to a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

(t) **"WHISPERING PINES"** shall mean and refer to the property developed pursuant to the Master Plan.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every owner shall have the right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

A. The right of the Association to suspend an Owner's voting rights and an Owner's right to use the recreational facilities, if any, located on the Common Area for any period of time during which any assessment against such Owner's Lot remains unpaid for a period in excess of ninety (90) days; and for any period from the time such Owner is determined by the Board of Directors to be in violation of any of the Association's published rules or regulations;

B. The right of the Association to dedicate or convey all or any part of the Common Area to any public or private agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or conveyance shall be effective unless an instrument authorizing such dedication or conveyance approved by valid vote by two-thirds (2/3) of the total number of Members has been recorded in the Public Records of Polk County, Florida.

C. Recognizing that the full use and enjoyment of any Lot or Residential Unit located upon the Property is dependent upon the right to use and enjoyment of the Common Areas and the improvements made thereto, and that it is in the interest of all the Owners that the right to the use

and enjoyment of the Common Area be retained by the Owners of Lots and Residential Units, it is therefore declared that the right to the use and enjoyment by any Owner in the Common Area shall remain undivided. However, the Association may develop rules and regulations regarding use of recreational facilities, if any, or Common Area for private parties or functions by Owners. In addition, there shall exist no right to transfer the right to the use and enjoyment of the Common Area in any manner than as an appurtenance to and in the same transaction with a transfer of title to a Lot or Residential Unit within the Property; provided, however, that nothing herein shall preclude a conveyance by this Declarant herein of any undivided interests in the Common Area to the Owners of Lots or Residential Units within the property for the purpose of effectuating the intent of this Declaration. Any conveyance or transfer of a Lot or Residential Unit within the Property shall include the right to the use and enjoyment of the Common Area appurtenant to such Lot or Residential Unit, subject to reasonable rules and regulations promulgated by the Declaration or the Association for such use and enjoyment whether or not such rights shall have been described or referred to in the deed by which Lot or Residential Unit is conveyed.

Section 2. Damage or Destruction of Common Area by Owner. In the event any part of the Common Area is damaged or destroyed by an Owner or any of its guests, tenants, licensees, agents or members of its family, such Owner does hereby authorize the Association to repair the damaged area at the Owner's expense. The Association shall repair the damaged area, adhering to sound construction safety practices and in conformance with the latest approved construction and/or building plans. The cost of the repairs shall be deemed a special assessment against the Owner due and payable upon being assessed against the Owner and in the event such special assessment is not paid when due, the Association shall have the right to place a lien on the Owner's Lot for payment of the assessments and to otherwise proceed to collect same in accordance with Florida law. Enforcement of any assessment lien against an Owner shall be consistent with the enforcement of these covenants and restrictions as set forth herein.

Section 3. Title to Common Area. The Declarant shall convey legal title to the Common Area to the Association and such conveyance shall be subject to the terms of the Declaration and any Supplemental Declaration pertaining to the Property, including any easement and licenses set out therein and easement for such utility services as the Declarant deems appropriate, and may be subject to the terms of a mortgage. The Declarant, in the conveyance of the Common Area to the Association, shall also reserve to itself, its successors and assigns, a non-exclusive, perpetual easement for ingress and egress through the platted roads of the property for the purpose of obtaining access to any public highways. The Property shall be subject to a perpetual easement in gross being granted to Whispering Pines of Polk Homeowner's Association, Inc., and its successors for ingress and egress on the Property for the purpose of having its employees and agents perform all obligations and duties of the Association set forth herein.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING

Section 1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may

not be separated from ownership of any Lot which is subject to assessment by the Association.

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

Class A: Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members and the person entitled to cast the vote for the Lot shall be designated by a certificate filed with the Secretary of the Association at any time before the vote is cast, signed by all record Owners of the Lot. If any Lot is owned by a corporation or partnership, a similar certificate shall be required designating the person entitled to cast the vote for such Lot. In the event such certificate by multiple Owners or a corporation or partnership is lacking, then the vote for that Lot shall not be considered in determining the requirement for a quorum or any other purpose until such certificate is filed with the Secretary of the Association. Except, however, when title to a Lot is held by a husband and wife, they may, but shall not be required to, designate a voting member. If they do not designate a voting member, and if both are present at a meeting, only one may vote on any given matter. If they are unable to agree on who shall vote, their vote shall not be counted. If no voting member is designated and only one spouse is present at a meeting, the spouse may cast the vote for the Lot without establishing the concurrence of the absent spouse. In no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B Member shall be the Declarant, its successors or assigns, and shall be entitled to ten (10) votes for each Lot owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership upon the earlier occurrence of the following events:

- (1) Upon the sale of 75% of Declarant's ownership interest in all Lots; or
- (2) On January 1, 2009; or
- (3) Within thirty (30) days after Declarant sends to the Association and to each Member notice that Declarant voluntarily wishes to turn over its control to the Association (hereinafter referred to as the "Turnover Date").

Section 3. Declarant's Rights in the Association. Declarant reserves the right to designate the initial members of the Board of Directors of the Association. Thereafter the Board shall be elected by the Members of the Association in accordance with the terms and provisions of this Declaration and the Articles and Bylaws, except that the Declarant shall be entitled to elect one (1) member of the Board for so long as Declarant owns any Lots in the Property.

Section 4. Change of Membership of Class A Members. Change of Class A Membership in the Association shall be established by recording in the Public Records of Polk County, Florida, a deed or other instrument establishing a record fee simple title to a Lot in the Property. The Owner designated by such instrument thus becomes a Class A member of the Association and the membership of the prior owner is terminated. The new Owner shall notify the

Association in writing of the recording of the deed or other instrument establishing record title and shall furnish the Association a copy of such instrument with recording information thereon if required by the Association.

ARTICLE IV

FUNCTIONS OF HOMEOWNER'S ASSOCIATION

Section 1. Services. The Association shall have all power permitted by Florida law, including, but without limitation, the following powers and may, but is not obligated to, provide all services permitted by Florida law, including, without limitation, the following services:

A. Open Space, Surface Water Management Systems, Master Storm Water Management System, conservation areas, water wells, Common Property, landscaping, walls, irrigation systems, entrance way landscape berm, and other lands covered by the Master Plan and all city, county, district or municipal properties and rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Properties where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to the Properties. The Association shall adopt standards of maintenance and operation as required to effectuate the purposes of the Declaration and to operate a first-rate residential community. With respect to the maintenance of the surface water or storm water systems, maintenance shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities in compliance with the Lake County Land Development Regulations as permitted by the St. Johns River Water Management District. The Association shall also be responsible for such maintenance and operation. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system. Any repair or recondition shall be as permitted, or if modified, as approved by the District.

B. Maintenance of any real property located within the Property upon which the Association has accepted an easement for maintenance.

C. Maintenance of water bodies, if any, owned by or dedicated for the use of the Association within the Properties, as well as maintenance of water bodies not owned by the Association within the Properties if and to the extent permitted by any governmental authority having jurisdiction thereof.

D. Insect, pest and aquatic control where necessary or desirable in the judgment of the Association to supplement the service provided by the state and local governments. The Association reserves a perpetual right on, over and under all Properties and any Additional Properties to dispense pesticides and take other action which, in the opinion of the Association, is necessary or desirable to control insects and vermin. Provided, however, that this paragraph shall not contradict the requirements of the Southwest Florida Water Management District.

E. Taking any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Properties in the Articles or Bylaws.

F. Conducting business of the Association including, but not limited to, administrative services such as legal, accounting and financial and communications services, which include informing Members of activities, and preparing and delivering or mailing notices of Meetings and other important events. The Association shall have the right to enter into management agreements with any companies in order to provide its services and perform its functions. Any professional management contract entered into by the Association shall contain reasonable term and termination provisions. Any contracts or leases entered into by the Association prior to the Turnover Date, including any professional management contract, shall provide a right of termination without cause, which is exercisable without penalty at any time after the Turnover Date, upon not more than ninety (90) days notice to the other party thereto.

G. Purchasing general liability and hazard insurance covering improvements and activities on the Common Property at a current cost basis in an amount of no less than one hundred percent (100%) of the insurable value; directors and officers liability insurance; workers compensation as may be applicable; and such other insurance as the Board deems necessary. Hazard insurance proceeds for losses to any Common Property may not be used other than for repair, replacement or reconstruction of such property unless otherwise determined by a majority vote of the Board.

H. Establishing and operating the Architectural Review Committee, in the event that the Association is delegated the responsibility for such purposes thereof by the Declarant.

I. Adopting, publishing and enforcing such Rules and Regulations as the Board deems necessary.

J. The Association may carry out any of the functions and services in Section 1 of this Article to the extent such maintenance and services can be provided with the proceeds first from annual assessments and then, if necessary, from special assessments. The function and services permitted in Section 1 of this Article to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Members of the Association. The functions and services that the Association is authorized to carry out or to provide may be added to or reduced at any time upon the affirmative vote of the majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies. Any professional management contracts entered into by the Association shall contain reasonable terms and termination provisions. Any contracts or leases entered into by the Association prior to the Turnover Date, including any professional management contract shall provide a right of termination without cause, which is exercisable without penalty at any time after the Turnover Date, upon not more than ninety (90) days notice to the other party thereto.

K. Establish use fees and promulgate rules and regulations respecting the use of Common

Property and Association facilities by Members and persons other than Members.

L. Perform any other functions the Association deems appropriate for the maintenance and enjoyment of the Property.

Section 2. Conveyance to Association. The Association shall be obligated to accept any and all conveyances to it by Declarant of fee simple title, easements or leases to Open Space, lakes, Surface Water Management System, conservation areas, easements or Common Property.

Section 3. Conveyance by Association. Subject to the provisions of Article VI, the Association shall be empowered to delegate or convey any of its functions or properties to any governmental entity or public utility or for other public purposes consistent with the intended use of such property. In addition, the Association may convey lands or easements to the Declarant in connection with replatting of any portion of the Property.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of Assessments. The assessments levied by the Association (hereinafter referred to as "Assessments") shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property in accordance with services provided by the Association in Article IV, including, but not limited to, maintaining, operating and improving drainage, landscaping within the Common Area, easement areas, entrance way, and landscape berms; the payment of taxes and insurance on the Common Area; repair, replacement, and additions to the drainage Storm Water Management and other improvements; and for the costs of labor, equipment, materials, management and supervision thereof. The annual assessment may also provide reasonable reserves for deferred maintenance, replacements and betterments as further set out in the Association Bylaws.

Section 2. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, hereby covenants and agrees to pay to the Association: (1) initial assessments; (2) annual assessments or charges; and (3) special assessments for capital improvements and other expenditures that the Association deems appropriate, including special assessments for violations of damages as provided in this Declaration, the Articles and Bylaws; such assessments to be fixed, established and collected from time to time as hereinafter provided. Until the Turnover Date, the Developer shall have the obligation to fund the operating deficit of the Association. Late fees, the annual and special assessments, together with interest thereon (as hereinafter provided) and costs of collection thereof, including, without limitation, reasonable attorneys' and paralegal fees incurred by the Association incident to the collection of such assessment whether or not judicial proceedings are involved and appeals, if any, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien shall be effective from and after the time of recording a claim of lien, pursuant to Florida law, in the Public Records of Polk County, Florida, and the lien shall continue in effect until all sums secured by the lien shall have been fully

paid. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Each such assessment, together with interest thereon and cost of collection, including, without limitation, reasonable attorneys' and paralegal fees incurred by the Association incident to the collection of such assessment whether or not judicial proceedings are involved, and appeals, if any, shall also be the personal obligation of the person who is the owner of such Lot at the time the assessment is due and payable.

Section 3. Initial Assessment. The Initial Assessment for each Lot shall be Two Hundred and 00/100 (\$200.00) Dollars per Lot and shall be due at the time title to the Lot is transferred from the Declarant, his successors or assigns, to an Owner. An Initial Assessment shall also be collected each time a Lot is transferred thereafter. The Initial Assessment shall be a one time assessment and shall be due in addition to the annual and special assessments as provided therein. The Declarant shall be exempt from the Initial Assessment.

Section 4. Commencement and Maximum Annual Assessments.

A. The Board of Directors of the Association shall fix the date or dates on which the annual assessments and installments thereof are due, the amount of the annual assessment against each Lot, at least thirty (30) days prior to the commencement of the annual assessment. Annual assessments shall be due on January 1 of each year in the amount of One Hundred and 00/100 (\$200.00) Dollars per year until changed as provided hereinafter. Special assessments shall be subject to the same payment procedures as stated above. The Declarant shall be exempt from the Annual Assessment.

B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased or decreased by the Board of Directors without a vote of Class A and Class B Members to reflect the actual operating expenses experienced in the initial year of operation. Thereafter, the maximum annual assessment may be increased by the Board of Directors as required in order to formulate a balanced budget.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association, via a vote of the Board of Directors, 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 or reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto or for any other purposes deemed appropriate by the Association. The due date of such special assessment, shall be as provided by the resolution adopting the special assessment. The Declarant shall pay the current special assessment as to the Lots that it owns and thereby its obligations to fund deficits levied against an Owner or Owners by the Association for violations or damages as provided in the Declaration, the Articles of Incorporation and Bylaws, and any such special assessment shall be due and payable when levied by the Association. The provisions of this Declaration relative to the enforcement and foreclosure of the lien for annual assessments shall also apply to special assessments levied pursuant to this Section 5.

Section 6. Determination of Annual Assessments. The Board shall determine the total annual assessment for the Properties. Written notice of any meeting of the Board at which the Board shall consider determination of the annual assessment or any special assessment shall be sent to all voting Members not less than thirty (30) days nor more than sixty (60) days in advance of the Board Meeting.

Section 7. Uniform Rate of Assessment. The allocation of annual and special assessments, other than special assessments incurred as a result of damage by Owner or violations of the Declaration, Articles of Incorporation or bylaws, shall be set so that all Lots shall be assessed at an equal rate. The Developer shall pay the prorated current annual and special assessments as to the Lots that it owns in the year of Turnover, and thereafter shall pay the full amount.

Section 8. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence to accrue at the time title to the Lot is transferred from the Declarant, his successors or assigns, to an Owner, which for purposes of this provision shall include any builder, even though a builder intends to acquire the Lot solely for construction of single family residence for resale, and shall be prorated on a daily basis for the number of days remaining in the calendar year. Thereafter, each calendar year shall constitute the annual assessment period. The first annual assessment shall be based upon an estimate of the operating expenses for the year plus adequate reserve for anticipated expenses. In the event this assessment proves insufficient to satisfy such expenses, the Board shall levy a supplementary assessment in the amount of the deficit. Notwithstanding any other provision herein, the supplementary assessment shall not require the assent of the Members. The Board shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or the agent of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessment on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within fifteen (15) days after the due date shall bear interest from the due date at the maximum rate allowed by law or a lower rate set by this Association per annum. The Board of Directors of the Association may accelerate the remaining installments and declare the entire assessment as to the delinquent Owner due and payable in full as if the entire amount was originally assessed, with interest accruing on any unpaid amount 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 foreclose the lien against the Owner's Lot. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and, in the event a judgment is obtained, such judgment shall include interest on the assessment as provided herein and reasonable attorneys' fees to be fixed by the Court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of Assessment Lien to First Mortgages. The lien of all assessments provided for herein and all assessments, late fees, interest, costs, expenses and attorneys' fees secured by the lien shall be subordinate to the lien of any first Mortgage recorded prior to the time of recording the claim of lien by the Association. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of the first mortgage, or any proceeding in lieu thereof or the acceptance of a deed given in lieu of foreclosure of the first mortgage, shall extinguish the lien of such assessment as to payment which became due prior to such sale or transfer. The extinguishing of the lien shall not affect the personal liability of the Owner at the time such assessment came due for payment of same. No sale or transfer shall relieve such Lot from liability for any assessment coming due after such sale or transfer or from a lien therefore. No provision of this Section 10 may be amended without the joinder of all record owners of first mortgages encumbering lots within the Property. However, any such delinquent assessments which were extinguished pursuant to the foregoing provisions may be reallocated and assessed to all Lots.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) any parcel of the Property (excluding platted easements within Lots) which serves as an easement or which is dedicated and accepted by a local public authority, and devoted to public use; and (b) all Common Area as defined in Article I(G), hereof.

ARTICLE VI **EASEMENTS**

Section 1. Appurtenant Easement. Declarant reserves unto itself and hereby grants to all Owners (and their guests, lessees and invitees) as an appurtenance to and as part of the ownership held by such owner, but subject to this Declaration, the Articles and Bylaws of the Association and the rules and regulations promulgated by the Association a perpetual non-exclusive easement for ingress and egress over, across and through, and for the use and enjoyment of, all Common Property, which Common Property is an intrinsic and appurtenant part of the value of the Lots; such use and enjoyment to be shared in common with the other Owners, their guests, lessees and invites as well as the guests, lessees and invitees of the Declarant. Provided, with respect to the Common Property, the Declarant reserves the right (but not the obligation) to maintain and use all rights of way associated therewith, and to maintain and place Declarant's signs thereon.

Section 2. Utility Easements. The Declarant reserves to itself (and its successors or assigns) the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the Property and the Common Property upon, over, under and across the Property; provided, however, the right to grant easements pursuant to this section upon, over, under and across any Lot shall be limited to the utility easements applicable to each Lot as shown on the Plat. Said easements shall be given only for the purpose of maintaining, installing, repairing, altering and operating storm sewer lines, irrigation lines, gas distribution, electrical, telephone, water distribution systems, cable television service, and all machinery and apparatus appurtenant thereto to all installation and maintenance of utilities and

providing services to Owners, the Property and Common Property. All such easements are to be of a size, width, and location as Declarant, in its discretion, deems best but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Property.

Section 3. Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate, a perpetual easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of this property and these facilities by the Owners. Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any part of the Property owned by Declarant. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Owners.

Section 4. Service Easements. Declarant hereby grants to delivery, garbage pick-up and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Declarant, its successors or assigns to service the Property, and to such other persons as the Declarant from time to time may designate, the non-exclusive, perpetual right of ingress and egress over and across the Common Property for the purposes of performing their authorized services and investigation.

Section 5. Drainage Easements. Each Lot shall have a non-exclusive easement for storm drainage on, over, under and across that portion of each Owner's Lot so designated on the Plat of Whispering Pines, and that portion of the Common Property designated on the Plat of Whispering Pines, provided, however, any rights reserved herein regarding use of such drainage easement shall only be exercised by the Declarant or the Association, except the right of access and maintenance described in Article VIII, Section 9 below. Drainage flow shall not be obstructed or diverted from drainage easements created herein, or by authority established herein or by the Plat, nor shall the established drainage pattern over any Lot as described in Article VIII, Section 9 be impeded. The Association may, but shall not be required to, maintain and repair drainways for surface water wherever and whenever such action may appear to the Association to be necessary to maintain a reasonable standard of health, safety and appearance. The rights reserved hereunder shall extend to reasonable use of drainways on a Lot. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other action reasonably necessary to install utilities and to maintain reasonable standards of health and appearance but shall not include the right to disturb any improvements erected within the Property which are not located within the specific easement areas designated on the Plat or in this Declaration. Except as provided herein, existing drainage and drainage channels (or areas reserved for such purposes) shall not be altered so as to divert the flow of water onto adjacent parcels or into areas not intended.

Section 6. Conservation Easements. Declarant reserves the right to grant Conservation

Easements to qualified grantees over and across Common Property, Open Space, or Surface Water Management Systems as may be required by state or local law, ordinance, rule or regulation, including, but not limited to, any such easement required by Polk County, Florida.

Section 7. Access and Drainage Easement. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable matter, to operate, maintain, or repair the surface water or stormwater management system as required by the Southwest Florida Water Management 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 Southwest Florida Water Management District.

Section 8. Easement for Swale Maintenance. The Developer has constructed a Drainage Swale upon several lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such lot from time to time. Each lot owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on the lot(s). Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the Southwest Florida Water Management District. Filling, excavating, construction of fences or otherwise obstructing the surfaces water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized, and any damage to any Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the owner(s) of the lot(s) upon which the Drainage Swale is located.

Section 9. Establishment of Easements. All easements, as provided for in this Article, shall be established by one or more of the following methods, to wit:

- A. By a specific designation of an easement on any recorded Plat of the Property;
- B. By a reservation or specific statement providing for an easement in the deed of conveyance of a given Lot or Residential Unit;
- C. By a separate instrument referencing this Article VI, such instrument to be subsequently recorded by the Declarant; or
- D. By virtue of the reservation of rights set forth in this Article VI.

The Conservation Easement, if any, shall contain the following language;

1. Purpose. The purpose of the Conservation Easement is to ensure that the property will be retained forever in its existing natural condition, except for those activities specifically authorized by a Permit, and to prevent any use of the property that will impair or interfere with the environmental value of the Property.

2. Prohibited Uses. Any activity or use of the property inconsistent with the purpose of the Conservation Easement is prohibited. Without limiting the generality of the foregoing and except for activities specifically authorized by the Permit, the following activities and uses are prohibited on the Property:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

(b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;

(c) Removal or destruction of trees, shrubs, or other vegetation, or any portions thereof (including those activities exempted in subparagraph 369.20(8), Florida Statutes, within the Property as it existed prior to subdividing), except for non-indigenous vegetation, cattails (*Typha* spp.), primrose-willow (*Ludwigia peruviana*), and other species or individuals specifically identified by the District in writing as a nuisance within the Property;

(d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such a manner as to affect the surface (including those activities exempted in subparagraph 403.813(2)(r), Florida Statutes, within the Property as it existed prior to subdividing);

(e) Surface use, except for purposes that allow the land or water area to remain predominantly in its natural condition;

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; and

(g) Acts or uses detrimental to such retention of land or water areas.

3. Reserved Rights. Grantor reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the property, including the right to engage in or permit or invite others to engage in all uses of the property that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easement.

4. Rights of Grantees. To accomplish the purposes stated herein, Grantor conveys the following rights to Grantees :

(a) Grantees may enter upon and inspect the Property in a reasonable manner

and at reasonable times to determine if Grantor is complying with the covenants and prohibitions contained in this Conservation Easement. No right of access by the general public to any portion of the Property is created by this Conservation Easement.

(b) Grantees, either individually or collectively, may proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement.

Section 10. Extent of Easements. The rights and easements of enjoyment created in this Article VI shall be subject to the right of the Association to give, dedicate, mortgage or sell all or any part of the Common Area (including leasehold interests) to any public agency, authority or utility or private concern for such purposes and subject to such conditions as may be determined by the Association; provided that no such gift or sale or determination of such purposes or conditions (1) shall be effective unless the same shall be authorized by the affirmative vote of two thirds (2/3) of the votes cast by Members at a duly called meeting of the Members of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent at least thirty (30) days prior to such meeting to every Member of each class entitled hereunder to vote, nor (2) shall be inconsistent with the purposes and uses of the Common Area as may be shown on the Plat. A true copy of such resolution, together with a certificate of the results of the vote taken thereon, shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Area, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

Section 11. Maintenance. The Association will be responsible for maintenance of all common areas, with the exception of the right of way which exists between the sidewalk and street, in front of or to the side of, any Individual Lot Owner's lot. Each Individual Lot Owner shall maintain (including, but not limited to mowing, watering, fertilizing) the area above which is directly in front of or to the side of their lot. The Association will be responsible for maintenance of the stormwater drainage system including, but not limited to, all pipes and detention/retention areas.

ARTICLE VII

ARCHITECTURAL CONTROL

Section 1. Establishment of Architectural Review Committee. The Declarant, upon the recording of the Declaration shall immediately form a committee known as the "Architectural Review Committee" ("ARC").

Section 2. Duties and Functions of the ARC. The duties, powers and responsibilities of the ARC shall be as follows:

A. The ARC shall consist of three (3) or more persons approved by the Declarant. At such time as Declarant no longer owns any real property within the Properties (or earlier at the Declarant's option), the Declarant shall assign to the Association the rights, powers, duties and obligations of the ARC, whereupon the Board shall appoint the members of the ARC and shall provide for the terms of the members of the ARC. Members of the ARC need not be officers, directors or members of the Association.

B. Prior to obtaining building permits or commencing construction of any building, pool, landscaping or other structure upon the Property, the ARC shall have the right of specific approval or veto of all architectural, engineering, platting, planning and landscaping aspects of any improvement or development of individual units or buildings as well as the general plan for development of any individual lot or subdivision, tract or parcel of land within the Properties. All construction and development within the Properties is subject to local governmental control; provided, further, that the ARC may, in its sole discretion, impose standards of architectural and landscaping design, building setback lines or the general plan for development, which standards are greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes.

C. All plans for the construction of any improvements within the Properties shall contain a drainage plan which shall be consistent with the stormwater management drainage plan for WHISPERING PINES as set forth in the Master Plan.

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

E. The ARC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons. In approving or disapproving such plans and applications, the ARC shall consider the suitability of the proposed building, improvements, structure or landscaping and materials of which the same are to be built, the site upon which it is proposed to be erected, the harmony thereon with the surrounding area and the effect thereon on adjacent or neighboring property.

F. Unless specifically excepted by the ARC, the improvements for which approval of the ARC is required under this Declaration shall be completed within a reasonable time from the date of commencement of said improvements or within the time set by the ARC in the event that the approval is so conditioned.

G. The ARC shall in all cases have the right to determine and designate building set back lines necessary to conform to the general plan of WHISPERING PINES, in order to preserve the integrity of the Properties. In this respect the ARC's judgment and determination

shall be final and binding.

H. The ARC will make every effort to complete its review of the plans and specifications submitted in final and complete form, within fifteen (15) days, after written request for approval by the Owner or builder. The ARC may notify the applicant that it will need additional time to complete its review, in which case, the ARC may extend its time for review for an additional fifteen (15) day period.

I. There is specifically reserved unto the ARC the right of entry and inspection upon any Lot, for the purpose of determination by the ARC whether there exists any construction or any improvement which violates the terms of any approval by the ARC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and, in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to remove any unapproved improvements, the substantially prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold harmless the ARC from all costs, expenses and liabilities, including attorneys' fees, incurred by virtue of any member of the ARC's service as a member of the ARC.

J. A majority of the ARC may take any action of the committee and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ARC, the Declarant or its successors or assigns shall designate a successor.

K. The ARC may adopt such further rules and regulations as it deems necessary to carry out its functions and purposes hereunder, provided all such rules and regulations shall be filed with and made a part of the Association's minutes and provided to Owners.

L. In each instance where a structure has been erected, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration or any other covenants which the ARC has the power to enforce, or in such manner that the same encroaches on any easement area or setback line, the ARC reserves the right to release the property from the restriction which it violated and to grant an exception to permit the encroachment by the structure over the setback line, or in the easement area, so long as the ARC, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health, safety and appearance of the Properties.

M. The ARC has the right, but not the obligation to grant waivers for minor deviations and infractions of the covenants set forth herein. The granting of any waiver for any portion of the Properties may be given or withheld in the ARC's sole discretion and a prior grant of similar waiver shall not impose on the ARC the duty to grant new or additional requests of such waivers.

N. The Association, Declarant, ARC, or any officer, employee, director, agent, or member thereof shall not be liable for damages to any persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association, Declarant, the ARC or any officer, employee, director or member thereof to recover any such damages.

O. When deemed necessary by the ARC to ensure the proper future expansion of utilities services, a covenant document shall be filed with the Plat that indicates the following statement: "In the future, when wastewater collection system becomes available to service the subdivision, service improvements and connection shall be made by the homeowner's association or by the property owners". All deeds conveying Properties within the subdivision shall reference the covenant document.

ARTICLE VIII

GENERAL RESTRICTIONS

Section 1. General Restrictive Covenants. The general restrictive covenants contained in this Article shall apply uniformly to all Lots and Residential Units on the Property. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. The following are the initial Rules and Regulations of the Association which may be amended, modified or added to from time to time as provided herein.

Section 2. Manufactured/Pre-fabricated Homes. Manufactured and Pre-fabricated homes are prohibited.

Section 3. Residential Use Only. No Lot shall be used for any purpose except residential. The term "residential" is intended to prohibit any commercial use, including professional office use, on any portion of any Lot or Residential Unit. No building shall be erected, altered, placed or permitted to remain on any Lot other than Residential Units designated for residential use and private garages. Provided, however, that the foregoing shall not prohibit the Declarant or a builder authorized by Declarant from using the Residential Units as models or sales offices and provided, further that the ARC may permit limited use as a home office if such use is imperceptible from the outside of the structure and no vehicular traffic of any sort is created by the use of said home office. Such permission for a home office shall not be construed as an opinion as to the permissibility under County law.

Section 4. No Temporary Structure. No structure of a temporary nature or character, including, but not limited to, a tractor trailer, utility trailers, house trailer, mobile home, camper, tent, shack, boat, barn, or other similar structure or vehicle, shall be used or permitted to remain on any Lot as a storage facility or residence or other living quarters, whether temporary or permanent, unless approved by the ARC for use during construction only; provided, however, that this

prohibition shall not apply to shelters used by the contractor or Declarant during the construction and/or sales of any Residential Units. Except that ARC may, in its sole discretion, approve one shed per lot which is not larger than 6' x 8' and does not exceed eight (8) feet in height on the condition that the shed is located in a backyard which is enclosed with a privacy fence. However, any shed in excess of six (6) feet in height must have a shingle roof identical to the shingle roof on the residence and be of a color identical to the residence.

Section 5. Parking and Storage Restrictions. No house trailers, mobile home, semi-trucks or large commercial vehicles shall be parked or otherwise permitted to remain on any Lot for any period in excess of forty-eight (48) hours in any one (1) week period. Parking is permitted in the driveway and on the street so long as traffic may still pass safely.

Section 6. Livestock and Animal Restrictions. No livestock, poultry or animals of any kind or size shall be raised, bred or kept on any Lot in any Residential Unit, provided, however, that dogs, cats, or other common domesticated household pets may be raised and kept provided such pets are not kept, bred or maintained for any commercial purposes. Domesticated household pets are limited to three (3) pets per Lot. Such permitted pets shall be kept on Owner's Lot and shall not be allowed off the premises of Owner's Lot except on a leash. Pet owners are responsible for cleaning up after their pets when pets defecate. Failure to clean up after a pet may subject Owner to penalties as outlined in Article VIII, Section 21. The Association shall have the right to revoke the Owner's right to have a pet on the Property in the event of repeated violations of this provision. No permitted pet shall be allowed to make noise in such manner or such volume as to annoy or disturb other Owners.

Section 7. Restriction on Activity. No illegal, obnoxious or offensive activity shall be conducted or permitted to exist upon any Lot, or in any Residential Unit, nor shall anything be done or permitted to exist on any Lot or in any Residential Unit that may be or may become an annoyance or private or public nuisance. No Lot, driveway or Common Area shall be used for the purpose of vehicle repair or maintenance. In the event of any questions as to what may be or become a nuisance, such questions shall be submitted to the Association for a decision in writing and its decisions shall be final.

Section 8. Restriction on Walls, Fences, Columns. No wall, fence, or columns, shall be erected on any Lot, except as approved by the ARC. ARC will not approve any fence or wall in excess of six (6) feet in height for placement in the rear or side yard. For fences or walls five (5) feet or six (6) feet above grade in height, no more than 50 percent shall be opaque. ARC will not approve any fence in excess of three (3) feet in height or any greater than 75 percent opaque for placement in the front yard. Only vinyl or painted wood shadow box fences will be approved by ARC, if ARC, in its sole discretion, approves a fence. All fences and walls must be of the same architectural style and color as the Residential Unit.

Section 9. Garage and Garage Doors. In order to maintain a harmonious and aesthetic appearance, the garage doors affixed to each Residential Unit shall remain closed except when in actual use to allow ingress and egress. Additionally, garage doors may be open during periods

when the garage is being utilized because of yard work or related usage. At all other times, garage doors are required to be closed. No garage doors made of fiberglass construction shall be permitted. All garages must remain limited to automobile storage or boat storage and may not be converted to or be used at any time as additional residential or office space, unless approved by ARC.

Section 10. Drainage. No Owner of a Lot shall in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots or obstruct or divert drainage flow from the drainage easement described in Article VI, Section 5 herein; provided, however, each Owner will make adequate provisions for proper drainage over his Lot. For the purposes hereof, "established drainage" is defined as the drainage which occurred at the time the finish grading of the Lot was completed by Declarant. Each Lot Owner shall permit free access by Owners of adjacent or adjoining Lots to slopes or drainageways located on his Lot which such access is necessary by the maintenance or permanent stabilization on the slopes or of the drainage facilities to protect property other than the Lot on which the slope or drainageway is located.

Section 11. Signs. No commercial signs, or other signs shall be erected or maintained on any Lot or any Residential Unit except as follows:

A. All signs for real estate sales, resales, construction, etc. shall not exceed 24 by 36 inches and shall be paid for by the user.

B. With the exception of special one-time sign usage such as birthday, anniversary, etc. which may be displayed for no longer than seventy two (72) hours, any other sign that users desire to display must be approved in advance by the ARC.

C. If permission is granted for any other signage, other than the approved signs for WHISPERING PINES, the Association shall have the right to restrict size, color or content of said signs.

D. These restrictions shall not restrict the Declarant or its agents from erecting such signs as the Declarant in its sole discretion deems to be necessary to assist the Declarant or builder authorized by the Declarant in selling any Lot or designated unit.

Section 12. Aerial Restrictions. No tower or transmitting or receiving aerial, or any aeriels or antennas whatsoever, shall be placed or maintained upon any Lot or any building or structure thereon. The installation of a satellite receiving dish in excess of eighteen (18) inches across is not permitted without approval of the ARC.

Section 13. Swimming Pools, Spas and Screen Enclosures. Installation of any pool or spa and any screened enclosures shall require prior written approval of the ARC.

Section 14. Trash and Garbage. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on the Properties except building materials during the

course of construction of any approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made at such place as will be accessible to people making such pick-up. At all other times, such containers shall be stored so that they cannot be seen from surrounding property. The ARC, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same.

Section 15. Minimum Sizes of Residences. No residential Units shall be constructed on any Lot that does not contain a minimum of One Thousand Four Hundred (1,400) Square Feet. Space counted toward minimum square footage shall be defined as air conditioned space only. No more than one (1) single family residence may be constructed on any Lot.

Section 16. Exterior Materials. All exposed concrete block must be stuccoed or finished with an approved covering.

Section 17. Lot and Sod Maintenance. Prior to occupancy, the Lot upon which the Residential Unit is located must be sodded from the edge of the road to a minimum of fifteen (15) feet from the rear of the residence constructed on the Lot.

Section 18. Game and Play Structures. No basketball backboards, or any other movable or temporary or fixed game and play structures, treehouses or platforms of a like kind or nature shall be constructed on any part of the Lot or public or private property or common property unless approved by the ARC.

Section 19. Clothes Lines. No clothes line shall be erected on any part of the Lot. There shall be no laundry hanging outside the residence at any time.

Section 20. Further Restrictions. These restrictions are intended to be minimum restrictions, applying to the Properties, as supplemented from time to time. The Declarant or the Association will have the right to subject property to further restrictions and covenants by way of an amendment to the Declaration. Provided, however, that the ARC must approve such restrictions prior to recording, and such restrictions will be deemed of no force and effect and unenforceable, unless a recordable instrument is executed by the Chairman of said Committee indicating the required approval.

Section 21. Non-Waiver. No delay in enforcing these covenants and restrictions as to any breach or violation thereof shall impair, damage, or waive the right of the Association to enforce the same, to obtain relief against or recovery for continuation or repetition of such breach or violation or of any similar breach or violation thereof at a later time or times.

Section 22. Enforcement. Failure of the Owner to comply with any restrictions, covenants, or rules and regulations provided herein or promulgated under authorized established rules and regulations pursuant hereto shall be grounds for action which may include, without

limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, including costs and attorneys' fees incurred in bringing such actions and, if necessary, costs and attorneys' fees for appellate review. The Association shall have the right to suspend voting rights and use of Common Area for any Owner violating the covenants and restrictions provided herein or promulgated pursuant hereto for a period of time which is the longer of sixty (60) days or the term of continued violation. The Association and any Owner shall have the right to enforce the provisions of this Declaration. In addition, the Southwest Florida 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, operation and repair of the Surface Water or Storm Water Management System.

Section 23. Fines. In addition to all other remedies, in the sole discretion of the fining committee, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, tenants, or employees to comply with any covenant, restriction, rule or regulation contained herein or promulgated pursuant to this Declaration, providing the following procedures are adhered to. The fining committee shall be at least three (3) members of the Association appointed by the Board, and may not be officers, directors or employees of the Association or a spouse, parent, child, brother or sister of an officer, director or employee.

A. **Notice:** The Association shall notify the Owner of the infraction or infractions. Included in the Notice shall be the date and time of the next Board meeting at which time the Owner shall present reasons why a penalty or penalties should not be imposed.

B. **Hearing:** The noncompliance shall be presented to the fining committee after which time the fining committee shall hear reasons why a penalty or penalties should not be imposed. A written decision of the fining committee shall be submitted to the Owner by not later than twenty-one (21) days after the Board's meeting.

C. **Penalties:** The fining committee may impose special assessments against the Residential Unit or Lot owned by the Owner as follows:

1. First noncompliance or violation: a fine not in excess of One Hundred and No/100 Dollars (\$100.00).
2. Second noncompliance or violation: a fine not in excess of Five Hundred and No/100 Dollars (\$500.00).
3. Third subsequent noncompliance or violation or violations that are of continuing nature: a fine not in excess of One Thousand and No/100 Dollars (\$1,000.00) for each week of continued violation or noncompliance.

D. **Payment of Penalties:** Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of penalties.

E. Collection of Penalties: Fines not paid within thirty (30) days after notice of the imposition or assessment of the penalties shall become subject to collection by the Association.

F. Application of Penalties: Fines shall be treated as assessment otherwise due to the Association, and as such will be a lien against the Owner's Lot.

G. Non-Exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner.

ARTICLE IX **INSURANCE**

Section 1. Risk of Loss. The Association shall keep (i) buildings in the Common Area insured against loss by fire and the risks covered by a Standard All Risk of Loss Perils Insurance Policy under an extended coverage casualty policy in the amount of the maximum insurable replacement value thereof, and (ii) all personal property owned by the Association insured with coverage in the maximum insurable fair market value of such personal property as determined annually by an insurance carrier selected by the Association. The Association shall be the owner and beneficiary of the insurance policy which shall insure risk of loss of the Association and its Members or Owners. In the event of any loss, damage or destruction in the Common Area, the Association shall cause the improvements or property so lost, damage, or destroyed to be replaced, repaired or rebuilt as the case may be. In the event the cost of such replacement, repairs or rebuilding of improvements on the Common Area (i) exceeds the insurance proceeds available therefore, or (ii) no insurance proceeds are available therefore, the deficiency or full cost thereof, as the case may be shall be assessed to the Owners.

Section 2. Public Liability. The Association shall procure and keep in force public liability insurance in the name of the Association and the Owners against any liability for personal injury or property damage resulting from any occurrence in or about the Common Area, in an amount not less than One Million Dollars (\$1,000,000.00) for damage to property in one (1) accident or event.

Section 3. Officer and Director Liability. The Association shall have the power, but not the duty, to procure and keep in force officer and director liability insurance for the protection of the members of the Board of Directors and officers of the Association.

Section 4. Proof of Insurance. Copies of all such insurance policies (or certificates thereof showing the premium thereon to have been paid) shall be retained by the Association and open for inspection by Owners at any reasonable time. All such insurance policies shall (i) provide that they shall not be cancelled by the insurer without first giving at least thirty (30) days prior

notice in writing to the Association, (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board of Directors and Owners, and (iii) contain standard mortgagee clauses.

ARTICLE X **TURNOVER**

Section 1. Time of Turnover. The Turnover of the Association by the Declarant shall occur at the time specified in Article III, Section 2 hereof.

Section 2. Procedure of Calling Turnover Meeting. No more than sixty (60) days and no less than thirty (30) days prior to the turnover meeting, the Association shall notify in writing all Members of the date of the turnover meeting and its purpose, which is the election of a new Board of Directors of the Association.

Section 3. Procedure for Meeting. The procedure for the election and turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order.

Section 4. Declarant's Rights. For as long as the Declarant shall own any of the Properties, it shall have the right to appoint one (1) member of the Board.

ARTICLE XI **GENERAL PROVISIONS**

Section 1. Severability. Invalidation of any one of the covenants or restrictions of this Declaration by judgment or court order shall in no way affect the full force and effect of any other provision of this Declaration.

Section 2. Amendment. 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. This Declaration may be amended during the first twenty (20) year period by a seventy-five percent (75%) vote of the Members, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any such amendment must be recorded in the Public Records of Polk County, Florida. Any amendment to this Declaration which alters the Surface Water or Storm Water Management System, beyond the maintenance in its original condition, including the water management portions of the Common Areas, must have the prior approval of the Southwest Florida Water Management District.

Section 3. Right of Association to Merge. The Association shall have the right to merge with any other homeowner's association. This right shall be exercised by recordation of an amendment to this Declaration among the Public Records of Polk County, Florida, which amendment shall further have attached to it a resolution of this Association and the homeowner's association with which a merger is to take place, and such resolution shall be certified by the

corporate secretary thereof and shall state:

A. That a meeting of the homeowner's association and the Association was held in accordance with their respective Bylaws; and

B. That a two-thirds (2/3) vote of all classes of members of the homeowner's association and Association approved the merger.

The foregoing certificates, when attached to the Amendment, shall be deemed sufficient to establish that the appropriate procedure was followed in connection with the merger.

Section 4. Enforcement. Notwithstanding anything herein to the contrary, the Declaration, the Association, the ARC, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restriction, conditions, covenants, reservations, liens, and charges now or hereafter existing. Any such party who or which brings and substantially prevails, in an action under this Section against a party found to be in violation of any of the restrictions, conditions, covenants, reservations, liens and charges imposed by this Declaration (hereinafter referred to as the "Party Seeking Enforcement") shall be entitled to and shall recover an award of attorneys' fees and costs incurred in connection with such action both at the trial and appellate court levels. Said award of attorneys' fees and costs shall reimburse the Party Seeking Enforcement for the attorneys' fees and costs actually incurred by the Party Seeking Enforcement in the prosecution of an action brought under this Section. Such an award of attorneys' fees and costs, plus any interest due pursuant to said award, shall be a charge on the land and shall be a continuing lien upon the Lot(s) and Residential Unit(s) of the conditions, covenants, reservations, liens and charges imposed by this Declaration, until such award is paid in full to the Party Seeking Enforcement. Failure by any of the aforesaid to enforce any restriction, condition, covenant, reservation, lien or charge herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. 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, postpaid, to the last known address of the person who appears as a Member or Owner on the records of the Developer or public records, or after the Turnover Date, on the records of the Association.

Section 6. Headings. The headings contained in this Declaration are for convenience only and shall have no significance in the interpretation of the body of this Declaration and shall be disregarded in construing the provisions of this Declaration.

Section 7. Declarant's Right to Assign. The Declarant reserves the right to assign the rights, powers, duties and obligations of the Declarant under this Declaration. Each assignee shall accept such assignment in writing and shall, from and after the date of such assignment, have the same rights and power of the Declarant under this Declaration and thereupon shall be liable for the performance of all of the duties and obligations of the Declarant under this Declaration. From and after such assignment, the Declarant shall be released from all duties, obligations and liabilities imposed upon or assumed by it under this Declaration.

Section 8. Gender. The use herein of the singular number includes the plural number and the use herein of any gender includes all genders. The use herein of the word "person" and "persons" include individuals, firms, associations, joint ventures, partnership, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

Section 9. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Florida.

Section 10. Joint Venture/Partnership. Nothing herein shall be deemed to create or constitute a partnership or joint venture between the Association and the Declarant or between the Association and the Owner or Owners of a Lot or between the Declarant and the Owner or Owners of a Lot.

ARTICLE XII

MORTGAGEE PROTECTION

The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) The Association shall be required to make available to all Owners and Mortgagees, and to insurers and guarantors of any first Mortgage, for inspection, upon request, during normal business hours or under reasonable circumstances, current copies of this Declaration (with all amendments) and the Articles, By-Laws and rules and regulations and the books and records of the Association. Furthermore, such persons shall be entitled, upon written request, to (i) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (ii) receive notices of and attend the Association meetings, (iii) receive notice from the Association of an alleged default by an Owner in the performance of obligations under this Declaration, the Articles of Incorporation or the By-Laws, which default is not cured within thirty (30) days after the Association learns of such default, and (iv) receive notice of any substantial damages or loss to the Common Areas.

(b) Any holder, insurer or guarantor of a Mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Common Areas, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (iv) any proposed action which requires the consent of a specified number of Mortgage holders.

(c) Unless at least 2/3 of first Mortgagees (based upon one vote for each Mortgage owned), and the Members holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the Association nor the Owners shall:

(1) By act or omission seek to sell or transfer the Common Areas and any improvements thereon which are owned by the Association (the granting of easements for

utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Areas to another similar association of the Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause);

(2) change the basic methods of determining the obligations, assessments, dues or other charges which may be levied against a Lot, except as provided herein with respect to future Lots;

(3) by act or omission, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Properties;

(4) fail to maintain fire and extended insurance on insurable portions of the Common Areas as provided herein; or

(5) use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of the improvements.

IN WITNESS WHEREOF, the parties hereto, as the Declarant hereof, has caused this instrument to be executed on the day and year first above written.

"DECLARANT"

Signed, sealed and delivered in the presence of:

INVESTMENT GROUP OF FLORIDA POLK DEVELOPMENT, LLC.

Anita R. Geraci
Printed Name: ANITA R. GERACI

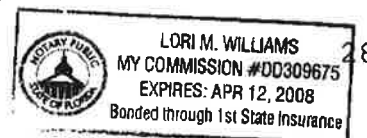
By: Carl Cerilli
Carl Cerilli, Managing Member

Lori M. Williams
Printed Name: LORI M. WILLIAMS

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 28th day of July, 2006, by CARL CERILLI, as Managing Member of Investment Group of Florida Polk Development, LLC, who is ✓ personally known to me.

Lori M. Williams
Notary Public



5650 v3

A PORTION OF SECTION 35, TOWNSHIP 27 SOUTH, RANGE 25 EAST CITY OF AUBURNDALE, POLK COUNTY, FLORIDA



Beginning at an iron pin in the 1/2 section line running North and South in Section 35, Township 27 South, Range 25 East in said county in the center of a sand road corner to C. Everett Edmiston's Land distances North from the Township line 442 feet, thence West with said C. Everett Edmiston's line between 18th and 19th rows of orange trees counting North from township line to a point in the 1/4 section line and the center of said sand road 727 feet more or less to a corner to lands of Robert C. Edmiston and being the center between the 15th and 18th rows of orange trees counting South from the clay road thence with said Robert C. Edmiston's line East to a point in the 1/2 section line and corner to said Robert's land, thence South 727 feet more or less to the place of beginning

AND

That part of the West 1/2 of the West 1/2 of the NE 1/4 of the SW 1/4 of Section 35, Township 27 South, Range 25 East, Polk County, Florida, lying South of the centerline of Bolander Road, LESS road right-of-way.

AND

That part of the East 1/2 of the West 1/2 of the NE 1/4 of the SW 1/4 of Section 35, Township 27 South, Range 25 East, Polk County, Florida, lying South of Bolander Road, LESS road right-of-way.

AND


That part of the West 1/2 of the East 1/2 of the NE 1/4 of the SW 1/4 of Section 35, Township 27 South, Range 25 East, Polk County, Florida, lying South of the centerline of Bolander Road, LESS road right-of-way.

AND

That part of the East 1/2 of the East 1/2 of the NE 1/4 of the SW 1/4 of Section 35, Township 27 South, Range 25 East, Polk County, Florida, lying South of the centerline of Bolander Road, LESS the road right-of-way.

AND

Begin at a point in the Section line running North and South in said Section 35, corner to lands of Mattie B. Edmiston and a distance South 385 feet from the center of the clay road, thence West with the line of lands of said Mattie B. Edmiston and down a center line between the 15th and 16th rows of orange trees counting South from said clay road, to the 1/4 Section line in the center of a sand road, thence North 385 feet to the center of a clay road, thence East, and with the center of said clay road to the 1/2 Section line, thence with said line South 385 feet to the Point of Beginning.

Prepared by and Return to:
Anita R. Geraci, Esq. 
GrayRobinson, P.A.
1635 E. Hwy 50, Suite 300
Clermont, Florida 34711

FIRST AMENDMENT TO
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
WHISPERING PINES

THIS FIRST AMENDMENT is made and entered into on this 8 day of November, 2006, by Declarant, INVESTMENT GROUP OF FLORIDA POLK DEVELOPMENT, LLC, a Florida limited liability company (hereinafter "Declarant").

WITNESSETH:

WHEREAS, on August 9, 2006, Declarant recorded the Declaration of Easements, Covenants, Conditions and Restrictions for Whispering Pines, in Official Records Book 6912, Pages 1339 - 1367, Public Records of Polk County, Florida, (the "Declaration").

WHEREAS, the Declaration provides that restrictions are intended to be minimum restrictions as supplemented from time to time and that the Declarant has the right to subject property to further restrictions and covenants by way of an amendment to the Declaration.

WHEREAS, the Declaration may be amended during the first twenty (20) year period by not less than seventy-five (75%) percent vote of the Members, and Declarant holds an interest greater than seventy-five (75%) percent.

NOW THEREFORE, Declarant desires to amend the Declaration as follows:

1. ARTICLE I, (s) is hereby deleted and the following is inserted in its place:

(s) "Surface Water or Storm Water Management System" shall mean and refer to a system which is designed and constructed and implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40D-4, 40D-40, and 40D-400, F.A.C.

2. ARTICLE IV, Section 1, A. is hereby deleted and the following is inserted in its place:

A. Open Space, Surface Water Management Systems, Master Storm Water Management System, conservation areas, water wells, Common Property, landscaping, walls, irrigation systems, entrance way landscape berm, and other lands covered by the Master Plan and all city, county, district or municipal properties and rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Properties where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to the Properties. The Association shall adopt standards of maintenance and operation as required to effectuate the purposes of the Declaration and to operate a first-rate residential community. With respect to the maintenance of the surface water or storm water systems, maintenance shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities in compliance with the Polk County Land Development Regulations as permitted by the Southwest Florida Water Management District. The Association shall also be responsible for such maintenance and operation in accordance with the permit and Chapters 40D-400 and 40D-40, F.A.C. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system. Any repair or recondition shall be as permitted, or if modified, as approved by the District.

3. ARTICLE IV, Section 4. is created to read:

Section 4. Termination, Dissolution or Final Liquidation of Association. In the event of termination, dissolution or final liquidation of the Association, the Owners shall be jointly and severally responsible for the operation and maintenance of the surface water or stormwater management system in accordance with the requirements of the Environmental Resource Permit, unless and until such responsibility and control or right of access to the property containing the surface water management system facilities are transferred to and accepted by an entity that would comply with Section 40D-4, F.A.C. and be approved by the Southwest Florida Water Management District.

4. ARTICLE IV, Section M. is created to read:

M. The Association is required to allocate sufficient funds in the budget for monitoring and maintaining any wetland mitigation area(s) each year until the Southwest Florida Water Management District determines that the area(s) is successful in accordance with the Environmental Resource Permit.

5. ARTICLE VI, Section 7 is hereby deleted and the following is inserted in its place:

Section 7. Access and Drainage Easement. The surface water management system is located on land that is designated common property on the plat, is located on land that is owned by the association or on land that is subject to an easement in favor of the Association and its successors. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable matter, to

operate, maintain, or repair the surface water or stormwater management system as required by the Southwest Florida Water Management 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 Southwest Florida Water Management District.

6. ARTICLE VI, Section 8 is hereby created to read:

Section 8. Prohibited Activities Relative to Surface Water Management System. No construction activities may be conducted relative to any portion of the surface water management system. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the surface water management system facilities. No vegetation shall be removed, cut, trimmed or sprayed with herbicide in any wetland mitigation area and wet detention pond, if any, without specific written approval from Southwest Florida Water Management District. Construction and maintenance activities consistent with the design and permit conditions approved by Southwest Florida Water Management District in the Environmental Resource Permit may be conducted without specific written approval from Southwest Florida Water Management District.

Except to the extent modified herein, all other terms and conditions of the Declaration shall remain in full force and effect and unchanged.

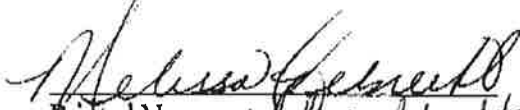
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the day and year first above written.

Signed, sealed and delivered
in the presence of:

"DECLARANT"
INVESTMENT GROUP OF
FLORIDA POLK
DEVELOPMENT, LLC,
Florida limited liability company,



Printed Name: FRED PLUMMER


Carl Cerilli, President


Printed Name: Melissa Albrecht

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 8th day of NOVEMBER, 2006, by Carl Cerilli as President of Investment Group of Florida Polk Development, LLC, a Florida limited liability company, who is personally known to me.

NOTARY PUBLIC-STATE OF FLORIDA
 Roberta Bylone
Commission # DDS70539
Expires: AUG. 16, 2010
BONDED THRU ATLANTIC BONDING CO., INC.

Roberta Bylone
Notary Public
My Commission Expires:

PREPARED BY AND RETURN TO:

RE
Anita R. Geraci, Esquire
Law Office of Anita R. Geraci, P.A.
1560 Bloxam Avenue
Clermont, FL 34711

SECOND AMENDMENT TO
DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
WHISPERING PINES

THIS SECOND AMENDMENT is made and entered into on this 17 day of August, 2007, by Declarant, INVESTMENT GROUP OF FLORIDA POLK DEVELOPMENT, LLC, a Florida limited liability corporation (hereinafter "Declarant").

WITNESSETH:

WHEREAS, on August 9, 2006, Declarant recorded the Declaration of Easements, Covenants, Conditions and Restrictions for Whispering Pines, in Official Records Book 6912, Pages 1339-1367, Public Records of Polk County, Florida (the "Declaration").

WHEREAS, on November 15, 2006, the Declarant recorded a First Amendment to Declaration of Easements, Covenants, Conditions, and Restrictions for Whispering Pines, in Official Records Book 7056 Pages 2045 - 2048, Public Records of Polk County, Florida ("First Amendment").

WHEREAS, the Declaration provides that the restrictions are intended to be minimum restrictions as supplemented from time to time and that the Declarant has the right to subject the property to further restrictions and covenants by way of an amendment to the Declaration.

WHEREAS, it was Declarant's original intent pursuant to the contract with Maronda Homes Inc. of Florida, a Florida corporation, ("Maronda") to exempt Maronda from any requirements to pay initial, annual and special assessments on any Lot purchased by Maronda from Declarant during Maronda's ownership of said Lot; however this provision was not included in the original Declaration.

WHEREAS, Declarant desires to amend the Declaration to provide for this exemption, and for the exemption to apply since the date the Declaration was recorded in the public records of Polk County, Florida.

WHEREAS, the Declaration may be amended during the first twenty (20) year period by not less than seventy-five (75%) percent vote of the Members. Together Declarant and Maronda Homes, Inc. of Florida hold an interest greater than seventy-five (75%) percent.

WHEREAS, Maronda Homes, Inc. of Florida by its signature below consents to this Amendment.

NOW THEREFORE, the Declarant desires to amend the Declaration as follows:

1. Article V, Section 2. Creation of the Lien and Personal Obligation of Assessments is hereby deleted in its entirety and the following is inserted in its place:

Section 2. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed or other conveyance, hereby covenants and agrees to pay to the Association: (1) initial assessments; (2) annual assessments or charges; and (3) special assessments for capital improvements and other expenditures that the Association deems appropriate, including special assessments for violations of damages as provided in this Declaration, the Articles and Bylaws; such assessments to be fixed, established and collected from time to time as hereafter provided. Until the Turnover date, the Developer shall have the obligation to fund the operating deficit of the Association. Late fees, the annual and special assessments, together with interest thereon (as hereinafter provided) and costs of collection thereof, including without limitation, reasonable attorneys' and paralegal fees incurred by the Association incident to the collection of such assessment whether or not judicial proceedings are involved and appeals, if any shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The lien shall be effective from and after the time of recording a claim of lien, pursuant to Florida law, in the Public Records of Polk County, Florida and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien. Each such assessment, together with interest thereon and cost of collection, including without limitation, reasonable attorneys' and paralegal fees incurred by the Association incident to the collection of such assessment whether or not judicial proceedings are involved, and appeals, if any, shall also be the personal obligation of the person who is the owner of such Lot at the time the assessment is due and payable. Notwithstanding anything to the contrary herein, Maronda Homes, Inc. of Florida, a Florida corporation, as the initial purchaser of the Lots from Declarant is exempt from paying initial, annual and special assessments on any Lot purchased from Declarant during Maronda Homes, Inc. of Florida's ownership of said Lot, and said exemption shall apply retroactive to August 9, 2006 (the date the Declarations were recorded).

Except to the extent modified herein, all other terms and conditions of the Declaration and First Amendment remain in full force and effect and unchanged.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the day and year first above written.

Signed, sealed and delivered
in the presence of:

"DECLARANT"
INVESTMENT GROUP OF
FLORIDA POLK
DEVELOPMENT, LLC, a Florida
limited liability corporation,

Donna L. Divine
Printed Name: Donna L. Divine

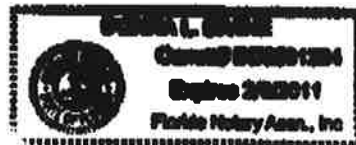
By: Carl Cerilli
Its Manager, Carl Cerilli

Susan A. Clauss
Printed Name: Susan A. Clauss

STATE OF FLORIDA
COUNTY OF LAKE

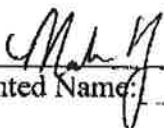
The foregoing instrument was acknowledged before me this 17 day of August, 2007, by Carl Cerilli, as Manager of Investment Group of Florida Polk Development, LLC who is personally known to me or who produced _____ as identification.

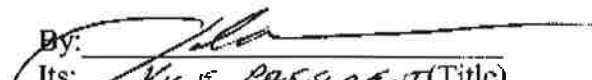
Donna L. Divine
Notary Public
My Commission Expires: 2/9/2011



Signed, scaled and delivered
in the presence of:

MARONDA HOMES, INC. OF FLORIDA,
a Florida corporation,


Printed Name: MARK KING

By: 
Its: VICE PRESIDENT (Title)
Print Name: JOHN MILLS


Printed Name: Camille Ralat Stratton

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 15th day of
August, 2007, by John Mills, as VP of Maronda Homes,
Inc. of Florida who is personally known to me or who produced
_____ as identification.



Lorraine K. Eatman
Commission # 00256277
Expires October 7, 2007

Bonded Troy Fahn-Insurance, Inc. 800-365-7019


Notary Public
My Commission Expires: 10-07-07