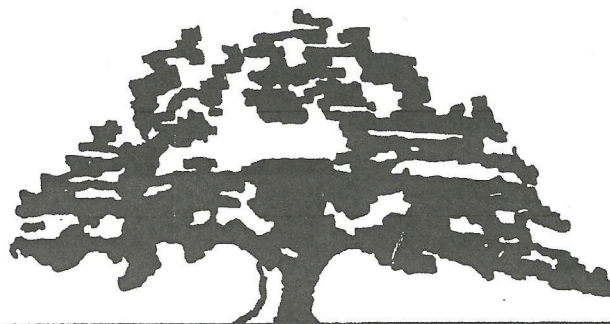


# OAK CREEK

DOCUMENT BOOK



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LENNAR'S  
VICTORIA PARC

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LENNAR HOMES, INC.  
700 N. W. 107 Avenue  
Miami, Florida 33172

OAK CREEK AT KENDALL

INDEX OF DOCUMENTS

EXHIBIT	DOCUMENT
1	Declaration for Oak Creek at Kendall
2	Articles of Incorporation for Oak Creek at Kendall Homeowners Association, Inc.
3	By-Laws for Oak Creek at Kendall Homeowners Association, Inc.
4	Partial Assignment of Water and Sewage Disposal Services
5	Proposed Budget for Oak Creek at Kendall Homeowners Association, Inc.

DECLARATION

93R153829 1993 MAR 26 16:28

THIS DECLARATION, made on the date hereinafter set forth by Michael Latterner, as Trustee under Trust Agreement dated January 15, 1988, known as The Latterner Land Trust, hereinafter referred to as "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain property more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as "the Project"); and

WHEREAS, Developer has established a land use plan for the Project and desires to provide for the preservation of the values and amenities hereby established and as may be established for the Project hereafter committed to a land use plan, and to this end does hereby subject the Project to use covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities established as aforesaid to create a corporation known as OAK CREEK AT KENDALL HOMEOWNERS ASSOCIATION, INC. to which there has been and will be delegated and assigned certain powers and duties of ownership, operation, administration, maintenance and repair, the enforcement of the covenants, restrictions, and easements contained herein and the collection and disbursement of the assessments and charges hereinafter provided.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, Developer hereby declares that the Project shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Oak Creek at Kendall Homeowners Association, Inc., a Florida corporation not-for-profit, its successors and assigns. Attached hereto and made a part hereof by this reference as Exhibits "B" and "C" is a copy of the Articles of Incorporation and By-Laws, respectively, for the Association.

Section 2. "Board" shall mean and refer to the Board of Directors of the Association.



Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Undeveloped Lot or Home, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "The Project" shall mean and refer to that certain real property legally described in Exhibit "A" attached hereto and made a part hereof, and such additional lands that may be subjected to this Declaration by annexation.

Section 5. "Common Open Space" shall mean all real property owned, or to be owned by the Association for the common use and enjoyment of the Owners.

Section 6. "Private Drives" shall mean and refer to that portion of the Common Open Space owned, or to be owned by the Association and used for pedestrian and vehicular access. Only those Homes where the front of the Lot faces a Private Drive will be assessed for the maintenance of said Private Drives.

Section 7. "Parking Spaces" shall mean and refer to that portion of the Common Open Space owned, or to be owned, by the Association and used for the parking of vehicles.

Section 8. "Lot" shall mean and refer to those Lots shown upon the recorded subdivision Plat or Plats of the Project on which is or shall be built Homes.

Section 9. "Undeveloped Lot" shall mean and refer to those Lots on which a Home has not yet been built.

Section 10. "Home" shall mean a completely constructed detached single family home which is designated and intended for use and occupancy as a residence and which is subject to assessments under this Declaration or any Supplemental Declaration made by the Developer. Said term includes any interest in land, improvements and other property appurtenant to the Home.

Section 11. "Model Home" shall mean a fully constructed Home that, prior to its sale by Developer, will be used by Developer to show prospective purchasers a model of the Home they are purchasing.

Section 12. "Developer" shall mean and refer to Michael Latterner, as Trustee under Trust Agreement dated January 15, 1988, known as The Latterner Land Trust, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Condominium. In the event of such a



partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of the Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

Section 13. "Institutional Mortgagee" shall mean a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, or any other lender generally recognized as an institutional type lender, or the Developer, holding a first mortgage on a Home or Homes.

Section 14. "Common Expenses" means all expenses of any kind or nature whatsoever incurred by the Association, including, but not limited to, the following:

(a) Expenses incurred in connection with the ownership, maintenance, repair, improvement or operation of the Common Open Space, or any other property to be maintained by the Association as provided in this Declaration, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements and alterations.

(b) Expenses of obtaining, repairing or replacing personal property in connection with any Common Open Space or the performance of the Association's duties.

(c) Expenses incurred in connection with the administration and management of the Association.

(d) Common water, sewer, trash removal, and other common utility, governmental, or similar services for the Home which are not separately metered or charged to the Owners, or which the Association determines to pay in common in the best interests of the Owners.

(e) Expenses declared to be Common Expenses by the provisions of this Declaration, or by the Articles or By-Laws.

Section 16. "Zero Lot Line Wall" shall mean the exterior wall of a Home which is constructed upon the side Lot boundary line of the Lot upon which the Home is constructed.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Open Space

which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

A. All provisions of this Declaration, the Plat or Plats of the Project, and the Articles of Incorporation and By-Laws of the Association;

B. Rules and regulations adopted by the Association governing the use and enjoyment of the Common Open Space;

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility which may be situated upon the Common Open Spaces;

D. The right of the Association to suspend the voting rights of any Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations;

E. The right of the Association to dedicate, sell or transfer all or any part of the Common Open Space to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed upon in an instrument signed by two-thirds (2/3) of each class of members of the Association and said instrument has been recorded. In addition, so long as there is a Class B membership, such dedication, sale or transfer shall require the approval of HUD/VA;

F. The right of the Association to borrow money, and with the consent of two-thirds (2/3) of each class of members, and so long as there is a Class B membership, the approval of HUD/VA, to mortgage, pledge, deed in trust, or hypothecate all of its real and personal property as security for money borrowed or debts incurred.

G. The right of the Association to make additions, alterations or improvements to the Common Open Space, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however, that the approval of two-thirds (2/3) of the votes of the Owners shall be required for any addition, alteration, or improvement or any purchase of personal property, exceeding a sum equal to one (1) month's total Assessments for Common Expenses payable by all of the Members, or if the cost of the foregoing shall in any fiscal year exceed in the the aggregate a sum equal to two (2) months' Assessments for Common Expenses payable by all of the Owners. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing Common Open Space, or

any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the Common Open Space, or the purchase of any personal property, shall be a Common Expense. In addition, so long as Developer owns any portion of the Project, Developer shall have the right to made any additions, alterations or improvements to the Common Open Space as may be desired by Developer in its sole discretion from time to time, at Developer's expense.

Section 2. Zero Lot Line Maintenance and Easements:

A. Maintenance of a Zero Lot Line Wall shall be the obligation of the Owner of the Zero Lot Line Wall. The Owner shall have an easement over the adjoining Lot, as set forth in Paragraph B herein, in order to maintain said Zero Lot Line Wall and for ingress and egress to the Zero Lot Line Wall. In no event shall any Owner cut a window or any opening in the Zero Lot Line Wall. Nor shall any Owner make any structural changes in the Zero Lot Line Wall, including, but not limited to, change of paint color, without the express written approval of the Association. In the event the Board of Directors of the Association shall determine that the Zero Lot Line Wall has been damaged by the adjacent Lot Owner, that Owner shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the Board. In the event such repair is not so accomplished by said adjacent Owner, within thirty (30) days, unless extended by the Board of Directors, the Association shall have the right at reasonable times to enter the adjacent Lot to effect such repair, and the cost thereof shall be charged to the adjacent Lot Owner, and if not paid in a timely manner, shall become a lien on such adjacent Lot.

B. Developer hereby grants to each Owner of a Lot with a Zero Lot Line Wall, a maintenance easement over the Lot adjoining the Owner's Zero Lot Line Wall for the maintenance of said Zero Lot Line Wall and any wing wall attached thereto and for ingress and egress to the Zero Lot Line Wall. The Easement shall be four (4) feet in width, shall be immediately contiguous to the Zero Lot Line Wall, and shall run the length of the Lot on which the easement exists. No improvements of any kind shall be constructed in the easement area which would block access to the Zero Lot Line Wall and wing wall, if any, or which would in any way interfere with the easement holders' ability to maintain the Zero Lot Line Wall and wing wall, except that a connecting wall may be constructed by the Developer across the easement area. In the event that the Board of Directors of the Association shall determine that the connecting wall



has been damaged by the easement holder, that easement holder shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the Board. In the event such repair is not so accomplished by said easement holder, within thirty (30) days, unless extended by the Board of Directors, the Association shall have the right at reasonable times to enter the adjacent Lot to effect such repair and the cost thereof shall be charged to the easement holder, and if not paid in a timely manner, shall become a lien on such easement holder's adjacent Lot.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the appropriate By-Laws, his right of enjoyment to the Common Open Space, to the members of his family, his tenants or contract purchasers who reside on the Property.

Section 4. Permitted Uses. The Common Open Space shall be restricted to the following uses:

A. The Common Open Space, now and forever, shall be restricted hereby such that it shall be maintained as open space for the recreation, use and benefit of the Owners, including as and for easements and rights-of-way for the construction, operation and maintenance of utility services and drainage facilities and shall not be used for any commercial or industrial use except as herein described.

B. The Private Drives, now and forever, shall be restricted such that they shall be used for the benefit of the Owners, their tenants, invitees and guests as and for the common access, ingress and egress and as an easement and right-of-way for the construction, operation and maintenance of utility services and drainage facilities. The Private Drives shall be kept free and clear of obstructions, except as is reasonable for the construction, operation and maintenance of traffic and speed controls.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of an Undeveloped Lot or Home which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Undeveloped Lot or Home which is subject to assessment.

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



Class A: Class "A" members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each Undeveloped Lot or Home owned. When more than one person holds an interest in any Undeveloped Lot or Home, all such persons shall be members. The vote for such Undeveloped Lot or Home shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Undeveloped Lot or Home.

Class B: Class "B" member(s) shall be the Developer, as defined in this Declaration, and shall be entitled to three (3) votes for each Undeveloped Lot or Home owned. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of any of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or
- (b) Six (6) years from the date of filing of this Declaration; or
- (c) At such time as the Class "B" member voluntarily relinquishes its right to vote.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE

The Association shall at all times maintain the Common Open Space and any grassed area and hedges on each lot in front of a Home so long as said grassed area is not fenced or walled in. The maintenance of the grassed area includes mowing and edging the grass and trimming of hedges only, it does not include irrigation and fertilization.

Home Owners shall be responsible for cutting the grass on the slopes of the canal banks to the elevation of the high water line.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

###### Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Developer, for each Home owned within the Project, hereby covenants, and each Owner of any Home, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall

be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with costs and reasonable attorneys' fees, shall also be the personal obligation of the person who is the Owner of such Home at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Establishment of Assessments. Prior to the beginning of each fiscal year, the Board shall adopt a budget for such fiscal year which shall estimate all of the Common Expenses to be incurred by the Association during the fiscal year. The Board shall then establish the assessment of Common Expenses for each Home and shall notify each Owner in writing of the amount, frequency and due dates of the assessment for Common Expenses. From time to time during the fiscal year, the Board may modify the budget, and pursuant to the revised budget or otherwise, the Board may, upon written notice to the Owners, change the amount, frequency and/or due dates of the assessments for Common Expenses. If the expenditure of funds for Common Expenses is required in addition to funds produced by assessments for Common Expenses, the Board may make special assessments for Common Expenses, which shall be levied in the same manner as hereinbefore provided for regular assessments, and shall be payable in the manner determined by the board, as stated in the notice of any special assessments for Common Expenses. In the event any assessments for Common Expenses are made payable in equal periodic payments, as provided in the notice from the Association, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until (i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date or the payment of the specified amount, or (ii) the Association notifies the Owner in writing of a change in the amount and/or frequency of the periodic payments. In no event shall any assessments for Common Expenses be due less than ten (10) days from the date of the notification of such assessments.

Section 3. Rate of Assessment. Different types of homes may pay different assessments if the services supplied to each type of home differs, but all similar housing types will be assessed equally. With the exception of Lots on which are built Model Homes, the annual assessment for Common Expenses as to each Lot improved with a Home shall commence on the first day of the full calendar month after a certificate of occupancy for the Home constructed on said



Lot is issued. The annual assessment shall commence as to each Lot on which is built a Model Home on the day that the Developer closes the sale of said Model Home to the first Owner acquiring title from the Developer. Notwithstanding the above, similar Homes may pay different assessments if the services supplied to each similar Home differs, but only for that additional service supplied to the similar Home.

Class A: Class "A" members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each Undeveloped Lot or Home owned. When more than one person holds an interest in any Undeveloped Lot or Home, all such persons shall be members. The vote for such Undeveloped Lot or Home shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Undeveloped Lot or Home.

Section 4. Working Capital Contribution. In addition to assessments for Common Expenses, the first Owner acquiring title from Developer to a Home shall pay to the Association a contribution to a working capital fund of the Association in an amount equal to two (2) months assessments for Common Expenses, which shall be in addition to the Owner's responsibility for assessments for Common Expenses. The working capital fund shall be used by the Association for start-up expenses or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

Section 5. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Project and for the improvement and maintenance of the Common Open Space, as set forth in Article IV hereof.

Section 6. Developer's Assessment Guaranty. The Developer guarantees to initial purchasers of Homes in the Project that the monthly assessments due from such purchasers as Owners of Homes in the Project for items of common expense of the Association will not exceed the amount therefore reflected in the initial budget for the Association which is provided to such purchasers by the Developer during the calendar year in which the Developer conveys the first Home in the Project. During the period of time this guaranty is in force and effect, the Developer, as owner of Homes for which a certificate of occupancy has been issued, shall be relieved from the obligation of paying its pro rata share of assessments for common expenses of the Association, but instead shall be obligated to pay to the Association all sums in excess of sums due from all Home Owners other than the Developer which are necessary to pay the actual expenses

of the Association. The actual expenses of the Association shall not include reserves. Developer may extend the term of the guarantee annually at the time that the annual budget is sent to each Home Owner.

Section 7. Special Assessment for Capital Improvement. In addition to the annual assessments and special assessments for Common Expenses authorized above, the Association, through a two-thirds (2/3) vote of its Board of Directors, may levy in any assessment year a special assessment against an Owner(s) to the exclusion of other Owners for the purpose of (i) defraying, in whole or in part, the cost of any construction, reconstruction, repaving, repair, or replacement of a capital improvement upon the Common Open Space, including fixtures and personal property related thereto, if any, or (ii) the costs of work performed by the Association in accordance with Article IX hereof. Any such Special Assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure proceedings and interest. Any Special Assessment levied hereunder shall be due and payable within the time specified by the Board of Directors in the action imposing such Assessment.

Section 8. Annual Assessments. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amounts of the annual assessment against each Undeveloped Lot or Home at least thirty (30) days in advance of each annual assessment period. Failure to fix the amounts of the annual assessments within the time period set forth above would not preclude the Board of Directors from fixing the assessment at a later date. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Home have been paid. A properly executed certificate of the Association as to the status of assessments on a Home is binding upon the Association as of the date of its issuance. The Association may delegate to a mortgage company or financial institution responsibility for collection of assessments.

Section 9. Effect of Non-Payment of Assessment; Remedies of the Association. Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate allowable by law, per annum. The Association may, at its election, bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Home.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Open Space or abandonment of his Home.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be a lien superior to all other liens save and except tax liens and mortgage liens, provided said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and said first mortgage secures an indebtedness which is amortized on monthly or quarter-annual payments over a period of not less than ten (10) years. The sale or transfer of any Home pursuant to the foreclosure or any proceeding in lieu thereof of a first mortgage meeting the above qualifications, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All properties dedicated to, and accepted by a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE VI

##### ANNEXATION AND CONVEYANCE OF COMMON OPEN SPACE

Section 1. ANNEXATION AND DEVELOPMENT. Additional Property may be annexed by the Developer in whole or in part without the consent of Members or the Association within six (6) years of the date of this instrument. Such annexations, if they are made, will subject the annexed property to these Covenants and Restrictions.

Annexations, if any, shall become effective upon the recording of an amendment to this Declaration in the Public Records of Dade County, Florida.

Section 2. CONVEYANCE OF COMMON OPEN SPACE TO THE ASSOCIATION. At such time that Developer closes title to the first Home in the Project, Developer shall be obligated to convey title to all of the Common Open Space, if any, located in the Project too the Association, which shall be obligated to accept such conveyance (and the conveyances described hereinbelow). Thereafter, those portions of the Common Open Space, if any, which are subjected to this Declaration by Annexation at the time when Developer closes title to the first Home in that particular annexed portion of the Property.

ARTICLE VII

WITHDRAWAL OF PROPERTY

Anything herein to the contrary notwithstanding, Developer reserves the absolute right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Project from the provisions of this Declaration, so long as a Home has not been constructed on said land to be withdrawn, and so long as the land to be withdrawn has not been conveyed to the Association as Common Open Space.

ARTICLE VIII

PLATTING AND SUBDIVISION RESTRICTIONS

As long as there is a Class B membership, Developer shall be entitled at any time and from time to time, to plat and/or replat all or any part of the Project, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Project without the consent or approval of Owners.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition or change or alteration therein, including a change of the building exterior paint color, be made within the Project until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to the surrounding structures and topography by the Board, or by an architectural control committee composed of three (3) or more representatives appointed by the Board ("Committee"). In the event said Board or its designated Committee fails to approve or disapprove such design and location within thirty (30) days after said plan and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Nothing contained herein shall relieve the Owner from the responsibility of obtaining proper governmental approvals and permits.

Section 2. The Association or the designated Committee shall not be liable to any Owner in connection with the exercise or non-exercise of architectural control hereunder, or the approval or disapproval of any alteration,



addition, improvement or change. Furthermore, any approval of any plans or specifications by the Association or its designated Committee shall not be deemed to be a determination that such plans or specifications are complete or do not contain defects, or in fact meet any standards, guidelines and/or criteria of the Association, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the Association or its designated Committee shall not be liable for any deficiency, or any injury resulting from any deficiency in such plans and specifications.

Section 3. Notwithstanding the foregoing, so long as Developer owns any Undeveloped Lot, Home or any portion of the Project, architectural control shall be vested in Developer and not the Association, and during such period all references contained in the subparagraph to the Association shall be deemed to refer to Developer provided, however, that at any time Developer may assign its right to architectural control to the Association by a written assignment.

#### ARTICLE X

##### MAINTENANCE OF EXTERIOR OF OWNERS PROPERTY

In the event an Owner of any Lot or Home in the Project shall fail to maintain the Lot or the exterior of his Home in a manner satisfactory to the Association, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees to enter upon said Lot and to repair, maintain and restore the Lot or exterior of the building(s) and any other improvements erected thereon.

The cost of such exterior maintenance shall be assessed against the subject Lot and such assessment shall be a charge on the land and shall be a continuing lien upon the Lot. Non-payment of such assessment within thirty (30) days from the due date may result in foreclosure of the lien or an action at law against the Owner(s) of the Lot.

#### ARTICLE XI

##### EASEMENTS

Section 1. Easements may be granted by the Association for utility purposes in accordance with the requirements of this Declaration.

Section 2. Developer does hereby establish and create for the benefit of the Association and for all Owners from time to time subject to this Declaration, and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges:

(i) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under and across the streets, roads and walks within the Common Open Space (as they may be built or relocated in the future).

(ii) Rights to connect to, maintain and make use of utility lines, wires, pipes, conduits, <sup>P</sup>cable television lines, telephone lines and equipment, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Common Open Space.

Section 3. Developer reserves to itself, its designees, successors and assigns the easements, licenses, rights and privileges of a right-of-way in, through, over, under and across the Project for the construction, maintenance and repair of utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the streets and roads of other areas of the Common Open Space. Developer also reserves the right for itself, its designees, successors and assigns to continue to use the Project, and any Common Open Space, roadways, sales offices, model homes, signs, flags, promotional material and parking spaces located on the Project, in its efforts to market Lots, land and Homes in the Project. This paragraph may not be amended without the prior written consent of the Developer.

Section 4. The Developer reserves to itself and the Association an easement for the planting, placing and maintenance of landscape materials over, under and through the landscape easements shown on the Plat of Oak Creek.

Section 5. The Association and the Developer, by their execution of this Declaration, hereby grant to each Lot Owner a non-exclusive perpetual easement for the maintenance, repair and replacement of water and sanitary sewer lateral pipes servicing the Lot and improvements thereon, which lateral pipes are located within the Common Open Space.

Section 6. Developer hereby grants to delivery, pickup and fire protection services, police, health and sanitation, and other public service personnel and vehicles, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Developer, its successors or assigns to service the Property, and to such other persons as Developer from time to time may designate, the nonexclusive, perpetual right of ingress and egress over and across the Common Open Space for the purposes of performing their authorized services and investigation.

Section 7. In some areas, the roof of a Home may overhang the lot lines of the Lot on which said Home is located. The Developer specifically reserves



on behalf of itself and all Homes, an encroachment easement for any such roof overhang for the benefit of the Owner of any such Home. Additionally, there is reserved a drainage easement from the overhanging roof onto the adjoining Lot.

Section 8. Encroachments on Lots or Common Open Space. In the event any portion of any roadway, walkway, parking area, roof drainage system, roof, trellis, water lines, sewer lines, utility lines, sprinkler system, Home or any other improvement as originally constructed by Developer or its designee, successor or assign encroaches on any Lot or Common Open Space, it shall be deemed that the Owner of such Lot or Common Open Space has granted a perpetual easement to the Owner of the encroaching Lot or Common Open Space, as the case may be, for continuing maintenance and use of such encroaching roadway, walkway, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or other structure originally constructed by the Developer. The foregoing shall also apply to any replacements of any such roadway, walkway, parking area, roof drainage system, roof, trellis, water lines, sewer lines, utility lines, sprinkler system or other structure, if same are constructed in substantial conformance to the original. Other encroachments may hereafter be maintained as provided in a Supplemental Declaration. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

#### ARTICLE XII

##### BOULEVARD LIGHTING AND LANDSCAPE MAINTENANCE

A special taxing district has been applied for by the Developer to maintain the street lighting and landscaping on the dedicated public roads throughout the Oak Creek Project. The application for the special taxing district is subject to approval by the Dade County Commission. The Dade County Commission, Dade County, Florida requires that the persons benefitting from the use of the dedicated roads pay the cost of maintaining the street lighting and landscaping thereof. That portion of the expense attributable to the Lots in the Project which face a public dedicated road will be collected from individual Lot Owners by Dade County, Florida, by the exercise of its taxing powers. If the cost of maintaining said street lighting and landscaping district requires an allocation between and among the Lots facing the public dedicated roads which are subject to this Declaration, then said allocation shall be made at the sole determination of the Developer, which shall make such allocation on a fair and



equitable basis. Each Home Owner whose Lot faces a public, dedicated road will be required to join in the application for the street lighting and landscaping taxing district at the closing of sale of a Home by the Developer to the Owner.

Those Owners whose Lots face a private road in the Project shall be responsible for the maintenance of the street lighting and landscaping of those roads by means of an assessment by the Association, which assessment shall be listed as a line item in the Association budget.

#### ARTICLE XIII

##### PARTY WALLS AND PARTY FENCES

Section 1. Each wall or portion thereof which is built as a part of the original construction of the Homes within a grouping of attached Homes, placed on the dividing line between two or more Homes, whereby the use of said wall or portion thereof is shared by two or more Homes, shall constitute a party wall and each fence which is built as a part of the original construction of the Homes and placed on the dividing line between two Lots shall constitute a party fence. To the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the party walls and party fences.

Section 2. The cost of reasonable repair and maintenance of a party wall and/or party fence shall be shared by the Owners who make use of the wall or fence in proportion to such use.

Section 3. If a party wall and/or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall and/or fence may restore it, and if the other Owners thereafter make use of the wall and/or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. In the event of any dispute arising concerning a party wall and/or party fence under the provisions of this Article, each party shall choose an arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators.

ARTICLE XIV

CONVEYANCE OF COMMON OPEN SPACE TO ASSOCIATION

At such time that Developer closes title to the first Home in the Project, Developer shall be obligated to convey title to all of the Common Open Space located in the Project to the Association, which shall be obligated to accept such conveyance. In the event Developer withdraws any of the Common Open Space from the effects of this Declaration as permitted by Article VII hereof, the Association will reconvey those Common Open Spaces withdrawn by Developer.

ARTICLE XV

RESTRICTIONS

Section 1. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown or designated on the recorded plat(s). Within these easements, no structure, planting or other material shall be placed or permitted to remain which would damage or interfere with the installation or maintenance of the utilities or which may change the direction of flow or drainage channels in the easements. No obstructions such as gates, fences, etc., which will prevent emergency access shall be directed in any easement strip for fire fighting access purposes. The Association is hereby granted an easement over each Lot for ingress and egress to any portions of the Lot or the improvements thereon requiring maintenance by the Association.

Section 2. Wells and Septic Tanks. Except for wells provided by Developer for irrigation purposes, no individual wells or septic tanks will be permitted on any Lot within this Project. This restriction will be enforceable as long as the water services and sewage disposal are in operation, satisfactorily servicing each Lot on which a completed building is located in said Project in accordance with the standard requirements as provided for by the State board of Health Regulations.

Section 3. Nuisances. No noxious or offensive activity shall be carried on upon any lands within the Project, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 4. Temporary Structures and Use. No structure of a temporary character, trailer, basement, shack, garage, barn or other building shall be moved to, erected on, or used on any of the lands within the Project at any time for a residence, workshop, office, storage room, either permanently or temporarily, provided, however, that Developer may place on the Project construction sheds, trailers or temporary sales offices or sales trailers used to facilitate the construction and sale of Lots and Homes in the Project. No canvas, pipe, or other type of carport shall be placed between the sidewalk and the front building line on any Lot. Except during the delivery to homes, no commercial vehicles shall be parked in areas zoned for residential uses, including the streets adjacent to the residential Lots. No business, service, repair or maintenance for the general public shall be allowed on any Lot at any time. In order to prevent unsightly objects in and about each of the Homes to be erected in this Project, no gas tank, gas container or gas cylinder, except those used by portable barbecue grills, shall be permitted to be placed on or about the outside of any of the Homes built in this Project or any ancillary building.

Section 5. Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any of the Project lands. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any of the Project lands.

Section 6. Pets. No animals, livestock or poultry of any kind, other than common, traditional house pets (i.e., one dog or one cat, fish and caged birds), shall be kept by an Owner or his family members, guests, invitees or lessees, provided, however, that (a) each Home may have only one dog or one cat in a Home, (b) no animals whatsoever may be kept or maintained for commercial purposes, (c) no animals shall be permitted to remain on any portion of the Project which become an unreasonable nuisance or annoyance to other Owners, and (d) any animal kept by an Owner shall be kept subject to any rules and regulations which may be promulgated from time to time by the board. In no event shall dogs be permitted upon the Common Open Space unless under leash. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it



harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of the keeping of any such pet. Notwithstanding anything to the contrary set forth herein for the safety of the Owners within the Project, no pit bull dogs shall be permitted to be housed on any Lot or within any Home. All owners of pets shall be required and responsible to clean up any excretions of their pets.

Section 7. Visibility at Street Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the Department of Public Works.

Section 8. Clotheslines. No clotheslines shall be placed and no clothes drying shall be undertaken or permitted upon the Project, provided, however, the Board may, upon its sole discretion, permit, on a revocable basis, the location of collapsible, retractable or umbrella-type clotheslines or other equipment in the "back yard or patio" of the particular Home whose Owner(s) have made such request.

Section 9. Barbecues. Barbecues may be located or permitted only upon the back patio of a Home and upon such portions of the Common Open Space as are, from time to time, designated by the Association; provided, however, that barbecuing shall be subject to such rules and regulations as may be promulgated from time to time by the Board.

Section 10. Parking. No truck or van with more than a three-quarter ton capacity, no commercial vehicles, no house or travel trailer, motor home, camper, boat or boat trailer shall be parked in the Project. Motorcycles and motor scooters may be kept in the Project so long as they are parked in an enclosed garage, or they may be kept in the back yard appurtenant to a Home, so long as the rear yard is completely fenced. Motorcycles or motor scooters parked or stored in the rear yard shall be walked with the motor off, and not ridden to said parking or storage area from the roadway. The term "commercial vehicle" shall include but not be limited to all automobiles, trucks and vehicular equipment, including station wagons, which bear signs or have printed on the sides of same reference to any commercial undertaking or enterprise. Commercial vehicles in the process of loading or unloading shall not be considered parked so long as they are not kept in the Project overnight. Except as set forth above, no vehicle of any kind shall be parked in the Common Open Space

other than that portion of the Common Open Space designated for parking by the Association or on any part of any Lot.

Section 11. Commercial and Recreational Vehicles. No boat, trailer, camper, golf cart or other type of recreational vehicle and commercial vehicle including, but not limited to, trucks, pick-up trucks and vans (vans with side windows that are not commercial vehicles are permitted), shall park or be parked at any time on the Lots or Common Open Space unless it is a commercial vehicle in the process of being loaded or unloaded; and provided further that no vehicle shall be permitted to park or be parked overnight on the Lots or Common Open Space. Notwithstanding the prior provision to the contrary, the Board may, in its sole discretion, designate portions of the Common Open Space for the parking of oversized commercial or recreational vehicles, trailers, campers, vans or boats.

Section 12. Standing Cycles or Other Items. No bicycles, scooters, wagons, carriages, shopping carts, chairs, benches, tables, toys or other such items shall be parked or be permitted to stand for any period of time on any part of the Project lands except in the garages of each Home or in the rear yard of a Home if said rear yard or patio is completely fenced in and except in accordance with the rules and regulations promulgated from time to time by the Board.

Section 13. Antenna and Aerials. No antenna or aerial of any type shall be placed upon a Home or within a Lot without the prior written approval of the Board of Directors. The Board of Directors may promulgate rules which govern the placement, size and/or appearance of any such antenna.

Section 14. Litter and Garbage Collection. No articles of personal property shall be hung or shaken from the doors or windows of any Home. No Owner shall sweep or throw from his Home any dirt or other materials or litter, in any way upon the Project. No garbage, trash, refuse, or rubbish shall be deposited, dumped, or kept on any part of the Project except in closed containers in the storage areas or patio area in the rear of a Home prior to the ultimate disposal in the dumpster facilities in closed plastic bags.

Section 15. Personal Property. No articles of personal property of Owners shall be placed on any portion of the Project lands unless such articles are being used by Owners in accordance with the terms and conditions of this Declaration and any rules and regulations promulgated from time to time by the Board.



Section 16. Removal of Sod and Shrubbery; Additional Planting. No sod, topsoil, trees or shrubbery shall be removed from the Project, no change in the elevation of such areas shall be made, and no change in the condition of the soil or the level of the land of such areas shall be made which results in any permanent change in the flow and drainage of of surface water which the Board, in its sole discretion, considers detrimental; provided, however, that Owners may place additional plants, shrubs or trees in the rear yard or patio of a Home subject to approval by the Architectural Control and Maintenance Standards Committee.

Section 17. Increases in Insurance Rates. No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of the Project.

Section 18. Windows, Awnings and Shutters. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of a building and no foil, window tinting materials or shielding materials or devices shall be placed upon any windows or sliding glass doors which are part of his Home unless such awnings, canopies, shutters, foil, window tinting materials or shielding materials have been approved by the Board or the Committee appointed by the Board, which approval may be based on the aesthetic appearance of the properties. The lining of all drapes or other window coverings shall be of a white or beige color.

Section 19. Utility Additions. No additional utility system, including without limitation, water, sewage, electrical, air conditioning and heating system lines, ducts, conduits, pipes, wires or fixtures, shall be added to service any Home without the prior written consent thereto by the Board or an architectural control committee appointed by the Board, which consent shall not be unreasonably withheld, so long as such addition complies with all applicable ordinances, requirements, and regulations of governmental authorities and such additions cause no damage or impairment or additional costs, and the aesthetic appearance of the Project or any part or parts thereof is not impaired.

Section 20. Casualties. In the event that a Home or any part thereof is destroyed by casualty or otherwise, or in the event any improvements upon the Common Open Space are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and, subject to the duties and obligations of the

Association, commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration.

Section 21. Reconstruction. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Common Open Space or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or with new plans and specifications approved by the Board or Committee. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Home or any part or parts thereof shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or the new plans and specifications approved by the Board or the Committee, and the Owner of such Home.

Section 22. Rights of Developer. Notwithstanding any provisions in this Declaration to the contrary, including the provisions of this Article XIV, the Developer shall have the right with respect to the development of the Project to construct buildings and homes and other improvements, including landscaping on the Project, and to expand or add to the recreational facilities. The construction of buildings, units and improvements, including the expansion and addition to the recreational facilities shall be of such type, nature, design, size, shape, height, materials and location, including the landscaping, which term shall be defined in its broadest sense as including grass, hedges, vines, trees and the like, as Developer determines in its sole discretion without obtaining consent and approval of the Committee, the Association or its members, provided however, that same complies with the applicable building codes and zoning laws of Dade County, Florida, in force at that time.

Section 23. Disturbances. No Owner shall make or permit any disturbing noises on any Lot or in any Home or do or permit anything to be done therein which will interfere with the rights, comforts or conveniences of other Owners. No Owner shall play upon or suffer to be played upon any musical instrument or operate or permit to be operated a phonograph or a radio or a television set or other loud speaker in such Owner's Home between the hours of 11:00 p.m. and the following 8:00 a.m., if the same shall disturb or annoy other residents of the Project, and in no event shall practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 p.m. and the following 8:00 a.m.

ARTICLE XVI

INSURANCE

Section 1. Purchase, Custody and Payment of Policies.

A. Purchase. All insurance policies covering the Common Open Space shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida which has an office or agent located in the vicinity of the Project.

B. Named Insured. The named insured on all policies purchased by the Association shall be the Association, individually.

C. Personal Property and Liability. It shall be the Owner's obligation to obtain insurance at his own expense and at his own discretion for his Lot or Home, his personal property, personal liability, living expenses, and for improvements made to his Lot or Home. The Association shall not be responsible to purchase personal property and personal liability insurance on behalf of any Home.

Section 2. Coverage.

A. Casualty. All improvements upon the Common Open Space and all personal property of the Association are to be insured in an amount equal to one hundred percent (100%) of the ten current replacement cost, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the Association. Prior to obtaining any casualty insurance or renewal thereof, the Association shall obtain an appraisal from a fire insurance company or otherwise of the full replacement cost of the Homes and improvements upon the Common Open Space and all personal property of the Association, without deduction for depreciation, for the purposes of determining the amount of casualty insurance to be obtained pursuant to this Paragraph. Such coverage shall afford protection against:

1. Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

2. Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location and use, including, but not limited to vandalism and malicious mischief, and all other risks normally covered by a standard "All Risks" endorsement, where available.

B. Liability. Comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or



occurrences on or about or in connection with the Common Open Space, or any work, matters or things related to the Common Open Space or this Declaration and its exhibits, with such coverage as shall be required by the Association but with a combined single limit liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury, death or property damage, arising out of a single occurrence, and with cross liability endorsement s to cover liabilities of the Owners as a group to an Owner.

C. Worker's Compensation as shall be required to meet the requirements of the law.

D. Such other insurance as the Association shall determine from time to time to be desirable or as is customarily obtained with respect to improvements similar in construction, location and use to those contained within the Common Open Space, such as, where applicable, contractual and all-written contract insurance, employer's liability insurance and comprehensive automobile liability insurance.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Owners individually and as a group; (ii) any prorata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and (iii) avoid liability for a loss that is caused by an act of one or more directors of the Association or by one or more Owners; and shall provide that such policies may not be cancelled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the Association.

Section 3. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that any increase in any insurance premium occasioned by misuse of the Common Open Space by a particular Owner, or by a resident of any Home, or by a member of their families or their guests or invitees, shall be assessed against and paid by that Owner.

Section 4. Insurance Trustee. All casualty insurance policies purchased by the Association shall provide that all proceeds covering casualty losses in excess of \$25,000 shall, if designated by the Board, be paid to any national bank or trust company in the vicinity of the Project with trust powers as may be designated by the Association, as Trustee, which Trustee is herein

referred to as the "Insurance Trustee". The Insurance Trustee shall not be liable for payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Association, which shares need not be set forth in the records of the Insurance Trustee. Notwithstanding the foregoing, unless the Board so determines or unless any Institutional Lender otherwise requires by written notice to the Association, no Insurance Trustee will be required, and all references in this Declaration to an Insurance Trustee, shall refer to the Association where the context requires.

A. Common Open Space. Proceeds on account of damage to Common Open Space shall be held in as many undivided shares as there are Lots, the share of each Lot being equal.

Section 5. Distribution of Proceeds. Proceeds of the insurance policies received by the Insurance Trustee shall be distributed to, or for the benefit of, the beneficial owners in the following manner:

A. Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

B. Reconstruction or Repair. The remaining proceeds shall be paid to pay the cost of repair or reconstruction, as elsewhere provided. Any proceeds remaining after paying such cost shall be distributed to the Association.

C. Notice of Possible Inadequate Insurance Coverage. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it, the Association shall give notice of any excess exposure within a reasonable time to all Home Owners who may be exposed to the liability and they shall have the right to intervene and defend.

D. Inspection of Insurance Policies. A copy of each insurance policy purchased by the Association shall be made available for inspection by any Owner or Institutional Lender at reasonable times.

#### ARTICLE XVII

##### RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 1. Determination to Reconstruct or Repair. If any part of the Project is damaged or destroyed by casualty, whether or not the damage will be repaired shall be determined in the following manner:

A. Common Open Space. If the damaged improvement is contained within a Common Open Space, the damaged property shall be reconstructed or repaired, unless 2/3 of the Owners vote to the contrary.

B. Homes. In the event of damage to or destruction of any Homes as a result of fire or other casualty, the Owner thereof, if applicable, shall arrange for the prompt repair and restoration thereof (including any damaged bathroom and kitchen fixtures) at least equivalent in value to that initially installed by the Developer.

Section 2. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements. Any reconstruction or repair must be in accordance with the ordinances of the controlling governmental authority, and must be approved by the controlling governmental authority or its appropriate review committee where required by such ordinances. Any reconstruction or repair conform with the requirements of any controlling governmental authority, and where required, appropriate permits for same shall be obtained.

Section 3. Estimates of Cost. Immediately after casualty damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair from one or more reliable licensed contractors, and shall submit copies of all acceptable estimates to the Insurance Trustee.

Section 4. Assessments. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair of the Common Open Space by the Association, or if at any time during or after the reconstruction and repair of the Common Open Space, the funds for the payment of the cost thereof are insufficient, a Special Assessment shall be made against all Home Owners equally, in sufficient amounts to provide funds to pay such costs.

Section 5. Construction Funds. The funds for payment of the costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Assessments against Home Owners, shall be disbursed in payment of such costs in the following manner:

A. Association. If the total Assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair which is the responsibility of the Association is more than Twenty-Five Thousand (\$25,000.00) Dollars, then the sums paid upon such Assessment shall be deposited



by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Assessments and disburse the same in payment of the costs of reconstruction and repair.

B. Insurance Trustee. The proceeds of insurance collected on account of a casualty and the sums deposited with the Insurance Trustee by the Association from collections of Assessments against Home Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of the Insurance Trustee and the costs of reconstruction and repair in the following manner and order:

1. Association Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Twenty-five Thousand (\$25,000.00) Dollars, then the construction funds shall be disbursed in payment of such costs upon the order of the Association.

2. Association Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Twenty-five Thousand (\$25,000.00) Dollars, then the construction funds shall be disbursed in payment of such costs in the manner required by the Association and upon approval of an architect qualified to practice in the State of Florida and employed by the Association to supervise the work.

3. Surplus. It shall be presumed that the first moneys disbursed in payment of the costs of the Insurance Trustee, if any, and the costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the Insurance Trustee, if any, and reconstruction and repair for which the fund is established, such balance shall be distributed to the Association.

4. Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Home Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association, executed by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the

name of the payee and the amount to be paid; provided, however, that when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee of any distribution of insurance proceeds to the Association, and further provided that when the Association or a mortgagee, which is the beneficiary of any insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall first be obtained by the Association for disbursements in payment of the costs of reconstruction and repair.

# ARTICLE XVIII

## GENERAL PROVISIONS

Section 1. Execution of Documents Required by Dade County, Florida. The Developer's plan for the development of the Project may require from time to time the execution of certain documents required by Dade County, Florida, or another governmental agency. To the extent that said documents require the joinder of any or all property owners in the Project, each of said Owners, by virtue of his acceptance of a deed to his Lot or Home, does irrevocably give and grant to the Developer, or any of its officers individually, full power of attorney to execute said documents as his agent and in his place and stead.

Section 2. Reservation of Right to Own, Install, Provide and Maintain a Closed Circuit Television System, Telecommunications System, a Master Antenna System and Community Antenna Television System (CATV Service).

A. Developer reserves and retains to itself, its successors and assigns: (i) the title to any closed circuit television system, telecommunications system, master antenna system, and related ancillary services and to the equipment including, but not limited to, conduits, wires, amplifiers, towers, antennae and related apparatus and electronic equipment, both active and passive (the "Central System") in and upon the Project, and a perpetual easement for the placement and location of the Central System including, but not limited to conduits, wires, amplifiers, towers, antennae and related apparatus and electronic equipment, both active and passive; and (ii) a perpetual easement for ingress to and egress from the Project to service, maintain, install, repair and replace the aforesaid apparatus and equipment; and (iii) the right to connect the Central System to such receiving source as Developer may in its sole discretion feel appropriate, including, without limitation, companies licensed to provide the CATV service in Dade County, for which service Developer, its successors and

assigns or designees, shall have the right to charge the Association and/or individual Home Owners a reasonable fee not to exceed the maximum allowable charge for CATV service to single family residences as charged within the general vicinity. If a fee is charged to each Home Owner, said Owner shall have the option of refusing said service at any time, and if refused, the amount of said fee will be deducted from the Association assessments, if charged in the Assessment.

B. The Home Owners acknowledge that the Central System described in Subsection A above includes, but is not limited to the CATV services as well as the ancillary services which may include security, medical, smoke and fire alert, information retrieval and so forth. Such Central System, if offered, is part of Developer's endeavor to provide a total environment to the Home Owners and enhance the "way of life" at the Project.

Section 3. Enforcement. The Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Court costs and reasonable attorneys' fees for a proceeding at law to enforce this Declaration, including any appeal thereof, shall be borne by the Owner(s) against whom the suit has been filed. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Duration and 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 by an instrument signed by the Owners of sixty-six and two-thirds (66-2/3%) percent or more of the Undeveloped Lots and Homes. Notwithstanding the above, (i) there will be no amendment to the provisions of this Declaration pertaining to the maintenance of Common Open Space without the prior consent of Dade county, Florida; and (ii) Developer will have the right to amend this Declaration pursuant to Article VIII without the consent of any Owners and/or Mortgagees. Any amendment must be recorded.



Section 6. Developer Amendment Privilege.

Notwithstanding anything to the contrary set forth above, the Developer may amend any provision of this Declaration without the approval or joinder of the Owners or the Association, if required to do so to comply with the Rules and Regulations of the Federal National Mortgage Association, the Federal Housing Administration, the Veterans Administration or any other similar governmental institutional agency which desires to hold, insure or guaranty a mortgage on all or any part of the Project.

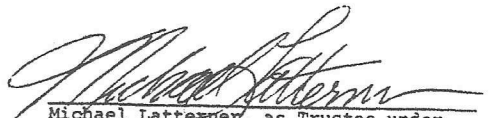
Section 7. Damage or Destruction to Common Open Space.

Each Owner shall be liable to the Association for any damage to the Common Open Space not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, guests and invitees, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge such Owner a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. The cost of correcting such damage shall be a Special Assessment against the Home and may be collected as provided herein for the collection of Assessments.

Section 8. HUD/VA Approval.

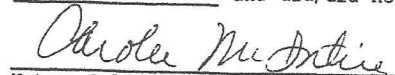
Notwithstanding anything to the contrary set forth in this Declaration, so long as there is a Class "B" member, the prior approval of HUD/VA shall be required for (i) annexation of property; (ii) amendment to this Declaration; or (iii) dissolution, merger or consolidation of the Association.

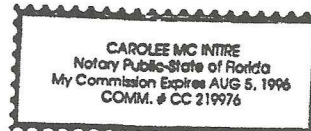
IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto executed this Declaration this 19 day of March, 19 93.

  
Michael Latterner, as Trustee under  
Trust Agreement dated January 15, 1988,  
known as The Latterner Land Trust

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing Declaration was acknowledged before me this 19 day of March, 19 93, by Michael Latterner, as Trustee. He is personally known to me ~~or produced Driver's License No.~~ and did/did not take an oath.

  
Notary Public, State of Florida





LEGAL DESCRIPTION:

A portion of the West 1/2 of the Southwest 1/4 of Section 21, Township 55 South, Range 39 East, Dade County, Florida being more particularly described as follows; Commence at the Northwest corner of the Southwest 1/4 of said Section 21; thence S.89deg29min06sec.E. along the North line of the Southwest 1/4 of said Section 21 for 195.00 feet to the POINT OF BEGINNING of the following described parcel of land; thence continue along the last described course for 1,146.12 feet to a point on the East line of the West 1/2 of the Southwest 1/4 of said Section 21, said line also being the West line COUNTRY WALK SECTION SIX, according to the plat thereof as recorded in Plat Book 118 at Page 18 of the Public Records of Dade County, Florida.; thence S.00deg00min56sec.E. along the East line of the West 1/2 of said Section 21 for 1,737.93 feet to a point on the Northerly Right-of-Way line of Canal C1-W as recorded in Official Records Book 2451 at Page 642 of the Public Records of Dade County, Florida; (the following 3 courses are along the Northerly and Easterly Right-of-Way lines of said Canal C1-W) thence N.88deg18min42sec.W. along the Northerly Right-of-Way line of said Canal C1-W for 936.33 feet to a point of curve; thence Westerly-Northwesterly-Northerly along the arc of a circular curve to the right, being concave to the Northeast and having a radius of 220.00 feet and a central angle of 88deg25min20sec. for an arc distance of 339.52 feet to a point of tangency; thence N.00deg06min38sec.E. along a line 195.00 feet East of and parallel with West line of the Southwest 1/4 of said Section 21 for 1,500.32 feet to the POINT OF BEGINNING.