

THIS INSTRUMENT PREPARED BY:
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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
DANSFORTH LAKES**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS (this "Declaration") is made this ____ day of _____, 2000, by BEAZER HOMES CORP., a Tennessee corporation, d/b/a Gulfcoast Homes ("Declarant"), whose address is 11934 Fairway Lakes Drive, Fort Myers, Florida 33913.

WHEREAS, Declarant owns the real property located in Lee County, Florida, as more particularly described on Exhibit "A" attached hereto (the "Real Property"); and

WHEREAS, Declarant desires to develop the Real Property as a residential subdivision to be known as Dansforth Lakes, and in connection therewith to subject the Real Property to this Declaration to preserve property values and provide for orderly and beneficial operation and management of the Community.

**Article I
SUBMISSION STATEMENT AND DEFINITIONS**

Declarant hereby declares that all of the Real Property described in Exhibit "A" shall be held, sold, used and conveyed subject to the easements, restrictions, covenants, and conditions contained herein, which are for the purpose of protecting the value and desirability of and which shall run with the Real Property subject to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title or interest in the Real Property or any part thereof, and their heirs, successors, successors-in-title and assigns. The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Area of Common Responsibility" means the Common Area, together with those areas, if any, which by the terms of this Declaration or any amendment hereto, or other applicable covenants, or by contract become the responsibility of the Association.

1.2 "Articles of Incorporation" or "Articles" mean the Articles of Incorporation of the Association, as the same may be amended from time to time, which are incorporated herein

by reference and made a part hereof. A true and correct copy of the Articles of Incorporation is attached hereto as Exhibit "B."

1.3 **"Association"** means Dansforth Lakes Homeowners' Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.4 **"Base Assessment"** means the base annual assessment, payable in installments, as set forth in the annual budget adopted by the Board of Directors, which is levied on all Units in the Community, as more particularly set forth in Article VIII below.

1.5 **"Board of Directors"** or **"Board"** means the board of directors of the Association, selected as provided in the Bylaws and generally serving the same role as the board of directors of a corporation under Florida corporate law.

1.6 **"Builder"** means any Person which purchases one or more Units within the Community for the purpose of constructing improvements for later sale to consumers or for further subdivision, development, and/or resale in the ordinary course of such Person's business. Any Builder in the Community must receive the prior written approval of the Declarant in the Declarant's sole and absolute discretion. The Declarant may, in its sole discretion, prohibit and restrict certain Builder from conducting construction activities within the Community, and all Owners are bound by this provision.

1.7 **"Business"** and **"Trade"** shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity under taken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required for such activity.

1.8 **"Bylaws"** means the Bylaws of the Association, as the same may be amended from time to time, which are incorporated herein by reference and made a part hereof. A true and correct copy of the current Bylaws is attached hereto as Exhibit "C."

1.9 **"Common Area"** means all real and personal property within the Community which is declared herein or in any amendment hereto or on any recorded subdivision plat of the Community to be "Common Area," and all improvements thereto, which are designated for the use and enjoyment of all Owners, or which are otherwise dedicated, conveyed, leased or for which a license or use right is granted to the Association and which are intended to be devoted to the common use and enjoyment of some or all of the Owners, as more specifically provided herein. As used herein, "Common Area" shall include, but not be limited to (i) all improvements and equipment located in or on the Common Areas, including, without limitation, private roadways, signage, gate houses, entry features, swales and berms, pedestrian paths and irrigation systems; (ii) any pools, recreational facilities, clubhouses and parking facilities designated as Common Areas in this Declaration, any amendment hereto, or on the Plat; (iii) the surface water management system, as permitted by the South Florida Water Management District, including, but not limited to, dedicated lake tracts, lake maintenance or drainage easements, and corresponding infrastructure; (iv) tracts for rights-of-way or access easements and corresponding roads and streets; and (v) all parts of the Real Property not included within the Units.

1.10 **"Common Expenses"** means the actual and estimated expenses incurred or anticipated to be incurred by the Association in the performance of its duties hereunder, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the Bylaws, and the Articles of Incorporation.

1.11 **"Community"** means the Real Property described in Exhibit "A", together with such additional property as is subjected to this Declaration in accordance with the terms set forth herein. The Community shall be know as "Dansforth Lakes."

1.12 **"Community Systems"** means and refers to any and all cable television, telecommunication, alarm/monitoring, internet, telephone, electrical, utility or other lines, conduits, wires, amplifiers, towers, antennae, satellite dishes, equipment, materials, installations and fixtures (including those based on, containing and serving future technological advances not now known), installed by Declarant or pursuant to any grant of easement or authority by Declarant within the Community.

1.13 **"Community-Wide Standard"** means the standard of conduct, maintenance, or other activity generally prevailing throughout the Community as set forth herein or as determined by the Board of Directors from time to time.

1.14 **"Conservation Areas"** mean those protected areas required by the South Florida Water Management District for the Community, including, but not limited to wetland preservation areas, mitigation areas and upland buffers which are protected under conservation easements.

1.15 **"Declarant"** means the Declarant identified in the first paragraph of this Declaration, or any successor Declarant to which the initial Declarant assigns its rights under this Declaration.

1.16 **"Design Guidelines"** means the architectural guidelines and procedures adopted by the New Construction Committee pursuant to Article IX below and applicable to all Units within the Community.

1.17 **"Member"** means a Person entitled to membership in the Association, as provided in Article III below.

1.18 **"Owner"** means one or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.19 **"Person"** means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.20 **"Real Property"** means the Real Property described on Exhibit "A" attached hereto.

1.21 **"Rules and Regulations"** means the rules and regulations adopted by resolution of the Board of Directors from time to time, and which are binding on all Owners, and their families, guests, tenants and invitees.

1.22 **"Sheffield Neighborhood"** means the neighborhood shown on the attached Site Plan as the Sheffield Neighborhood, and which includes Tract _____ as shown on the Site Plan, together with the Common Area located within the Sheffield Neighborhood.

1.23 **"Sheffield Neighborhood Association"** means any association formed to own, operate, manage and maintain the Common Area located within Sheffield Neighborhood. All Owners of Units located within the Sheffield Neighborhood shall be required to be members of both the Association and the Sheffield Neighborhood Association, shall pay all assessments levied by each of such associations, and shall be bound by all rules and regulations of both the Association and the Sheffield Neighborhood Association.

1.24 **"Site Plan"** means the Site Plan of the Community, a copy of which is attached hereto as Exhibit "D".

1.25 **"Special Assessment"** means assessments levied in accordance with Section 8.5 of this Declaration.

1.26 **"Specific Assessment"** means assessments levied in accordance with Section 8.6 of this Declaration.

1.27 **"Unit"** means a platted lot within the Community, as identified on the Plat of the Community, together with the residential improvements located thereon. The Units shall be independently owned and conveyed by the Owners thereof in accordance with this Declaration.

1.28 **"Plat"** means the Plat of the Community to be recorded in the Public Records of Lee County, Florida. In the event of any inconsistency between the Plat and the Site Plan, the Plat shall control.

Article II

PROPERTY RIGHTS OF OWNERS IN COMMON AREA

Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to the following:

- (a) this Declaration, the Bylaws and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board from time to time to adopt, amend and revoke rules regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area for violation of this Declaration to the extent permitted by Florida Statutes;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 3.10;

(f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval for requirements set forth in Section 3.10.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, subject to the rules and regulations adopted by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to use and enjoy the recreational facilities to the lessee of such Unit, and such Owner shall not be entitled to use and enjoy the recreational facilities while such lease is in effect. Nothing herein shall be deemed to prevent or in any way impair an Owner's access to his Unit for inspection, maintenance, repair, or other purposes. Except as set forth in the preceding sentence, the right to use and enjoyment of the Common Area and recreational facilities shall not be severable from ownership of the Unit.

Article III
ASSOCIATION FUNCTION, RIGHTS, POWERS AND OBLIGATIONS;
MEMBERSHIP AND VOTING RIGHTS

3.1 Functions and Services of Association; Management and Control of Common Areas. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Areas, excluding the Common Area located within the Sheffield Neighborhood for which the responsibility for management, maintenance, operation and control shall rest with the Sheffield Neighborhood Association. Notwithstanding, all owners of Units within the Sheffield Neighborhood shall abide by and be subject to all of the terms and conditions of this Declaration, the Articles, the Bylaws, and such Rules and Regulations adopted from time to time by the Board, and shall be obligated to pay assessments levied by the Board pursuant to this Declaration. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon except the Common Area to be maintained by the Sheffield Neighborhood Association (including, without limitation, furnishings, equipment, and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, consistent with this Declaration and the Community-Wide Standard. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Community as the Board may adopt from time to time. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Architectural Standards adopted by the Board. The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles of Incorporation and Florida law. Among other things, the Association shall be empowered to do the following, subject to any limitations set forth herein, all of the expenses for which shall be deemed Common Expenses:

- (a) Adopt Community-Wide Standards of conduct, maintenance or other activity.
- (b) Adopt, amend and repeal Rules and Regulations;
- (c) Adopt and amend budgets for revenues, expenditures and reserves;
- (d) Collect assessments for Common Expenses;

(e) Maintain all lakes, conservation easements and preserved areas located within the Community in accordance with all applicable permits pertaining to said areas.

(f) Hire and discharge employees, agents, independent contractors, managers and administrators;

(g) Institute, defend or intervene in litigation or administrative proceedings;

(h) Make contracts and incur liabilities;

(i) Regulate the use, maintenance, repair, replacement and modification of the Common Area;

(j) Make additional improvements to the Common Area;

(k) Acquire, hold, encumber and convey in its own name any right, title or interest in real or personal property;

(l) Grant easements, leases, licenses and concessions through or over the Common Area;

(m) Take all actions necessary to enforce the covenants, conditions and restrictions of this Declaration, the Articles, the Bylaws and the Rules and Regulations;

(n) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declarations, Bylaws and Rules and Regulations of the Association;

(o) Impose reasonable charges to prepare and record Amendments to the Declaration and Notices of Lien for unpaid assessments;

(p) Purchase at its option general liability and hazard insurance for improvements and activities on the Common Area;

(q) Provide for the indemnification of its officers and maintain directors and officers liability insurance;

(r) Assign its right to future income, including the right to receive assessments;

(s) Exercise any other powers conferred by this Declaration, the Articles of Incorporation, the Bylaws, or by law;

(t) Exercise all powers that may be exercised in the State of Florida by similar legal entities;

(u) Exercise any other powers necessary and proper for the governance and operation of the Association, including the delegation of its functions and services to any governmental or private entity;

(v) To operate and maintain the surface water management system as permitted by the South Florida Water Management District, including, but not limited to, all lakes, retention areas, Conservation Areas, water management areas, ditches, culverts, structures and related appurtenances;

(w) Install and perpetually maintain any and all permanent markers and signs required by the South Florida Water Management District, to inform all Owners of the conservation status of the Conservation Areas required by the South Florida Water Management District; and

(x) To enforce all use restrictions created herein and the conditions contained in any subsequent conservation easement with respect to the Conservation Areas, including, but not limited to bringing an action in equity to obtain an injunction against a Unit Owner, enjoining the Unit Owner from violating any restrictions and conditions pertaining to the Conservation Areas

(y) To assume obligations (including all monetary and reporting requirements) of Declarant under all permits for the Community.

3.2 **Personal Property and Real Property for Common Use.** The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed. The Declarant shall convey the initial Common Area to the Association prior to the conveyance of a Unit to any Person other than a Builder.

3.3 **Rules.** The Association, through its Board, may make, amend, revoke and enforce reasonable rules governing the use of the Units and Common Area.

3.4 **Enforcement.** The Association may impose sanctions for violations of this Declaration, the Bylaws, or rules in accordance with Florida Statutes, including monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances.

3.5 **Implied Rights; Board Authority.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the Bylaws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

3.6 **Indemnification.** The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable to the Association or any Unit Owner for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.7 **Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

3.8 **Powers of the Association Relating to the Sheffield Neighborhood.** The Association shall have the power to veto any action taken or contemplated to be taken by the Sheffield Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by the Sheffield Neighborhood Association in connection with any of its obligations and responsibilities. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Sheffield Neighborhood Association, and (b) require that a proposed budget include certain items and that specific expenditures be made.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by the Sheffield Neighborhood Association shall be taken within the reasonable time frame set by the Association in such written notice. If the Sheffield Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Sheffield Neighborhood Association and to assess the costs thereof against the Units located within the Sheffield Neighborhood.

3.9 **Obligation of the Association.** The Association shall carry out the functions and services specified herein first with the proceeds from Base Assessments and then, if necessary, with the proceeds from Special Assessments. The Board of Directors shall consider the proceeds of assessments and the needs of Members in exercising its functions and services set forth herein.

3.10 **Association Actions Requiring Approval.** Unless the Association receives the affirmative vote of at least a majority of the votes present in person or by proxy at a duly convened meeting of the Members, the Association shall not be entitled to:

(a) abandon, partition, subdivide, encumber, sell or transfer the Common Area or any portion thereof. The granting of easements for public utilities or for other purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this paragraph;

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) use hazard insurance proceeds for losses to any Common Area other than for the repair or replacement of the Common Area.

3.11 **Membership.** Every Owner shall be a Member of the Association and shall be bound by all of the terms, conditions, restrictions, easements and covenants contained in this Declaration and the Exhibits hereto. There shall be only one membership vote per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth herein and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. In the event of co-ownership of a Unit, any Owner of such Unit present at a meeting of the Members in person or by proxy may cast the vote for such Unit; provided, however, that if such co-Owners cannot agree on how to vote, no vote shall be counted for such Unit on that particular issue. The membership rights of an Owner which is a corporation, partnership or other legal entity shall be exercised by the officer, director, partner, trustee, or other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.12 **Voting.** Each Unit shall be entitled to one (1) vote on all matters put before the Members. The vote for a Unit shall not be divisible.

3.13 **Right of Declarant to Elect Board.** The Declarant shall be entitled to elect the number of directors to the maximum extent permitted by law so long as the Declarant owns any Units in the Community. In particular, the Declarant shall be entitled to elect the entire Board until three (3) months after ninety percent (90%) of the Units in the Community have been conveyed to Members other than the Declarant, at which time Members other than the Declarant shall be entitled to elect a majority of the Board. The Declarant is entitled to elect at least one member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Community. After the Declarant relinquishes control of the Association, the Declarant may exercise the right to vote any Declarant owned voting interests in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

Article IV **MAINTENANCE**

4.1 **Association's Responsibility**. Except for the Common Area located within the Sheffield Neighborhood which is the responsibility of the Sheffield Neighborhood Association, the Association shall maintain and keep in good repair the Common Area, which shall include, but need not be limited to, the following:

(a) all landscaping and other flora, parks, signage, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, situated upon the Common Area;

(b) such portions of any additional property included within any Area of Common Responsibility as may be dictated by this Declaration or any amendment hereto, or any contract or agreement for maintenance thereof entered into by the Association; and

(c) the storm water management system, utility, sewer, potable water and other systems.

There are hereby reserved to the Association, its successors and assigns, easements over the Common Area and Units as are necessary to enable the Association to fulfill such responsibilities.

The Association may assume maintenance responsibility for property within the Sheffield Neighborhood if, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed only against the Units within the Sheffield Neighborhood to which the services are provided as Specific Assessments.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense to be allocated among all Units in the manner of and as a part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

4.2 **Owner's Responsibility**. Each Owner shall maintain his or her Unit and all structures, parking areas, landscaping and other improvements located on, attached to, or comprising the Unit in a manner consistent with the Community-Wide Standard and all applicable covenants. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

4.3 **Maintenance of the Sheffield Neighborhood**. The Sheffield Neighborhood Association shall, at its sole cost and expense, maintain, repair and replace all Common Area located within or exclusively serving the Sheffield Neighborhood. The Sheffield Neighborhood Association shall be responsible for maintaining and repairing all buildings, improvements,

landscaping, personal property and other Common Area located within the Sheffield Neighborhood in good condition and repair and consistent with the Community-Wide Standard. In the event that the Sheffield Neighborhood Association fails to maintain and repair such Common Area in good condition and repair and consistent with the Community-Wide Standard, then the Association shall have the right, but not the obligation, to maintain and repair such Common Area in the Sheffield Neighborhood and assess the costs thereof to Sheffield Neighborhood Association, and if the Sheffield Neighborhood Association shall fail to reimburse the Association, the Association may impose on each Unit Owner within the Sheffield Neighborhood a Specific Assessment for all costs and expenses incurred in maintaining or repairing such Common Area in said Sheffield Neighborhood.

4.4 Single Family Residences and Duplexes: Party Walls and Similar Structures.

(a) Single Family Residences and Duplexes. Except for residences constructed in the Sheffield Neighborhood, all of which shall be duplexes, all residences in the Community shall only be free standing single family residences.

(b) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(c) Rights and Obligations. The rights and obligations of Unit Owners whose Units are separated by a party wall shall be set forth in the Declaration of Covenants, Conditions, Easements and Restrictions for the Sheffield Neighborhood.

Article V
INSURANCE AND CASUALTY LOSSES

5.1 Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area for which the Association is responsible to maintain and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a loss. The Association shall have no responsibility for insuring any improvements or other property constituting Common Area located within or used exclusively in connection with the Sheffield Neighborhood; and the Sheffield Neighborhood Association shall be responsible for obtaining and maintaining in effect such insurance. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to parks, rights-of-way, medians, easements and walkways which the Association is obligated to maintain. If blanket "all-risk" coverage is not generally available at reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief. The face amount of the policy shall be sufficient to cover the full replacement cost of the insured property. The cost of such insurance shall be a Common Expense to be allocated among all Units subject to assessment as part of the annual Base Assessment.

The Association also shall obtain a public liability policy on the Common Area for which the Association is responsible, insuring the Association and its Members for damage or injury

caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf. The Sheffield Neighborhood Association shall be responsible for obtaining and maintaining in effect liability insurance on the Common Area located within the Sheffield Neighborhood.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard, that the loss is the result of the negligence or willful conduct of one or more Owners or occupants, then the Board may assess the full amount of such deductible against the Unit of such Owner or occupant as a Specific Assessment.

All insurance coverage obtained by the Association shall:

- (a) be written with a responsible company authorized to do business in Florida;
- (b) be written in the name of the Association as trustee for the benefited parties;
- (c) vest in the Board exclusive authority to adjust losses; and
- (d) not be brought into contribution with insurance purchased by individual Owners, occupants or their Mortgagees.

The Board shall use reasonable efforts to secure insurance policies containing endorsements that waive any insurer's right of subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants, servants, agents and guests.

The Association shall also obtain, as a Common Expense, worker's compensation insurance and employer's liability insurance, if and to the extent determined by the Board of Directors, directors' and officers' liability coverage, and flood insurance, if advisable.

The Association may obtain, as a Common Expense, a fidelity bond or bonds covering all persons responsible for handling Association funds. The Board shall determine the amount of fidelity coverage in its best business judgment.

5.2 Owners Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "all-risk" property insurance on its Unit(s) and structures thereon and contents therein, providing full replacement cost coverage less a reasonable deductible.

5.3 Damage or Destruction to Unit. Each Owner covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, he shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX of this Declaration. Alternatively, the Owner shall promptly clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide

Standard. The Owner shall pay any costs which are not covered by insurance proceeds. If an Owner shall fail or refuse to perform his obligations pursuant to this Section, the Association may, but shall not be obligated to, perform such obligation and assess all costs incurred by the Association as a Specific Assessment against such Owner's Unit.

5.4 Damage and Destruction to Common Area.

(a) Immediately after damage or destruction to all or any part of the property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area for which the estimated cost to repair or replace is less than Ten Thousand and No/100 Dollars (\$10,000.00) shall be repaired or reconstructed by the Association. In the event that the estimated cost if repair or restoration equals or exceeds Ten Thousand and No/100 Dollars (\$10,000.00), then the Association shall repair or replace such damage or destruction unless the Members representing at least two-thirds (2/3rds) of the total voting interest of the Association decide within forty-five (45) days after the loss not to repair or reconstruct. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 45-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed forty-five (45) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

(c) If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

5.5 Disbursement of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and used to defray the Common Expenses or placed in a capital improvement account at the discretion of the Board.

5.6 Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors shall, without a vote of the Members, levy Special Assessments against the Unit Owners to cover the deficiency.

Article VI **NO PARTITION**

There shall be no judicial partition of the Common Area subject to this Declaration. No person shall seek any judicial partition unless the property in question has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of real property which may or may not be subject to this Declaration.

Article VII **CONDEMNATION**

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed the cost of repair or replacement of which is less than Ten Thousand and No/100 Dollars (\$10,000.00), the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available. In the event the taking involves a portion of the Common Area on which improvements have been constructed the cost of repair or replacement of which equals or exceeds Ten Thousand and No/100 Dollars (\$10,000.00), the Association shall restore or replace such improvements on the remaining land included within the Common Area to the extent available, unless within forty-five (45) days after such taking the Declarant, so long as the Declarant owns any Units, and Members representing at least two-thirds (2/3rds) of the total voting interest shall otherwise agree. Condemnation proceeds shall be treated the same as insurance proceeds for purposes of this Article. Any such construction shall be in accordance with plans approved by the Board.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for payment of Common Expenses.

Article VIII **ASSESSMENTS**

8.1 Creation of Assessments. The Association is hereby authorized to levy assessments against each Unit for Association expenses as the Board may specifically authorize from time to time. There shall be three (3) types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Units; (b) Special Assessments as described in Section 8.5 below; and (c) Specific Assessments as described in Section 8.6 below. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Unit is deemed to covenant and agree to pay these assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by Florida law), late charges, costs and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.7. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. In the event of co-ownership, all Owners of the Unit shall be jointly and severally liable for all assessments levied against the Unit. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which

accrued prior to such acquisition of title, unless such mortgage or other security instrument was recorded after recording of the claim of lien by the Association.

Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request, furnish to any Owner liable for any type of assessment, a certificate in writing, signed by an officer of the Association, setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment as to any bona fide purchaser of such unit who relied on the certificate. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

No Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

8.2 Declarant's Obligation for Assessments. So long as the Declarant owns any Unit or Units in the Community, the Declarant shall be excused and exempt from payment of any Assessments on such Unit or Units, whether the Base Assessment, Special Assessment, Specific Assessment or otherwise. The above exemption shall apply to the Declarant, and its assigns, regardless of whether the Declarant has constructed a residence on such Unit. In addition, the Declarant shall have the right, but not the obligation, to exempt any Builder to whom Declarant sells a Unit or Units from payment of assessments until such time as the Builder constructs a residence on the Unit and obtains a certificate of occupancy from the applicable governmental authority.

8.3 Computation of Base Assessment. At least annually, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a reserve fund. The Base Assessment shall be levied equally against all Units subject to assessment, and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner, or shall make a copy of the budget available to any Owner who requests the same, all in accordance with Florida Statutes.

8.4 Sheffield Neighborhood. The Units located within the Sheffield Neighborhood shall be subject to Base Assessments, Special Assessments and Specific Assessments levied by the Association, and the Association shall have all of the enforcement and lien rights against such Units as otherwise provided in this Declaration. The Sheffield Neighborhood Association shall be primarily responsible for collecting such assessments levied by the Association and remitting such collected assessments to the Association; however, the Sheffield Neighborhood Association shall not be liable to the Association for failure to collect such assessments. Nothing herein shall be construed so as to prevent the Association from collecting any

Assessment levied against Units in the Sheffield Subdivision directly from the Owners of such Units.

THE OWNERS OF UNITS WITHIN THE SHEFFIELD NEIGHBORHOOD SHALL BE OBLIGATED TO PAY ASSESSMENTS TO THE SHEFFIELD NEIGHBORHOOD ASSOCIATION IN ADDITION TO THE ASSESSMENTS LEVIED BY THE ASSOCIATION PURSUANT TO THIS DECLARATION. FAILURE TO PAY ANY ASSESSMENT LEVIED EITHER BY THE ASSOCIATION OR THE SHEFFIELD NEIGHBORHOOD ASSOCIATION MAY RESULT IN A LIEN AGAINST THE UNIT AND ANY OTHER ENFORCEMENT ACTIONS.

8.5 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments against all Units in the Community from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.6 Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Community to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, the Bylaws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees or guests, or as otherwise permitted in this Declaration; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment under this subsection.

The Association may also levy a Specific Assessment against all of the Units in the Sheffield Neighborhood to reimburse the Association for costs incurred in bringing the Common Areas within the Sheffield Neighborhood into compliance with the provisions of the Declaration, the Articles, the Bylaws and rules.

8.7 Lien for Assessments; Suspension of Voting and Use Rights, Fines. The Association is hereby granted a lien on each Unit to secure any and all assessments levied against such Unit. The lien shall be effective upon the filing by the Association or its authorized agent of a claim of lien in the Public Records of Lee County, Florida. Said lien may be foreclosed by the Association in the same manner as a mortgage on real estate.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Unit is owned by the Association following foreclosure, no right to vote shall be exercised on its behalf, no assessment shall be levied on it, and each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged against such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

After notice and hearing, the Board may suspend the voting rights and right of a Member to use the Common Area while such Member is in default in payment of any assessment. Further, the Board may levy fines against any Owner who is more than ten (10) days past due in payment of any assessment, to the maximum extent permitted by Florida Statute

Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of such charges as a debt and also to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners.

All payments shall be applied first to costs and attorneys' fees, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment.

8.8 Subordination of the Lien to First Mortgages; Mortgagees' Rights. The lien for assessments provided for herein shall be subordinate to the lien of any first mortgage placed upon a Unit in favor of an institutional lending institution prior to the recording of a claim of lien for the unpaid assessment. However, a first mortgagee shall become liable for all assessments which become due and payable subsequent to the sale or transfer of the Unit pursuant to a decree of foreclosure, or pursuant to a deed given in lieu of foreclosure, or any other proceeding in lieu of foreclosure. A first mortgagee, upon written request, shall be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days.

8.9 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

8.10 Capitalization of Association; Capital Contribution Required at Closing. Upon acquisition of record title to a Unit by the first Owner thereof, other than the Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to \$ _____. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be disbursed to the Association at closing for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

8.11 Exempt Property. The following property shall be exempt from payment of Assessments:

- (a) all Common Area;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Unit which is subject to assessment (in which case the Unit shall not be exempted from assessment); and
- (d) any property owned by the Declarant or the Association.

Article IX
ARCHITECTURAL STANDARDS

9.1 **General.** No structure shall be placed, erected or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place, except in compliance with this Article, and upon approval of the appropriate committee set forth below.

Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with the originally approved plans and specifications.

All dwellings constructed on any portion of the Community shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Article shall not apply to the activities of the Declarant nor to improvements to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any land subject to this Declaration.

9.2 **Architectural Review.** Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by the two committees as described in subsections (a) and (b). The members of the Committees need not be Members of the Association or representatives of Members and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review. Except for the Declarant's rights set forth below, the Board shall be solely responsible for appointment of the members to sit on the committees identified below, and the Board may sit as either or both committees at its discretion.

(a) **New Construction Committee.** The New Construction Committee ("NCC") shall consist of at least three (3) persons and shall have exclusive jurisdiction over all original construction on any portion of the Real Property. Until 100% of the Properties have been developed and conveyed to Owners other than Builders, the Declarant retains the right to appoint all members of the NCC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board shall appoint the members of the NCC, who shall serve and may be removed in the Board's discretion.

(b) **Modifications Committee.** The Board of Directors may establish a Modifications Committee ("MC"), to consist of at least three persons, all of whom shall be appointed by and shall serve at the discretion of the Board. The MC, if established, shall have

exclusive jurisdiction over modifications, additions or alterations made on or to existing structures on Units or containing Units and the adjacent open space.

9.3 Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and application and review procedures (the "Design Guidelines"), which shall apply to all construction activities within the Community. The Design Guidelines may contain general provisions applicable to all of the Units, as well as specific provisions which vary from one Unit to another, depending upon the location, unique characteristics and intended use.

The NCC shall adopt such Design Guidelines at its initial organizational meeting and the thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The NCC shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Community, and all such Persons shall conduct their activities in accordance with such Design Guidelines. In the Declarant's discretion, such Design Guidelines may be recorded in the land records of Lee County, Florida, in which event, the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the NCC.

9.4 Submission of Plans and Specifications.

(a) No construction or improvements shall be commenced, erected, placed or maintained on any Unit, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, shall have been submitted to, and approved in writing by, the NCC or MC, as appropriate. The Design Guidelines shall set forth the procedure for submission of the Plans.

(b) In reviewing each submission, the NCC or MC, as appropriate may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in the relation to surrounding structures and plant life. The committees may require relocation of native plants within the construction site as a condition of approval of any submission.

The NCC or the MC, as appropriate, shall, within 45 days after receipt of each submission of the Plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such

finding, and suggestions for the curing of such objections. In the event the appropriate committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(c) If construction does not commence on a project for which Plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to resubmit the Plans to the Declarant for reconsideration.

9.5 **No Waiver of Future Approvals.** Each Owner acknowledges that the members of the NCC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings of any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

9.6 **Variance.** The NCC may, in its discretion, authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require.

9.7 **Limitation of Liability.** Neither the Association, Declarant, NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing, shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Unit.

9.8 **Enforcement.** Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, the violating Owner shall, at his own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the violating Unit and collected as a Specific Assessment.

Any contractor, subcontractor, agent, employee or other invitee of an Owner, who fails to comply with the terms and provisions of this Article and the Design Guidelines, may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers nor directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the NCC and MC.

Article X

USE GUIDELINES AND RESTRICTIONS

10.1 **Plan of development; Applicability; Effect.** Declarant has created the Community as a residential development and, in furtherance of its and every other Owner's interests, has subjected the Real Property to this Declaration and its Exhibits. The Units are subject to land development, architectural and design guidelines as set forth in this Declaration, and are subject to guidelines and restrictions governing land use, individual conduct, and uses of or actions upon the Units as provided in this Article. This Declaration and resolutions the Board or the Members may adopt and establish affirmative and negative covenants, easements and restrictions affecting the Units and Community (the "Use Guidelines and Restrictions").

All provisions of this Declaration and of any Association rules shall also apply to all occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the Bylaws and the rules of the Association.

10.2 **Board Power.** The Board shall implement and manage the Use Guidelines and Restrictions through rules which adopt, modify, cancel, limit, create exceptions to, or expand the existing Use Guidelines and Restrictions. The Board shall have all powers necessary and proper, subject to its exercise of sound business judgment and reasonableness, to effect the powers contained in this Section.

10.3 **Owners' Acknowledgment.** All Owners are subject to the Use Guidelines and Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board may add, delete, modify, create exceptions to or amend the Use Guidelines and Restrictions in accordance with this Declaration. Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Guidelines and Restrictions and rules may change from time to time.

10.4 Initial Use Guidelines and Restrictions.

(a) **Residential Use.** Except for Units owned by the Declarant, the Units shall be used only for residential purposes.

(b) **Restricted Activities.** The following activities are prohibited within the Community and Units, unless expressly authorized by, and then subject to such conditions as may be imposed by the Board:

(i) **Parking of commercial vehicles, recreational vehicles, mobile homes, boats or other watercraft, or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed garages;**

(ii) **Capturing, trapping or killing of wildlife within the Community, except in circumstances posing an imminent threat to the safety of persons; and**

raising, breeding or keeping of animals, livestock or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which roam free or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units, shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(iii) Activities which materially disturb or destroy the vegetation, wildlife or air quality within the Community or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(iv) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers or storm drains, except that the Declarant and the Association shall have such right subject to governmental regulations; provided the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(v) Subdivision of a Unit into two or more Units after a subdivision plat including such Unit has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Unit, except that the Declarant and Builders, with Declarant's consent, shall be permitted to subdivide or change the boundary lines of Units which they own;

(vi) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of time;

(vii) Conversion of any carport, garage, attic or other unfinished space to finished space for use as an apartment or other integral part of the living area on any Unit;

(viii) Use of any arroyo trails maintained by the Association for purposes other than walking and non-motorized bicycling; and

(ix) Any Business, Trade, garage sale, moving sale, rummage sale or similar activity, except that an Owner or occupant residing in a Unit may conduct Business activities within the Unit so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the activity conforms to all zoning requirements for the Unit; (c) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Community; and (d) the activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Units or its use of any Units which it owns within the Community.

Article XI **EASEMENTS**

11.1 **Easements of Encroachment**. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units, due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant or the Association.

11.2 **Easements for Utilities, Etc.** There are hereby reserved unto Declarant, so long as the Declarant owns any property subject to this Declaration, the Association, and the designees of each (which may include, without limitation, Lee County, Florida, and any utility company) access and maintenance easements upon, across, over and under all of the Units and Common Area to be extent reasonably necessary for the purpose of installing, replacing, repairing and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, ponds, wetlands, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.3 **Easements for Collection of Storm Water Runoff and Flood Water**. The Declarant reserves for itself, and its successors, assigns and designees the nonexclusive right and easement, but not the obligation, to enter upon any arroyo or conservation easement located within the Community to (a) install, keep, maintain and replace pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) construct, maintain and repair any structure designed to divert, collect or retain water; and (c) remove trash and other debris. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to this Declaration, or such earlier time as Declarant may elect, in its sole discretion to transfer such rights by a written instrument. The Declarant, the Association and their designees shall have an access easement over and across any of the Units abutting or containing any portion of any arroyo or conservation easement to the extent reasonably necessary to exercise their rights under this Section.

11.4 **Easements for Cross-Drainage**. Every Unit and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Real Property; provided, no Person shall alter the natural drainage on any Unit so as to materially increase the drainage of storm Water onto adjacent portions of the Real Property without the prior written consent of the Owner of the affected property.

11.5 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security and safety reasons, to perform maintenance pursuant to Article IV hereof, and to inspect for the purpose of ensuring compliance with this Declaration, Bylaws and rules, which right may be exercised by any member of the Board, the Association, officers, agents, employees and managers, and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard, in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

Article XII

DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the land records of Lee County, Florida.

The Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Community, without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

Article XIII

PREFERRED BUILDER PROGRAM

Only builders approved in writing by Declarant shall be entitled to construct residences in the Community; and each Owner, by acceptance of a deed to his Unit, agrees that he will not use any builder for construction of his residence that has not been approved in writing by the Declarant. The Declarant may limit the total number of builders that may construct residences in the Community, in Declarant's sole discretion; and may reject or impose restrictions on any builder constructing improvements for an Owner.

Article XIV

ADDITION OF LAND TO COMMUNITY

The Declarant shall at all times have the right, in the Declarant's sole and absolute discretion, to subject additional lands and the improvements thereon to this Declaration. Such

additional land shall be considered as an amendment to this Declaration and recorded in the Public Records of the County. In the event Declarant subjects additional lands to this Declaration, then all Owners of Units in such additional lands shall be bound by all of the terms and conditions contained in this Declaration, shall be Members of the Association, and shall be responsible for bearing their proportionate share of the Common Expenses. Nothing contained herein shall be construed so as to require Declarant to submit additional lands to this Declaration.

Article XV **TRANSFERS OF UNITS**

No Unit Owner may sell, lease or transfer his Unit, whether by gift or otherwise, without obtaining the prior written consent of the Association. Any Owner desiring to sell, lease or transfer his Unit shall provide the Association with a written application for approval of the transfer on a form approved by the Association, which shall contain the name, phone number, and address of the proposed transferee and such other information as the Association shall reasonably require. The Association may require additional information based on the review of the application. In addition, the Association may require the personal appearance of the proposed transferee or lessee and his family members or other proposed occupants of the Unit. Upon receipt of the complete application and all such other information required by the Association, the Association shall have a period of thirty (30) days within which to approve or disapprove the sale, lease or transfer. Failure to render a decision within the thirty (30) day period shall be deemed approval of the transfer by the Association. Approval shall be evidenced by a Consent to Transfer Certificate executed by the Association in recordable form, except in the event of a lease, in which case approval or disapproval shall be by letter from the Association to the Owner. In the event anyone obtains title to a Unit through inheritance or devise, then such acquirer of the Unit shall notify the Association of such acquisition, and such acquirer's right to continue to own the Unit shall be subject to the Association's approval.

Article XVI **GENERAL PROVISIONS**

16.1 **Term.** This Declaration shall run with and bind the Real Property, and shall inure to the benefit of and shall be enforceable by the Declarant, Association or any Owner, their respective legal representatives, heirs, successors and assigns. This Declaration shall have an initial effective period of twenty five (25) years, and shall thereafter automatically renew for successive periods of ten (10) years, unless a majority of the total voting interest of the Association votes to terminate this Declaration. Such termination shall be evidenced by a certificate of the Association setting forth the termination which must be recorded in the Public Records of Lee County, Florida. In the event of termination, the dedicated property and corresponding infrastructure will be conveyed or dedicated to a similar non-profit organization or entity to assure continued maintenance and operation.

16.2 **Amendment.**

(a) **By Declarant.** So long as the Declarant is entitled to elect a majority of the Board, Declarant may unilaterally amend this Declaration for any purpose without the necessity of a meeting of the Board or Members.

(b) By Owners. Upon transfer of control of the Association to the non-Declarant Owners, this Declaration may be amended only by the affirmative vote or written consent of seventy five percent (75%) of the total voting interest of the Association. No such amendment may remove, revoke or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

(c) Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the land records of Lee County, Florida, unless a later effective date is specified therein.

(d) Stormwater Management System. Any amendment to the Declaration that will affect the Stormwater Management System serving the Community must receive prior approval of the South Florida Water Management District.

16.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

16.4 Attorney's Fees and Costs. In any action to collect past due assessments or enforce the terms and conditions of the Declaration wherein the Association engages the services of an attorney, then the defaulting party shall pay all attorney's fees and costs incurred by the Association, whether or not a suit is filed, and the obligation to so reimburse the Association shall be a lien on the defaulting Owner's Unit. In any litigation arising out of the interpretation or enforcement of this Declaration or the Exhibits hereto, the prevailing party in such litigation shall collect from the non-prevailing party its reasonable attorney's fees and costs incurred at all trial, appellate and bankruptcy proceedings.

16.5 Conflict. All covenants and restrictions, and provisions of any articles of incorporation, bylaws, or rules and regulations of the Sheffield Neighborhood shall be subject and subordinate to those of the Association to the extent of any conflict. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

16.6 Compliance. Every Owner and occupant of any Unit shall comply with this Declaration, the Bylaws and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Unit Owner(s).

16.7 Headings. The headings in the Declaration are for convenience and reference purposes only, and shall in no way be construed so as to define or limit the terms herein.

16.8 Construction. Whenever used herein the singular tense shall include the plural and vice versa, and the use of any gender shall refer to all genders. This Declaration and its Exhibits shall not be construed more favorably against any party, notwithstanding that this Declaration was drafted by the Declarant.

16.9 Right of Owners. All Owners and other beneficiaries of the dedicated property and corresponding infrastructure set forth herein, including the Stormwater Management

System, shall have the right to enforce the maintenance covenants contained in this Declaration.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this _____ day of _____, 200__.

Witnesses:

Witness Sign Name

Witness Print Name

Witness Sign Name

Witness Print Name

DECLARANT:

BEAZER HOMES CORP., a Tennessee
corporation, d/b/a Gulfcoast Homes

By: _____
Print Name: _____
Print Title: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 200__, by _____, as _____ of BEAZER HOMES CORP., a Tennessee corporation, d/b/a Gulfcoast Homes, who ☐ is personally known to me or who ☐ has produced _____ as identification.

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL

Notary Public

Printed Name

Commission No.

Expiration Date

EXHIBIT "A"

Real Property

EXHIBIT "B"

Articles of Incorporation

EXHIBIT "B"

ARTICLES OF INCORPORATION

OF

DANFORTH LAKES HOMEOWNERS' ASSOCIATION, INC.

a Florida nonprofit corporation

PREAMBLE

BEAZER HOMES CORP., a Tennessee corporation, d/b/a Gulfcoast Homes, owns certain property in Lee County, Florida, which property is subject to a Declaration of Covenants, Conditions, Easements and Restrictions of which these Articles form a part. This Association is being formed to administer the Declaration and to perform, among other things, the duties and exercise the powers pursuant to the Declaration. All of the definitions contained in the Declaration and the Bylaws shall apply to these Articles.

ARTICLE I

Name and Principal Office

The name of the corporation is Dansforth Lakes Homeowners' Association, Inc., a Florida nonprofit corporation (hereinafter referred to as the "Association"); and the street address of the initial principal office of the Association is 11934 Fairway Lakes Drive, Fort Myers, Florida 33913.

ARTICLE II

Purpose

The purposes for which the Association is organized are as follows:

1. To operate as a corporation not-for-profit pursuant to Chapters 617 of the Florida Statutes.
2. To administer, enforce and carry out the terms and provisions of the Declaration, as the same may be amended from time to time.

ARTICLE III

Powers

The Association shall have the following powers:

1. All of the common law and statutory powers of a corporation not-for-profit under the laws of Florida which are not in conflict with the terms of these Articles.

2. To enter into, make, establish and enforce, rules, regulations, bylaws, covenants, restrictions and agreements to carry out the purposes of the Association.

3. To make and collect Assessments against members of the Association to defray the costs, expenses, and losses incurred or to be incurred by the Association; and to use the proceeds thereof in the exercise of the Association's powers and duties; and to enforce such levy of assessments through a lien and the foreclosure thereof or by other action pursuant to the Declaration.

4. To own, purchase, sell, mortgage, lease, administer, manage, operate, maintain, improve, repair and/or replace real and personal property, for such purposes as the Association may determine.

5. To hold funds for the exclusive benefit of the members of the Association as set forth in these Articles and as provided in the Declaration and the Bylaws.

6. To purchase insurance for the protection of the Association, its property, officers, directors and members, and such other parties as the Association may determine to be in the best interests of the Association.

7. To employ personnel necessary to perform the obligations, services and duties required of or to be performed by the Association and/or to contract with others for the performance of such obligations, services and/or duties, including operation and maintenance of the stormwater system and common property.

8. To sue and be sued.

9. To operate and maintain the Stormwater Management System, if necessary or appropriate, as permitted by the South Florida Water Management District, including, but not limited to, all lakes, retention areas, culverts and related appurtenances.

10. All other powers necessary to effectuate the purposes for which the Association is organized.

ARTICLE IV

Members

1. Members. The owner of any parcel in Danstorth Lakes shall be a member of the Association. Such membership shall be initially established upon the recording of these Articles and the Declaration among the Public Records of the county in which the Subject Property is located.

2. Transfer of Membership. Transfer of membership in the Association shall be established by the recording in the Public Records of Lee County, Florida, of a deed or other instrument establishing a transfer of record title to any parcel for which membership has already been established as hereinabove provided

ARTICLE V

Directors

1. The affairs of the Association shall be managed by a Board consisting of not less than three (3) directors.

2. The directors of the Association shall be elected by the members in accordance with the Bylaws.

3. All of the duties and powers of the Association existing under the Florida Statutes, the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board, its agents, contractors or employees, subject to approval by the members only when specifically required.

4. The initial Directors are as follows:

Matthew M. McGirr
11934 Fairway Lakes Drive
Fort Myers, Florida 33913

Tom Fry

Christin Cupp
11934 Fairway Lakes Drive
Fort Myers, Florida 33913

ARTICLE VI

Officers

The officers of the Association shall be a President, Vice President, Secretary, Treasurer and such other officers as the Board may from time to time create. The officers shall serve at the pleasure of the Board, and the Bylaws may provide for the removal from office of officers, for the filling vacancies, and for the duties of the officers. The initial officers of the Association are as follows:

President	Christin Cupp
Vice President	Matthew M. McGirr
Secretary/Treasurer	Tom Fry

ARTICLE VII

Indemnification

1. The Association shall indemnify any person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, employee, officer or agent of the Association, against

expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interest of the Association; and, with respect to any criminal action or proceeding, if such person had no reasonable cause to believe his conduct was unlawful; except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the person did not act in good faith and in a manner which he did not reasonably believe to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that such person had no reasonable cause to believe that his conduct was unlawful.

2. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by such person in connection therewith.

3. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that such person is entitled to be indemnified by the Association as authorized in this Article.

4. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of members or otherwise; and as to action taken in an official capacity while holding office, shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

5. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE VIII

Amendments

Amendments to these Articles shall require approval of not less than two thirds (2/3rds) of the total voting interest of the Association.

ARTICLE IX

Term

The Association shall have perpetual existence, unless sooner terminated as set forth in the Declaration.

ARTICLE X

Incorporator

The name and street address of the Incorporator is:

Steven I. Winer, Esquire
Annis, Mitchell, Cockey, Edwards & Roehn, P.A.
12800 University Drive, Suite 600
Fort Myers, Florida 33907

ARTICLE XI

Initial Registered Office Address and Name of Initial Registered Agent

The street address of the initial registered office of the Association is 12800 University Drive, Suite 600, Fort Myers, Florida 33907. The initial registered agent of the Association at that address is Steven I. Winer.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles this _____ day of November, 2000.

WITNESSES:

(Witness Sign Name)

(Witness Print Name)

(Witness Sign Name)

(Witness Print Name)

Steven I. Winer

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this ____ day of November, 2000, by STEVEN I. WINER, who ☒ is personally known to me or who ☐ has produced _____ as identification.

NOTARY RUBBER STAMP SEAL
OR EMBOSSED SEAL

Notary Public

Printed Name

Commission No.

Expiration Date

I hereby acknowledge and accept the assignment of registered agent for this corporation.

Steven I. Winer, Registered Agent

EXHIBIT "C"

Bylaws

EXHIBIT "C"

BYLAWS

OF

DANSFORTH LAKES HOMEOWNERS' ASSOCIATION, INC.

Article I

Name, Principal Office, and Definitions

1.1 **Name.** The name of the Association shall be Dansforth Lakes Homeowners' Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 **Principal Office.** The principal office of the Association in the State of Florida shall be located in Lee County. The Association may have such other offices, either within or outside the State of Florida, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 **Definitions.** The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, Easements and Restrictions for Dansforth Lakes filed in the Office of the land records of Lee County, Florida (the "Declaration"), unless the context indicates otherwise.

Article II

Membership, Meetings, Quorum, Voting, Proxies

2.1 **Membership.** All record Owners of Units in the Community shall be Members of the Association as set forth in the Declaration.

2.2 **Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Community or as convenient thereto as practical.

2.3 **Annual Meetings.** The first meeting of the Association Members, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board on a date and at a time set by the Board of Directors.

2.4 **Special Meetings.** The President may call special meetings of Members. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 10% of the total voting interest of the Association.

2.5 **Notice of Meetings.** Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 7 or more than 50 days before the date of such

meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid.

2.6 **Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 **Adjournment of Meetings.** If any meeting the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a different time. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum.

2.8 **Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference.

2.9 **Proxies.** Members may vote by proxy to the extent permitted by Florida Statutes.

2.10 **Quorum.** Except as otherwise provided in these Bylaws or in the Declaration, the presence of the Members representing 30% of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.11 **Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.12 **Action Without a Meeting.** Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a

vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present.

Article III **Board of Directors: Number, Powers, Meetings**

3.1 **Governing Body; Composition.** The affairs of the Association shall be carried out by the Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Declarant, the directors shall be Members. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Declarant.

3.2 **Number of Directors.** The number of directors in the Association shall be not less than three nor more than seven. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3 **Declarant's Right to Appoint Directors.** Declarant shall be entitled to elect Directors to the maximum extent permitted by law, as more particularly set forth in the Declaration.

3.4 **Nomination of Directors.** Except with respect to directors selected by the Declarant, nominations for election to the Board of Directors may be made by a Nominating Committee selected by the Board and nominations may be made from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

3.5 **Election and Term of Office.** Except for Directors appointed by the Declarant, Directors shall be elected by a plurality vote of Members present in person or by proxy at a duly called meeting of the Members. Directors shall serve one (1) year terms or until their successors are elected and qualified.

3.6 **Removal of Directors and Vacancies.** Any director elected by the Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

3.7 **Organizational Meetings.** The first meeting of the Board of Directors following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.8 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place a majority of the directors shall determine. Notice of the time and place of the meeting shall be communicated to directors not less than 7 days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9 **Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; or (b) first class mail, postage prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices shall be given at least 7 business days before the time set for the meeting. Notices given by personal delivery at least 72 hours before the time set for the meeting.

3.10 **Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 **Notice to Members.** Notices of all Board meetings must be posted in a conspicuous place in the Community at least 48 hours in advance of the Board meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Community, notice of each Board meeting must be mailed or delivered to each Member at least 7 days before the meeting, except in emergency. Notwithstanding the above, the Board may, in its discretion, provide for a reasonable alternative to posting or mailing of notice for each meeting, including publication of notice or providing schedule of Board meetings in advance.

3.12 **Quorum of Board of Directors** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting another time and date. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13 **Compensation.** No director shall receive any compensation from the Association for acting as such.

3.14 **Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of

Directors, recording all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

3.15 **Open Meetings.** All meetings of the Board shall be open to all Members, except for meetings between the Board and its attorney with respect to pending or threatened litigation, but a Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak.

3.16 **Powers.** Per The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles, and as provided by law, the Board may do or cause to be done all acts and things as are not by the Declaration, Articles, these Bylaws, or Florida law directed to be done and exercised exclusively by the Members or the membership generally.

3.17 **Management.** The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

3.18 **Enforcement.** In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Unit. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Unit violates the Declaration, Bylaws, or a rule and a fine is imposed, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) **Notice.** Prior to the imposition of any sanction hereunder of under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 14 days within which the alleged violator may present a written request for a hearing before an impartial committee to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 14 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 14 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) **Additional Enforcement Rights.** Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws or

the rules of the Association, by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or, following compliance with the procedures set forth in the Declaration, by suit, at law or in equity, to enjoin any violation or to recover monetary damages, or both. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

Article IV **Officers**

4.1 **Officers.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President, Vice President, Secretary, and Treasurer shall be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board of Directors. Such other officers may, but need not be members of the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 **Election and Term of Office.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members.

4.3 **Removal and Vacancies.** Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.4 **Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5 **Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 **Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board of Directors.

4.7 **Compensation.** Officers shall not be compensated for the performance of their duties

Article V
Committees

The Board may appoint such committees at it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

Article VI
Miscellaneous

6.1 **Fiscal Year.** The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

6.2 **Parliamentary Rules.** Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law, the Articles of Incorporation, the Declaration, or these Bylaws.

6.3 **Conflicts.** If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

6.4 **Amendment** These Bylaws may be amended only by a vote of 75% of the total voting interest of the Association.