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AMENDED AND RESTATED DECLARATION  
 FOR  
 BALMORAL ESTATES

TABLE OF CONTENTS

	Page
1. Recitals .....	1
2. Original Declaration .....	1
3. Definitions .....	1
4. Plan of Development .....	4
4.1 Generally .....	4
4.2 Association's Obligation to Cooperate .....	4
5. Amendment .....	4
5.1 General Restrictions on Amendments .....	4
5.2 No Vested Rights .....	5
5.3 Amendments Prior to and Including the Turnover Date .....	5
5.4 Amendments After the Turnover Date .....	5
6. Annexation and Withdrawal .....	5
6.1 Annexation by Developer .....	5
6.2 Annexation by Association .....	5
6.3 Withdrawal .....	5
7. Dissolution .....	5
7.1 Generally .....	5
7.2 Applicability of Declaration after Dissolution .....	5
8. Binding Effect and Membership .....	6
8.1 Term .....	6
8.2 Transfer .....	6
8.3 Membership .....	6
8.4 Ownership by Entity .....	6
8.5 Voting Interests .....	6
8.6 Document Recordation by Owners Prohibited .....	6
8.7 Composition of the Board .....	6
8.8 Conflicts .....	6
9. Paramount Right of Developer .....	6
10. Operation of Common Areas .....	7
10.1 Prior to Conveyance .....	7
10.2 Construction of Common Areas Facilities .....	7
10.3 Use of Common Areas by Developer .....	7
10.4 Conveyance .....	7
10.4.1 Generally .....	7
10.4.2 Form of Deed .....	7
10.5 Operation After Conveyance .....	8
10.6 Paved Areas .....	8
10.7 Delegation and Managers .....	8
10.8 Use .....	8
10.8.1 Nonexclusive Use .....	8

Amended and Restated Declaration  
 Balmoral Estates

10.8.2	Right to Allow Use .....	8
10.8.3	Waterbodies .....	9
10.8.4	Obstruction of Common Areas .....	9
10.8.5	Assumption of Risk .....	9
10.8.6	Owner's Obligation to Indemnify .....	9
10.9	Rules and Regulations .....	9
10.9.1	Generally .....	9
10.9.2	Developer Not Subject to Rules and Regulations .....	9
10.10	Public Facilities .....	10
10.11	Water Mains .....	10
10.12	Default by Another Owner .....	10
10.13	Special Taxing Districts .....	10
10.14	Water Transmission and Distribution Facilities Easement and Repair .....	10
10.15	Association's Obligation to Indemnify .....	10
10.16	Site Plans and Plats .....	10
11.	Maintenance by Association .....	11
11.1	Common Areas .....	11
11.2	Drainage .....	11
11.3	Maintenance of Lawn and Landscaping .....	11
11.4	Public Roads .....	11
11.5	Private Roads .....	11
11.6	Surface Water Management System .....	11
11.6.1	Duty to Maintain .....	11
11.6.2	Amendments to Association Documents .....	11
11.7	Adjoining Areas .....	11
11.8	Negligence .....	11
11.9	Right of Entry .....	11
11.10	Maintenance of Property Owned by Others .....	11
12.	Maintenance by Owners .....	12
12.1	Lawn Maintenance Standards .....	12
12.1.1	Trees .....	12
12.1.2	Shrubs .....	12
12.1.3	Grass .....	12
12.1.4	Mulch .....	12
12.1.5	Insect Control and Disease .....	12
12.1.6	Fertilization .....	12
12.1.7	Irrigation .....	12
12.1.8	Post Lights .....	12
12.1.9	Weeding .....	12
12.1.10	Trash Removal .....	12
12.1.11	Right of Association to Enforce .....	12
12.1.12	Landscaping and Irrigation of Lots; Removal of Sod and Shrubbery; Additional Planting .....	12
12.1.13	Lake and Canal Slopes .....	13
12.1.14	Weeds and Refuse .....	13
12.1.15	Driveway and Sidewalk Repair .....	13
13.	Use Restrictions .....	13
13.1	Alterations and Additions .....	13
13.2	Animals .....	13
13.3	Artificial Vegetation .....	13
13.4	Cars and Trucks .....	13
13.4.1	Parking .....	13
13.4.2	Repairs and Maintenance of Vehicles .....	14
13.4.3	Prohibited Vehicles .....	14
13.5	Casualty Destruction to Improvements .....	14
13.6	Commercial Activity .....	14
13.7	Completion and Sale of Homes or Units .....	14
13.8	Control of Contractors .....	14
13.9	Cooking .....	14
13.10	Decorations .....	14
13.11	Disputes as to Use .....	15
13.12	Drainage System .....	15
13.13	Driveway Repair .....	15
13.14	Extended Vacation and Absences .....	15
13.15	Fences and Walls .....	15
13.16	Fuel Storage .....	15
13.17	Garages .....	15
13.18	Garbage Cans .....	15
13.19	General Use Restrictions .....	16
13.20	Hurricane Shutters .....	16
13.21	Irrigation .....	16

13.22	Laundry	16
13.23	Lawful Use	16
13.24	Leases	16
13.25	Minor's Use of Facilities	17
13.26	Nuisances	17
13.27	Oil and Mining Operations	17
13.28	Paint	17
13.29	Personal Property	17
13.30	Pools	17
13.31	Removal of Soil and Additional Landscaping	17
13.32	Roofs, Driveways and Pressure Treatment	17
13.33	Satellite Dishes and Antennas	17
13.34	Signs and Flags	17
13.35	Sports Equipment	18
13.36	Storage	18
13.37	Subdivision and Regulation of Land	18
13.38	Substances	18
13.39	Swimming, Fishing, Boating, Docks and Wildlife	18
13.40	Use of Homes	18
13.41	Visibility on Corners	18
13.42	Water Intrusion	18
13.43	Wells	18
13.44	Wetlands Areas	18
13.45	Windows or Wall Units	18
13.46	Window Treatments	18
13.47	Workers	18
14.	Easement for Unintentional and Non-Negligent Encroachments	18
15.	Requirement to Maintain Insurance	19
15.1	Association	19
15.1.1	Flood Insurance	19
15.1.2	Liability Insurance	19
15.1.3	Directors and Officers Liability Insurance	19
15.1.4	Other Insurance	19
15.1.5	Developer	19
15.2	Homes	19
15.2.1	Requirement to Maintain Insurance	19
15.2.2	Requirement to Reconstruct or Demolish	19
15.2.3	Standard of Work	19
15.2.4	Additional Rights of Association	19
15.2.5	Rights of County	19
15.2.6	Association Has No Liability	20
15.3	Fidelity Bonds	20
15.4	Association as Agent	20
15.5	Casualty to Common Areas	20
15.6	Nature of Reconstruction	20
15.7	Additional Insured	20
15.8	Cost of Insurance	20
16.	Property Rights	20
16.1	Owners' Easement of Enjoyment	20
16.2	Ingress and Egress	21
16.3	Development Easement	21
16.4	Public Easements	21
16.5	Delegation of Use	21
16.6	Easement for Encroachments	21
16.7	Permits, Licenses and Easements	21
16.8	Support Easement and Maintenance Easement	21
16.9	Drainage	22
16.10	Blanket Easement in Favor of Association	22
16.11	Easement for zero lot line wall Maintenance	22
16.12	Painting of Homes and Zero Lot Line Walls	22
16.13	No Structural Change	22
16.14	Damage by Owner of Adjacent Home	22
16.15	Construction Easement	22
16.16	Duration	22
17.	Assessments	23
17.1	Types of Assessments	23
17.2	Purpose of Assessments	23
17.3	Designation	23
17.4	Allocation of Operating Costs	24
17.5	General Assessments Allocation	24

17.6	Use Fees and Individual Assessment .....	24
17.7	Commencement of First Assessment .....	24
17.8	Deficit Funding, Shortfalls and Surpluses.....	24
17.9	Budgets .....	25
17.10	Establishment of Assessments .....	25
17.11	Initial Contribution.....	25
17.12	Assessment Estoppel Certificates .....	25
17.13	Payment of Home Real Estate Taxes .....	25
17.14	Creation of the Lien and Personal Obligation .....	25
17.15	Liability for Assessments.....	26
17.16	Acceleration .....	26
17.17	Non-Payment of Assessments.....	26
17.18	Exemption.....	26
17.19	Collection by Developer .....	26
17.20	Rights to Pay Assessments and Receive Reimbursement .....	27
17.21	Mortgagee Right .....	27
17.22	Collection of Assessments .....	27
18.	Information to Lenders and Owners.....	27
18.1	Availability .....	27
18.2	Copying.....	27
18.3	Notice.....	27
19.	Architectural Control.....	27
19.1	Architectural Control Committee.....	27
19.2	Membership .....	27
19.3	General Plan.....	27
19.4	Master Plan .....	27
19.5	Community Standards.....	28
19.6	Quorum .....	28
19.7	Power and Duties of the ACC.....	28
19.8	Procedure .....	28
19.9	Alterations.....	29
19.10	Variances.....	29
19.11	Permits .....	29
19.12	Construction by Owners.....	29
19.13	Inspection .....	29
19.14	Violation .....	29
19.15	Court Costs.....	29
19.16	Certificate.....	30
19.17	Certificate of Compliance .....	30
19.18	Exemption .....	30
19.19	Exculpation .....	30
19.20	Governmental Approval.....	30
20.	Owners Liability.....	30
20.1	Loop System Irrigation .....	30
20.2	Right to Cure.....	31
20.3	Non-Monetary Defaults .....	31
20.4	Expenses .....	31
20.5	No Waiver.....	31
20.6	Rights Cumulative.....	31
20.7	Enforcement By or Against Other Persons .....	31
20.8	Fines.....	32
20.9	Right of Association to Evict Tenants, Occupants, Guests and Invitees.....	32
21.	Additional Rights of Developer.....	32
21.1	Sales and Administrative Offices.....	32
21.2	Modification.....	32
21.3	Promotional Events .....	32
21.4	Use by Prospective Purchasers.....	33
21.5	Franchises .....	33
21.6	Management.....	33
21.7	Basements .....	33
21.8	Right to Enforce.....	33
21.9	Additional Development.....	33
21.10	Representations .....	33
21.11	Telecommunications Services.....	33
21.12	Non-Liability.....	34
21.13	Resolution of Disputes .....	35
21.14	Venue .....	35
21.15	Reliance .....	35
21.16	Access Control System .....	35

22.	Refund of Taxes and Other Charges .....	35
23.	Assignment of Powers .....	35
24.	Selling, Leasing and Mortgaging of Homes .....	36
24.1	Transfers Subject to Approval .....	36
24.1.1	Sale .....	36
24.1.2	Lease .....	36
24.1.3	Gift .....	36
24.2	Approval by Association .....	36
24.2.1	Notice to Association .....	36
24.2.2	Certificate of Approval .....	36
24.2.3	Approval of Owner Other Than an Individual .....	37
24.3	Disapproval by Association .....	37
24.3.1	Sale .....	37
24.3.2	Lease .....	37
24.3.3	Transfer by Gift, Devise or Inheritance .....	37
24.4	Exceptions .....	37
24.5	Unauthorized Transactions .....	37
24.6	Notice of Lien or Suit .....	38
24.6.1	Notice of Lien .....	38
24.6.2	Notice of Suit .....	38
24.6.3	Failure to Comply .....	38
25.	General Provisions .....	38
25.1	Authority of Board .....	38
25.2	Severability .....	38
25.3	Execution of Documents .....	38
25.4	Affirmative Obligation of Association .....	38
25.5	Notices .....	38
25.6	Florida Statutes .....	38
25.7	Construction Activities .....	38
25.8	Title Documents .....	39

AMENDED AND RESTATED DECLARATION  
FOR  
BALMORAL ESTATES

THIS AMENDED AND RESTATED DECLARATION FOR BALMORAL ESTATES (this "Declaration") is made by A. N. Garcia Enterprises, Inc., a Florida corporation ("A. N. Garcia") and joined in by Balmoral Estates Homeowners' Association, Inc., a Florida not-for-profit corporation ("Association").

R E C I T A L S

A. A. N. Garcia is (or was) the owner of the real property in Miami-Dade County, Florida ("County") more particularly described in Exhibit 1 attached hereto and made a part hereof ("Balmoral Estates").

B. A. N. Garcia previously recorded that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Balmoral Estates in Official Records Book 23246, at Page 4576 of the Public Records of Miami-Dade County, Florida (the "Original Amended and Restated Declaration").

C. A. N. Garcia, pursuant to its rights as Developer under the Original Amended and Restated Declaration, desires to amend and restate the Original Amended and Restated Declaration in order to accomplish the following:

1. to clarify certain ambiguities; and
2. to incorporate certain other desired changes of A. N. Garcia.

D. A. N. Garcia desires to subject Balmoral Estates to the covenants, conditions and restrictions contained in this Declaration.

E. This Declaration is a covenant running with all of the land comprising Balmoral Estates, and each present and future owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration;

NOW THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, A. N. Garcia hereby declares that every portion of Balmoral Estates is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.

2. Original Declaration. This Declaration shall replace entirely the Original Amended and Restated Declaration (as referenced above) and the Declaration of Covenants, Conditions and Restrictions for Balmoral Estates which was recorded in Official Records Book 17841 at Page 2043, of the Public Records of Miami-Dade County, Florida (the "Original Declaration of Covenants"). This Declaration shall relate back to and be deemed effective from the date upon which the Original Declaration of Covenants was recorded.

3. Definitions. In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"ACC" shall mean the Architectural Control Committee established pursuant to Section 19 hereof.

"Access Control System" shall mean any system intended to control access and/or enhance the welfare of Balmoral Estates.

"A. N. Garcia" shall mean the A. N. Garcia Enterprises, Inc., a Florida corporation, its successors and/or assigns.

"Articles" shall mean the Amended and Restated Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as Exhibit 2 and made a part hereof, as amended from time to time.

"Assessments" shall mean any assessments made in accordance with this Declaration and as further defined in Section 17.1 hereof.

"Association" shall mean Balmoral Estates Homeowners' Association, Inc., its successors and assigns.

"Association Documents" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and the Community Standards, as amended from time to time.

"Balmoral Estates" shall have the meaning set forth in the Recitals hereof subject to additions and deletions hereto as permitted pursuant to the terms of this Declaration. Developer may, when amending or modifying the description of real property which is subject to the operation of this Declaration, also amend or modify the definition of Balmoral Estates.

Amended and Restated Declaration  
Balmoral Estates

**"Board"** shall mean the Board of Directors of Association.

**"Builder"** shall mean any person or entity that purchases a Parcel or Lot from Developer for the purpose of constructing one or more Homes. Lennar is a Builder.

**"By-Laws"** shall mean the Amended and Restated By-Laws of Association in the form attached hereto as **Exhibit 3** and made a part hereof, as amended from time to time.

**"Cable Services"** shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Homes including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, multipoint distribution systems, video dialtone, open video system or any combination thereof.

**"Common Areas"** shall mean all real property interests and personalty within Balmoral Estates designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within Balmoral Estates. The Common Areas may include, without limitation, open space areas, internal buffers, entrance features, perimeter buffers, perimeter walls and fences, landscaping, improvements, easement areas owned by others, public rights of way, additions, a pool, a cabana, a meeting room, a gatehouse, fountains, irrigation pumps, irrigation lines, parks, sidewalks, streets/roads, street lights, service roads, walls, commonly used utility facilities, project signage, parking areas, other lighting, entranceways, electronic gates, and gatehouses. The Common Areas do not include any portion of a Home. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DEVELOPER TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DEVELOPER'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. Further, and without limiting the foregoing, it is possible that certain areas that would otherwise be Common Areas shall be conveyed to a special taxing district.

**"Community Completion Date"** shall mean the date upon which all Homes in Balmoral Estates, as ultimately planned and as fully developed, have been conveyed by Developer and/or Builder to Owners.

**"Community Standards"** shall mean such standards of conduct, maintenance or other activity, if any, established by the ACC pursuant to Section 19.5 hereof.

**"Contractors"** shall have the meaning set forth in Section 19.12.2 hereof.

**"County"** shall have the meaning set forth in the recitals hereof.

**"Data Transmission Services"** shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

**"Declaration"** shall mean this Declaration, together with all amendments and modifications thereof.

**"DERM"** shall mean the Department of Environmental Resources Management.

**"Developer"** shall mean A. N. Garcia and any of its designees, successors and assigns who receive a written assignment of all of the rights of Developer hereunder. Developer shall have the right to assign all or a portion of any rights granted to the Developer in this Declaration. Such assignment need not be recorded in the Public Records in order to be effective. In the event of a partial assignment of some, but not all, Developer rights, the assignee shall not be deemed Developer, but may exercise such rights of Developer assigned to it. Any such assignment may be made on a non-exclusive basis. All assignments of Developer rights (whether full and/or partial) must be in writing. No assignment (or partial assignment) of any Developer rights shall be effective without the prior written consent of Lennar.

**"Front Yard"** shall mean the yard of every Home between the front of the Home and the road providing access to such Home. In the event there is any questions about what portion of a Home is part of the Front Yard, Association's determination shall be final.

**"Home"** shall mean a residential home and appurtenances thereto constructed on a Parcel within Balmoral Estates. A Home shall include, without limitation, a condominium unit, coach home, villa, townhouse unit, single family home and zero lot line home. The term Home may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay

Assessments with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

**"Improvement"** shall have the meaning set forth in Section 20.1 hereof.

**"Individual Assessments"** shall have the meaning set forth in Section 17.2.5 hereof.

**"Installment Assessments"** shall have the meaning set forth in Section 17.2.1 hereof.

**"Lake Slope Maintenance Standards"** shall have the meaning set forth in Section 12.1.13.

**"Lawn Maintenance Standards"** shall have the meaning set forth in Section 12.1.

**"Lender"** shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Parcel or Home or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

**"Lennar"** shall mean Lennar Homes, L.L.C., a Florida limited liability company.

**"Lessee"** shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Balmoral Estates.

**"Lot"** shall mean any platted lot shown on a Plat.

**"Master Plan"** shall mean collectively any full or partial concept plan for the development of Balmoral Estates, as it exists as of the date of recording this Declaration, regardless of whether such plan is currently on file with one or more governmental agencies. The Master Plan is subject to change as set forth herein. The Master Plan is not a representation by Developer as to the development of Balmoral Estates or its amenities, as Developer reserves the right to amend all or part of the Master Plan from time to time.

**"Member"** shall have the meaning set forth in Section 8.3 hereof.

**"NFIP"** shall have the meaning set forth in Section 15.1.1 hereof.

**"Non-Conforming Pavers"** shall have the meaning set forth in Section 10.14.

**"Operating Costs"** shall mean all costs and expenses of Association and the Common Areas. Operating Costs may include, without limitation, all costs of ownership; operation; administration; all amounts payable by Association; all amounts required to remove canvas canopies located within the Common Areas as required herein, all amounts required to maintain the Surface Water Management System; all community lighting including up-lighting and entrance lighting (if not the obligation of the a special taxing district), all amounts payable in connection with any private street lighting agreements, if any; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; common area landscape maintenance; and any and all costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration.

**"Owner"** shall mean the record owner (whether one or more persons or entities) of fee simple title to any Home. The term "Owner" shall not include Developer, Builder, or a Lender.

**"Parcel"** shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

**"Permit"** shall mean the permit issued by SFWMD and/or DERM, a copy of which is attached hereto as Exhibit 4.

**"Plat"** shall mean any plat of any portion of Balmoral Estates filed in the Public Records, as the same may be amended by Developer, from time to time including, but not limited to, those plats specifically listed in Section 25.8 of this Declaration which are hereby incorporated into the definition of Plat by this reference.

**"Public Records"** shall mean the Public Records of County.

**"Reserves"** shall have the meaning set forth in Section 17.2.4 hereof.

**"Rules and Regulations"** shall mean the Rules and Regulations governing Balmoral Estates as adopted by the Board from time to time.

**"SFWMD"** shall mean the South Florida Water Management District.



**"Special Assessments"** shall mean those Assessments more particularly described as Special Assessments in Section 17.2.2 hereof.

**"Surface Water Management System"** shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, Wetland Conservation Areas, mitigation areas, lakes, retention areas, lift station, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements, those works defined in Section 373.403(1)-(5) of the Florida Statutes, and those works authorized by the SFWMD and/or DERM pursuant to the Permit.

**"Telecommunications Provider"** shall mean any party contracting with Association to provide Owners with one or more Telecommunications Services. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

**"Telecommunications Services"** shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing, advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

**"Telecommunications Systems"** shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to Balmoral Estates. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennae, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

**"Telephony Services"** shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

**"Title Documents"** shall have the meaning set forth in Section 25.8 hereof.

**"Toll Calls"** shall have the meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

**"Turnover Date"** shall mean the date on which transition of control of Association from Developer to Owners occurs. Without limiting the foregoing, Developer shall never be obligated to turn over Association prior to date currently required by law.

**"Use Fees"** shall have the meaning set forth in Section 17.2.3 hereof.

#### 4. Plan of Development.

4.1 Generally. The planning process for Balmoral Estates is an ever-evolving one and must remain flexible in order to be responsible to and accommodate the needs of Developer's buyers. Subject to the Title Documents, Developer may wish and has the right to develop Balmoral Estates and adjacent property owned by Developer into residences, comprised of homes, villas, coach homes, townhomes, zero lot line homes, patio homes, multi-family homes, condominiums, rental apartments, and other forms of residential dwellings, as well as commercial development, which may include shopping centers, stores, office buildings, showrooms, industrial facilities, technological facilities, and professional offices. The existence at any point in time of walls, landscape screens, or berms is not a guarantee or promise that such items will remain or form part of Balmoral Estates as finally developed.

4.2 Association's Obligation to Cooperate. Association shall at all times cooperate with every entity comprising Developer. Without limiting the foregoing, Association shall provide Developer with such consents and approvals which Developer may reasonably require in connection with (i) the sale of Parcels and/or Lots to Builders, (ii) the development and conveyance of the Common Areas, and (iii) master land development requirements. Additionally, Association shall cooperate with Developer in connection with the turnover of Association control including, but not limited to, signing a turnover receipt in the form to be provided by Developer to Association on the Turnover Date.

#### 5. Amendment.

5.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall affect the rights of Developer unless such amendment receives the prior written consent of Developer, as applicable, which consent may be withheld for any reason whatsoever. If the prior

written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. All amendments must comply with Section 11.6.2 which benefits SFWMD and/or DERM. No amendment shall be effective until it is recorded in the Public Records.

5.2 No Vested Rights. Each Owner by acceptance of a deed to a Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Association Documents. It is expressly intended that Developer and Association have the unfettered right to amend this Declaration and the other Association Documents except as expressly set forth herein.

5.3 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity; provided, however, that all amendments shall require the prior written consent of any Builders who have received a partial assignment of any Developer rights. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of Balmoral Estates; additions or deletions from the properties comprising the Common Areas; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Developer's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Developer may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residential homes. In the event that Association shall desire to amend this Declaration prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records. Notwithstanding the foregoing, at all times after the Turnover Date, Developer shall have the right to amend Association Documents unilaterally to correct scrivener's errors.

5.4 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) sixty six and two-thirds percent (66⅔%) of the Board; and (ii) seventy-five percent (75%) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association in which there is a quorum.

#### 6. Annexation and Withdrawal.

6.1 Annexation by Developer. Prior to and including the Turnover Date, additional lands may be made part of Balmoral Estates by Developer, at Developer's sole discretion. Such additional lands to be annexed may or may not be adjacent to Balmoral Estates. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any Parcel or Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of Balmoral Estates. Such amendment may contain additions to, modifications of, or omissions from, the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Developer and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to and including the Turnover Date, only Developer may add additional lands to Balmoral Estates.

6.2 Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) sixty-six and two-thirds percent (66⅔%) of the Board; and (ii) seventy-five percent (75 %) of all of the votes present (in person or by proxy) at a duly noticed meeting of the members of Association at which there is a quorum.

6.3 Withdrawal. Prior to and including the Turnover Date, any portions of Balmoral Estates (or any additions thereto) may be withdrawn by Developer from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Developer to withdraw portions of Balmoral Estates shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of Balmoral Estates shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any portion of Balmoral Estates). Association shall have no right to withdraw land from Balmoral Estates.

#### 7. Dissolution.

7.1 Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the circuit court of the appropriate judicial circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event Association is dissolved, and any portion of the Surface Water Management System is part of the Common Areas, the Surface Water Management System shall be conveyed to an appropriate agency of local government and, if not accepted, then the Surface Water Management System shall be dedicated to a similar non-profit corporation.

7.2 Applicability of Declaration after Dissolution. In the event of dissolution of Association, Balmoral Estates and each Home therein shall continue to be subject to the provisions of this Declaration, including,

without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association for Assessments to the extent that Assessments are required to enable the successors or assigns of Association to properly maintain, operate and preserve the Common Areas. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of Balmoral Estates which had been Common Areas and continue to be so used for the common use and enjoyment of the Owners.

8. Binding Effect and Membership.

8.1 Term. This Declaration and all covenants, conditions and restrictions contained in this Declaration are equitable servitudes, perpetual and run with the land. Each Owner, by acceptance of a deed to a Home or Parcel, and any person claiming by, through or under such Owner (i) agrees to be subject to the provisions of this Declaration and (ii) irrevocably waives any right to deny, and any claim, that this Declaration and all covenants, conditions and restrictions contained in this Declaration are not enforceable under the Marketable Record Titles to Real Property Act, Chapter 712 of the Florida Statutes. It is expressly intended that the Marketable Record Titles to Real Property Act will not operate to extinguish any encumbrance placed on Balmoral Estates by this Declaration. It is further expressly intended that no re-filing or notice of preservation is necessary to continue the applicability of this Declaration and the applicability of all covenants, conditions, and restrictions contained in this Declaration. This provision is not subject to amendment except by Developer.

8.2 Transfer. The transfer of the fee simple title to a Home, whether voluntary or by operation of law, terminating the Owner's title to that Home shall terminate the Owner's rights to the use of and enjoyment of the Common Areas as it pertains to that Home and shall terminate such Owner's membership in Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Home. The Owner of each Home is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Home shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that upon the conveyance of a Home an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Home, the transferring Owner shall remain liable for Assessments accruing on the Home from and after the date of conveyance.

8.3 Membership. Notwithstanding anything to the contrary in the Articles or By-Laws, upon acceptance of title to a Home, each Owner (or his or her Lessee, if applicable) shall be a member of Association (a "Member"). Lot owners shall not be Members. Membership rights are governed by the provisions of this Declaration, the deed to a Home, the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Home. Developer rights with respect to Association are set forth in this Declaration, the Articles and By-Laws.

8.4 Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, prior to occupancy of the Home, designate one or more persons who are to be the occupants of the Home and register such persons with Association. All provisions of this Declaration and the other Association Documents shall apply to both such Owner and the designated occupants.

8.5 Voting Interests. Voting interests in Association are governed by the provisions of the Articles and By-Laws.

8.6 Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents which, in any way, affect or restrict the rights of Developer or conflict with the provisions of this Declaration or the other Association Documents.

8.7 Composition of the Board. Developer reserves the right to change, from time to time prior to and including Turnover Date, the composition of Board. Without limiting the foregoing, Developer may change the number of Board members, the effect of a vote by a Board member, or how a Board member is elected or appointed prior to and including Turnover Date.

8.8 Conflicts. In the event of any conflict among this Declaration, the Articles, the By-Laws or any of the Association Documents, this Declaration shall control.

9. Paramount Right of Developer. Notwithstanding anything to the contrary herein, prior to the Community Completion Date Developer shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of Balmoral Estates for various public purposes or for the provision of Telecommunications Systems, or to make any portions of Balmoral Estates part of the Common Areas, or to create and implement a special taxing district which may include all or any portion of Balmoral Estates. In addition, the Common Areas of Balmoral Estates may include decorative improvements, berms, and waterbodies. Notwithstanding anything to the contrary herein, the waterbodies may be dry during certain weather conditions or during certain times of the year. Developer may remove, modify, eliminate or replace these items from time to time

in its sole discretion. SALES BROCHURES, SITE PLANS, AND MARKETING MATERIALS ARE CURRENT CONCEPTUAL REPRESENTATIONS AS TO WHAT FACILITIES, IF ANY, WILL BE INCLUDED WITHIN THE COMMON AREAS. DEVELOPER SPECIFICALLY RESERVES THE RIGHT TO CHANGE THE LAYOUT, COMPOSITION, AND DESIGN OF ANY AND ALL COMMON AREAS AT ANY TIME WITHOUT NOTICE AT ITS DISCRETION.

10. Operation of Common Areas.

10.1 Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Common Areas to Association as set forth in Section 10.4 herein, any portion of the Common Areas owned by Developer shall be operated, maintained, and administered at the sole cost of Association for all purposes and uses reasonably intended, as Developer in its sole discretion deems appropriate. During such period, Developer shall own, operate, and administer the Common Areas without interference from any Owner or Lender of a Parcel or any other person or entity whatsoever. Owners shall have no right in or to any Common Areas referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and/or maintained by Association. The current conceptual plans and/or representations, if any, regarding the composition of the Common Areas are not a guarantee of the final composition of the Common Areas. No party should rely upon any statement contained herein as a representation or warranty as to the extent of the Common Areas to be owned, leased by, or dedicated to Association. Developer, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Common Areas referred to herein in its sole discretion and without notice.

10.2 Construction of Common Areas Facilities. Developer has constructed or will construct, at its sole cost and expense, certain facilities and improvements as part of the Common Areas, together with equipment and personalty contained therein, and such other improvements and personalty as Developer determines in its sole discretion. Developer shall be the sole judge of the composition of such facilities and improvements. Prior to the Community Completion Date Developer reserves the absolute right to construct additional Common Areas facilities and improvements within Balmoral Estates, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Developer is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Developer is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personalty (e.g., furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

10.3 Use of Common Areas by Developer. Until the Community Completion Date Developer shall have the right to use any portion of the Common Areas, without charge, for any purpose deemed appropriate by Developer.

10.4 Conveyance.

10.4.1 Generally. Simultaneously with the Plat being recorded, the Common Areas shall be dedicated by Plat(s), created in the form of easements and conveyed by written instrument or by Quitclaim Deed recorded in the Public Records, from Developer to Association. Association shall pay all of the costs of the conveyance. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Common Areas, personal property and equipment thereon and appurtenances thereto shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

10.4.2 Form of Deed. Each deed of the Common Areas shall be subject to the following provisions:

10.4.2.1 a perpetual nonexclusive easement in favor of governmental agencies for the maintenance and repair of existing road, speed and directional signs, if any;

10.4.2.2 matters reflected in the plat(s) of Balmoral Estates;

10.4.2.3 perpetual non-exclusive easements in favor of Developer, its successors, and assigns in, to, upon and over all of the Common Areas for the purpose of vehicular and pedestrian ingress and egress, installation of utilities, landscaping and/or drainage, without charge, including, without limitation, the right to use such roadways for construction vehicles and equipment. The easements reserved in the deed shall run in favor of Developer, and its employees, representatives, agents, licensees, guests, invitees, successors and/or assigns;

10.4.2.4 all restrictions, easements, covenants and other matters of record;

10.4.2.5 in the event that Association believes that Developer shall have failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas conveyed herein are defective in any respect, Association shall give

written notice to Developer detailing the alleged failure or defect. Once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and their agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy; and

10.4.2.6 a reservation of right in favor of Developer (so long as Developer owns any portion of Balmoral Estates) to require that Association reconvey all or a portion of the Common Areas conveyed by quitclaim deed in favor of Developer in the event that such property is required to be owned by Developer for any purpose, including, without limitation, the reconfiguration of any adjacent property by replating or otherwise.

10.5 Operation After Conveyance. After the conveyance or dedication of any portion of the Common Areas to Association, the portion of the Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Balmoral Estates including, but not limited to, Association, Developer, Owners and any Lenders. Subject to Association's right to grant easements, and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to and including the Turnover Date, the approval of (a) a majority of the Board; and (b) the consent of Developer, or (ii) from and after the Turnover Date, approval of (a) sixty-six and two-thirds percent (66 2/3%) of the Board; and (b) seventy-five percent (75%) of all of the votes in Association.

10.6 Paved Areas. The Common Areas may contain certain paved areas. Without limiting any other provision of this Declaration, Association is responsible for the maintenance and/or resurfacing of all paved surfaces, including but not limited to, roads, pathways, bicycle paths, and sidewalks forming a part of the Common Areas, if any. Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all paved surfaces forming a part of the Common Areas by a licensed paving contractor and/or engineer. The cost of such inspection shall be a part of the Operating Costs of Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the roads and sidewalks forming part of the Common Areas annually for deterioration and to advise Association of the overall pavement conditions including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work. From and after the Community Completion Date, Association should monitor the roads and sidewalks forming the Common Areas monthly to ensure that vegetation does not grow into the asphalt and that there are no eroded or damaged areas that need immediate maintenance.

10.7 Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Developer, its affiliates and/or subsidiaries shall have the right to manage Association. Owners and Association acknowledge that it is fair and reasonable to have Developer, its affiliates and/or subsidiaries manage Association. Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

10.8 Use.

10.8.1 Nonexclusive Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Common Areas. Prior to the Community Completion Date, Developer, and thereafter, Association, has the right, at any and all times, and from time to time, to further provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

10.8.2 Right to Allow Use. Developer and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers, Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Operating Costs. Any such agreement by Association prior to the Community Completion Date shall require the consent of Developer. Thereafter, any such agreement shall require the approval of the majority of the Board of Directors.

10.8.3 Waterbodies. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER, BUILDERS OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. Developer and Association shall not be obligated to erect fences, gates, or walls around or adjacent to any waterbody or waterfall within Balmoral Estates. Notwithstanding the foregoing, an Owner may erect a fence adjacent to the boundary of a waterbody but within the boundary of a Home with the prior approval of the ACC. No fence or other structure may be placed within any lake maintenance easement. Swimming and boating will not be permitted in any waterbody. No private docks may be erected within any waterbody forming part of the Common Areas.

10.8.4 Obstruction of Common Areas. No portion of the Common Areas may be obstructed, encumbered, or used by Owners for any purpose other than as permitted by Association.

10.8.5 Assumption of Risk. Without limiting any other provision herein, each person within any portion of the Common Areas accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupancy of any portion of such Common Areas, including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within Balmoral Estates, and (e) design of any portion of Balmoral Estates. Each person entering onto any portion of Balmoral Estates also expressly indemnifies and agrees to hold harmless Developer, Association, Builders and their employees, directors, representatives, officers, agents, partners, affiliates and attorneys (collectively, "Indemnified Parties") from any and all damages, whether direct or consequential, arising from or related to the person's use of the Common Areas, including for attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals. Without limiting the foregoing, all persons using the Common Areas, including without limitation, all waterbodies, lakes, pools or areas adjacent to a lake, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, DOGS, RACCOONS, SNAKES, DUCKS, DEER, SWINE, TURKEYS, AND FOXES. DEVELOPER, BUILDERS, AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

10.8.6 Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless the Indemnified Parties against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Common Areas including, without limitation, use of the lakes and other waterbodies within Balmoral Estates by Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Developer, Builders, Association, or of any of the Indemnified Parties. Should any Owner bring suit against Developer, Builders, Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees, paraprofessional fees and costs, pre-trial and at all levels of proceedings, including appeals.

#### 10.9 Rules and Regulations

10.9.1 Generally. Prior to and including the Turnover Date, Developer, and thereafter Association, shall have the right to adopt Rules and Regulations governing the use of the Common Areas and Balmoral Estates. The Rules and Regulations need not be recorded in the Public Records. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

10.9.2 Developer Not Subject to Rules and Regulations. The Rules and Regulations shall not apply to Developer, nor shall such Rules and Regulations apply to any property owned by Developer, and the same shall not be applied in a manner which would prohibit or restrict the development or operation of Balmoral Estates or adversely affect the interests of Developer. In addition to the foregoing, Developer shall have the right, but not the obligation, to exempt Builders from the Rules and Regulations pursuant to a written assignment (or partial assignment) of Developer rights which specifically exempts such Builder from such Rules and Regulations. Without limiting the foregoing, Developer shall have the right to: (i) develop and construct commercial, club uses and industrial uses, Homes, Common Areas and related improvements within Balmoral Estates, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of Balmoral Estates), general office and construction operations within Balmoral Estates; (iii) place, erect or construct portable, temporary or accessory buildings or structure within Balmoral Estates for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of Balmoral Estates; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of Balmoral Estates owned by Developer, signs and other materials used in developing, constructing, selling or promoting the sale of any portion Balmoral Estates including, without limitation, Parcels and Homes; (vi) excavate fill from any lakes or waterways within and/or contiguous to Balmoral Estates by dredge or dragline, store fill within Balmoral Estates and remove and/or sell excess fill; (vii) grow or store plants and trees within, or contiguous to, Balmoral Estates and use and/or sell excess plants and trees; and (viii) undertake all activities which, in the sole opinion of Developer, are necessary for the development and sale of any lands and improvements comprising Balmoral Estates.

10.10 Public Facilities. Balmoral Estates may include one or more facilities which may be open and available for the use of the general public. By way of example, there may be a public park, fire station, police station, lift station or other facility within the boundaries of Balmoral Estates; provided, however, no such facility shall result in expense to the general taxpayers of the County or assumption by the County of any responsibility for maintenance of any portion thereof.

10.11 Water Mains. In the event that County or any of its subdivisions, agencies, and/or divisions must remove any portion of a Home driveway which is constructed of pavers within any portion of the Common Areas, for repair or replacement of water mains or the water distribution system, then Association will be responsible to replace or repair the driveway at Association's expense.

10.12 Default by Another Owner. No default by any Owner in the performance of the covenants and promises contained in this Declaration or by any person using the Common Areas or any other act of omission by any of them shall be construed or considered (a) a breach by Developer or Association or a non-defaulting Owner or other person or entity of any of their promises or covenants in this Declaration; or (b) an actual, implied or constructive dispossession of another Owner from the Common Areas; or (c) an excuse, justification, waiver or indulgence of the covenants and promises contained in this Declaration.

10.13 Special Taxing Districts. For as long as Developer controls Association, Developer shall have the right, but not the obligation, to dedicate or transfer or cause the dedication or transfer of all or portions of the Common Areas of Association to a special taxing district, or a public agency or authority under such terms as Developer deems appropriate in order to create or contract with special taxing districts and community development districts (or others) for lighting, perimeter walls, entrance features, roads, landscaping, irrigation areas, lakes, waterways, ponds, surface water management systems, wetlands mitigation areas, parks, recreational or other services, security or communications, or other similar purposes deemed appropriate by Developer including, without limitation, the maintenance and/or operation of any of the foregoing; provided, however, that any such dedication or transfer shall not result in expense to the general taxpayers of the County or assumption by the County of any responsibility for maintenance of any portion of the Common Areas. As hereinafter provided, Developer may sign any taxing district petition as attorney-in-fact for each Owner. Each Owner's obligation to pay taxes associated with such district shall be in addition to such Owner's obligation to pay Assessments. Any special taxing district shall positively provide for the proper and continuous payment of taxes for Common Areas and maintenance thereof without expense to the general taxpayers of the County and shall be created pursuant to all applicable ordinances of County and all other applicable governing entities having jurisdiction with respect to the same.

10.14 Water Transmission and Distribution Facilities Easement and Repair. Developer hereby grants and conveys to County, its successors and assigns, the non-exclusive right, privilege and easement to construct, reconstruct, lay, install, operate, maintain, relocate, repair, replace, improve and inspect water transmission and distribution facilities and sewer collection facilities and all appurtenances thereto, and all appurtenant equipment, with the full right of ingress thereto and egress therefrom, within Balmoral Estates (excluding such facilities located inside a Home) in accordance with plans approved by Developer or Association. Certain water transmission and distribution facilities and sewer collection facilities may be covered with decorative brick pavers that do not conform to County regulations ("Non-Conforming Pavers") in the course of construction of Homes and Common Areas, as and to the extent permitted under the terms of this Declaration. In the event County or any of its subdivisions, agencies and/or divisions shall damage any Non-Conforming Pavers as a result of construction, repair or maintenance operations of the water and/or sewer facilities or the County's use of its easement rights granted in this Section 10.14, then Association shall replace or repair such damage at the expense of the Owner of the affected Home and such cost shall be billed to such Owner as an Individual Assessment, unless, and only to the extent that, such cost is not paid by County or such other subdivisions, agencies and/or divisions. Association shall indemnify and hold harmless County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance by Association of Association's obligations under this Section 10.14.

10.15 Association's Obligation to Indemnify. Association and Owners each covenant and agree jointly and severally to indemnify, defend and hold harmless Developer its officers, directors, shareholders, representatives, agents, partners, affiliates and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas or other property serving Association, and improvements thereon, or resulting from or arising out of activities or operations of Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Costs to the extent such matters are not covered by insurance maintained by Association.

10.16 Site Plans and Plats. Balmoral Estates may be subject to one or more plats (each individually, a "Plat"). The Plat may identify some of the Common Areas within Balmoral Estates. The description of the Common Areas on a Plat is subject to change (contingent upon receipt of the appropriate plat approval(s)) and the notes on a Plat are not a guarantee of what facilities will be constructed on such Common Areas. Site plans used by Developer in its marketing efforts illustrate the types of facilities which may be constructed on the Common Areas, but such site plans are not a guarantee of what facilities will actually be constructed. Each Owner should not rely on

a Plat or any site plans used for illustration purposes as the Declaration governs the rights and obligations of Developer and Owners with respect to the Common Areas.

11. Maintenance by Association.

11.1 Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Common Areas, including all improvements placed thereon, and shall be responsible for root pruning trees within the Common Areas.

11.2 Drainage. Association shall at all times maintain the drainage systems and drainage facilities within the Common Areas.

11.3 Maintenance of Lawn and Landscaping. Association shall cut and edge the lawn in the Front Yard of each Home and shall trim the trees and shrubs in such Front Yard. Each Owner is responsible for maintaining all other landscaping and improvements within such Owner's Lot, whether installed by Developer or modified by any Owner, even if such landscaping and improvements are in the Front Yard. In the event an Owner modifies any landscaping initially installed by Developer, then such Owner shall be solely responsible for maintenance of such landscaping at such Owner's sole cost and expense. Additionally, Owner's shall be responsible for the replacement of any landscaping material within their Home. The Owner of each Home shall be responsible for any or all landscaping and other improvements within any fenced portion of Lot. In the event grass in a fenced portion of the Lot is not maintained, Association may, but shall not be obligated to, cut the grass. The costs and expenses of such maintenance plus \$25.00 (or such other amount determined by Association in its sole discretion) shall be charged to such Owner as an Individual Assessment.

11.4 Public Roads. It is possible that Association may maintain the medians and swales of public roads pursuant to agreement with the appropriate governmental entities. The costs of such maintenance by Association shall be Operating Costs.

11.5 Private Roads. All roads which are privately owned shall be maintained by Association or an entity other than County.

11.6 Surface Water Management System.

11.6.1 Duty to Maintain. The Surface Water Management System within Balmoral Estates will be owned, maintained and operated by Association as permitted by SFWMD and/or DERM. If owned by Association as Common Areas, the costs of the operation and maintenance of the Surface Water Management System shall be part of the Operating Costs of Association. Notwithstanding the foregoing, SFWMD and/or DERM has the right to take enforcement action, including a civil action for an injunction and penalties against Association to compel it to correct any outstanding problems with the Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of Association. Association shall accept any and all transfer of permits from Developer. Association shall cooperate with Developer with any applications, certifications, documents or consents required to effectuate any such transfer of permits to Association.

11.6.2 Amendments to Association Documents. Any proposed amendment to the Association Documents which will affect the Surface Water Management System, including any environmental conservation area and the water management portions of the Common Areas, must have the prior written approval of SFWMD and/or DERM. Association's registered agent shall maintain copies of all Surface Water Management System permits and correspondence respecting such permits, and any future SFWMD and/or DERM permit actions shall be maintained by Association's registered agent for Association's benefit.

11.7 Adjoining Areas. Except as otherwise provided herein, Association shall also maintain those drainage areas, swales, lake maintenance easements, driveways, lake slopes and banks, and landscape areas that are within the Common Areas, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any areas within fences or walls that form a part of a Home.

11.8 Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas, through or under an Owner shall be borne solely by such Owner and the Home and/or Parcel owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of Association.

11.9 Right of Entry. Developer and Association are granted a perpetual and irrevocable easement over, under and across Balmoral Estates for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting the foregoing, Developer specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, Developer may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; and/or remove structures on any portion of Balmoral Estates if Developer is required to do so in order to obtain the release of any bond posted with any governmental agency.

11.10 Maintenance of Property Owned by Others. Association shall, if designated by Developer (or by Association after the Community Completion Date) by amendment to this Declaration or any document of record



including, without limitation declaration(s) of condominium, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements designated by Developer (or by Association after the Community Completion Date) upon areas which are within or outside of Balmoral Estates. Such areas may abut, or be proximate to, Balmoral Estates, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity. These areas may include (for example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or entrance features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways. To the extent there is any agreement between Developer and Association for the maintenance of any lakes or ponds outside Balmoral Estates, Association shall maintain the same as part of the Common Areas.

12. Maintenance by Owners. All lawns, landscaping and sprinkler systems and any property, structures, improvements and appurtenances not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of Balmoral Estates by the Owner of each Home. Each Owner is specifically responsible for maintaining all grass, landscaping and improvements within any portion of their Home.

12.1 Lawn Maintenance Standards. The following maintenance standards (the "Lawn Maintenance Standards") apply to landscaping maintained by Owners.

12.1.1 Trees. Trees are to be pruned as needed.

12.1.2 Shrubs. All shrubs are to be trimmed as needed.

12.1.3 Grass.

12.1.3.1 Cutting Schedule. Grass shall be maintained in a neat and appropriate manner. In no event shall an Owner's lawn get in excess of five inches (5") in height.

12.1.3.2 Edging. Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.

12.1.3.3 Dead Grass. Owner shall be responsible to replace dead grass. Neither Developer nor Association shall be responsible to replace dead grass.

12.1.4 Mulch. Mulch is to be turned four (4) times per year and shall be replenished as needed on a yearly basis.

12.1.5 Insect Control and Disease. Disease and insect control shall be performed on an as needed basis.

12.1.6 Fertilization. Fertilization of all turf, trees, shrubs, and palms shall be performed at a minimum of three (3) times a year during the following months: February, June and October.

12.1.7 Irrigation. Owners shall be responsible to irrigate grass. Sprinkler heads in Common Areas shall be maintained on a monthly basis. Owners shall maintain all sprinklers located on their respective Lot(s). Pump stations and valves shall be checked as needed by an independent contractor to assure proper automatic operation.

12.1.8 Post Lights. Each Owner shall maintain all post lights (whether gas or electric) which are located within the boundaries of his or her Home.

12.1.9 Weeding. All beds are to be weeded upon every cut. Weeds growing in joints in curbs, driveways, and expansion joints shall be removed as needed. Chemical treatment is permitted.

12.1.10 Trash Removal. Dirt, trash, plant and tree cuttings and debris resulting from all operations shall be removed and all areas left in clean condition before the end of the day.

12.1.11 Right of Association to Enforce. Each Owner grants Association an easement over his or her Home for the purpose of insuring compliance with the requirements of this provision and the Lawn Maintenance Standards. In the event an Owner does not comply with this Section, Association may perform the necessary maintenance to the lawn and charge the costs thereof to the non-complying Owner as an Individual Assessment. Association shall have the right to enforce the foregoing Lawn Maintenance Standards by all necessary legal action. In the event that Association is the prevailing party with respect to any litigation respecting the Lawn Maintenance Standards, it shall be entitled to recover all of its attorneys' fees and paraprofessional fees, and costs, pre-trial and at all levels of proceedings, including appeals.

12.1.12 Landscaping and Irrigation of Lots; Removal of Sod and Shrubbery; Additional Planting.

12.1.12.1 Without the prior consent of the ACC, no sod, topsoil, tree or shrubbery shall be removed from Balmoral Estates, and there shall be no change in the plant landscaping, elevation, condition of the soil or the level of the land of such areas which results in any change in the flow and drainage of surface water which the ACC, in its sole discretion, considers detrimental or potentially detrimental to person or property.

Notwithstanding the foregoing, Owners who install improvements to the Home (including, without limitation, concrete or brick pavers) which result in any change in the flow and/or drainage of surface water shall be responsible for all of the costs of drainage problems resulting from such improvement. Further, in the event that such Owner fails to pay for such required repairs, each Owner agrees to reimburse the Association for all expenses incurred in fixing such drainage problems including, without limitation, removing excess water and/or repairing the Surface Water Management System.

12.1.12.2 No landscape lighting shall be installed by an Owner without the prior written approval of the ACC.

12.1.13 Lake and Canal Slopes. The yards of some Homes may contain lake slopes. Association shall maintain such lake slopes contained in the Common Areas, as part of its Operating Expense. Each Owner shall maintain any portion of any lake slopes which are located within such Owner's Lot. Association may establish from time to time maintenance standards for the lake and canal maintenance by Owners who own Homes adjacent to Common Area waterbodies (the "Lake Slope Maintenance Standards"). Such standards may include requirements respecting compaction and strengthening of lake banks. Association shall have the right to inspect such lake and canal slopes and banks to insure that each Owner has complied with its obligations hereunder and under the Lake Slope Maintenance Standards. Each Owner hereby grants Association an easement of ingress and egress across his or her Home to all adjacent lake and canal areas for the purpose of insuring compliance with the requirements of this provision and the Lake Slope Maintenance Standards. For the purposes of this Declaration, each day that an Owner fails to comply with the requirements of this paragraph or any Lake Slope Maintenance Standards shall be deemed a separate and independent violation of this Declaration.

12.1.14 Weeds and Refuse. No weeds, underbrush, or other unsightly growth shall be permitted to be grown or remain upon any Home. No refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Home.

12.1.15 Driveway and Sidewalk Repair. Each Owner shall be responsible to timely repair, maintain and/or replace the driveway which comprises part of a Home and the sidewalk abutting the front Lot or side of the Home including, but not limited to, any damage caused by Developer, Association or by the holder of any easement over which such driveway or sidewalk is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify, defend and hold harmless Association and the holder of any such easement including, without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway or sidewalk in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway or sidewalk in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

13. Use Restrictions. Each Owner must comply with the following:

13.1 Alterations and Additions. No material alteration, addition or modification to a Parcel or Home, or material change in the appearance thereof, shall be made without the prior written approval of the ACC, as required by this Declaration.

13.2 Animals. No animals of any kind shall be raised, bred or kept within Balmoral Estates for commercial purposes. Association may prohibit breeds of dogs that the Board considers dangerous in its sole discretion. Otherwise, Owners may keep domestic pets as permitted by County ordinances and otherwise in accordance with the Rules and Regulations established by the Board from time to time. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Home, as approved by the ACC. No pet or animal shall be "tied out" on the exterior of the Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within Balmoral Estates designated for such purpose, if provided by Association, or on that Owner's Home. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. Notwithstanding anything to the contrary, seeing eye dogs shall not be governed by the restrictions contained in this Section.

13.3 Artificial Vegetation. No artificial grass, plants or other artificial vegetation, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home or Parcel, unless approved by the ACC.

13.4 Cars and Trucks.

13.4.1 Parking. Owners' automobiles shall be parked in the garage or driveway, if provided, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of Balmoral Estates or a Lot including, without limitation, on the grass, medians, swales, streets, or sidewalks, except on the surfaced parking area thereof. All lawn maintenance vehicles shall park on the driveway of the Home and not in the roadway or swale. To the extent Balmoral Estates has any guest parking, Owners may park in such guest parking spaces. No vehicles used in business for the purpose of transporting goods, equipment and the like, or any trucks or vans which

are larger than one (1) ton shall be parked in Balmoral Estates except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks of one (1) ton capacity or smaller, and personal vehicles that can be appropriately parked within standard size parking stalls may be parked in Balmoral Estates.

13.4.2 Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power shall remain on Balmoral Estates for more than twenty-four (24) hours, except in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within Balmoral Estates, except in the garage of a Home. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

13.4.3 Prohibited Vehicles. No commercial vehicle, limousine, boat, trailer including, but not limited to, boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept within Balmoral Estates except in the garage of a Home. Notwithstanding the foregoing, a boat and/or boat trailer may be kept within the fenced yard of a Home so long as the boat and/or boat trailer, when located within a fenced yard, are fully screened from view by such fence. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (*i.e.*, Broncos™, Blazers™, Explorers™, Navigators™, etc.) or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Developer or Builder of Homes, Common Areas, or any other Balmoral Estates facility. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on Balmoral Estates. For any Owner who drives an automobile issued by the County or other governmental entity (*i.e.*, police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently. No vehicles with expired registration or license plates may be kept within public view anywhere within Balmoral Estates. The use of powered scooters, ATV's, ATC's and/or other similar motorized vehicles shall be prohibited in the facilities and Common Areas. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this Declaration or in the Rules and Regulations now or subsequently adopted may (without obligation) be towed by Association at the sole expense of the owner of such vehicle. Association shall not be liable to the owner of such vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of such towing. Notwithstanding the foregoing, each Owner acknowledges that such Owner and its family, guests, tenants, and invitees shall abide by all parking regulations issued by the local governing authority having jurisdiction.

13.5 Casualty Destruction to Improvements. In the event that a Home or other improvement is damaged or destroyed by casualty loss or other loss, then within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged Home or improvement and diligently continue such rebuilding or repairing until completion, or properly clear the damaged Home or improvement and restore or repair the Home as approved by the ACC. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ACC.

13.6 Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Developer, administrative offices of Developer or Builders, no commercial or business activity shall be conducted in any Home within Balmoral Estates. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within Balmoral Estates. No solicitors of a commercial nature shall be allowed within Balmoral Estates, without the prior written consent of Association. No garage sales are permitted, except as permitted by Association. No day care center or facility may be operated out of a Home. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Developer.

13.7 Completion and Sale of Homes or Units. No person or entity shall interfere with the completion and sale of Homes within Balmoral Estates. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS OR POSTING OF NEGATIVE WEBSITES ON THE INTERNET, NEGATIVE ADVERTISING, NEGATIVE INFORMATION PROVIDED OR POSTED AT PUBLIC GATHERINGS ARE STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN BALMORAL ESTATES AND THE RESIDENTIAL ATMOSPHERE THEREOF.

13.8 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by Association shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

13.9 Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by Association. The ACC shall have the right to prohibit or restrict the use of grills or barbeque facilities throughout Balmoral Estates.

13.10 Decorations. No decorative objects including, but not limited to, birdbaths, windchimes, figurines, light fixtures, sculptures, statues, weather vane, or flagpoles shall be installed or placed within or upon any portion of Balmoral Estates without the prior written approval of the ACC. Notwithstanding the foregoing, no

statues, sculptures or birdbaths of any kind can be installed or placed within the Front Yard or visible from the street. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed not later than January 15th of the following year. The ACC may establish standards for holiday lights. The ACC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home).

13.11 Disputes as to Use. If there is any dispute as to whether the use of any portion of Balmoral Estates complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Developer, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

13.12 Drainage System. Drainage systems and drainage facilities may be part of the Common Areas and/or Homes. The maintenance of such systems and/or facilities within the Common Areas shall be the responsibility of the Association. Once drainage systems or drainage facilities are installed by Developer, the maintenance of such systems and/or facilities thereafter within the boundary of a Home shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures (including, without limitation, pavers), or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to ACC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots that adversely affect the adjacent Home. Likewise, if the roots of a tree located within the Common Areas adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association and Developer shall have no responsibility or liability for drainage problems of any type whatsoever.

13.13 Driveway Repair. Each Owner shall be responsible to timely repair, maintain and/or replace the driveway comprising part of a Home including, but not limited to, any damage caused by Developer, Association or by the holder of any easement over which such driveway is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify, defend and hold harmless Association and the holder of any such easement including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Common Areas and any easement or the construction and/or maintenance of any driveway in that portion of the Common Areas, easement area, or in a public right-of-way between the boundary of such Owner's Home and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

13.14 Extended Vacation and Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (i) notifying Association in writing; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Neither Association nor Developer shall have any responsibility of any nature relating to any unoccupied Home.

13.15 Fences and Walls. No walls or fences shall be erected or installed without prior written consent of the ACC. All enclosures of balconies or patios, including, without limitation addition of vinyl windows, and decks shall require the prior written approval of the ACC. Fences on the sides of a Home shall be six (6) feet or less, wood (natural wood stain or other color approved by the ACC), shadowbox or stockade. No fences, walls, structures or trees shall be permitted within any lake maintenance easement of the Association or within any Common Area property abutting the lakes.

13.16 Fuel Storage. No fuel storage shall be permitted within Balmoral Estates, except as may be necessary or reasonably used for swimming pools, spas, barbecues, fireplaces, emergency generators or similar devices and as otherwise permitted by this Declaration.

13.17 Garages. Each Home may have its own garage. No garage shall be converted into a general living area. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

13.18 Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. At this time, the City of Doral provides a service for garbage pick-up within Balmoral Estates. Notwithstanding the foregoing, if Association ever provides for garbage pick-up, the cost of the same shall be part of the Operating Costs. No outside burning of trash or garbage is permitted. No garbage cans, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home or Parcel. Each Owner shall be responsible for properly depositing his or her garbage and trash in garbage cans and trash containers sufficient for pick-up by the appropriate collection agencies in accordance with the requirements of any such agency. All such trash receptacles shall be maintained in a sanitary condition and shall be shielded from the view of adjacent properties and streets. Garbage cans and trash containers shall not be placed outside the Home for pick-up earlier than 6:00 p.m. on the day preceding the pick-up and must be returned to the Homes so that they are not visible from outside the Home on the day of pickup.

13.19 General Use Restrictions. Each Home, the Common Areas and any portion of Balmoral Estates shall not be used in any manner contrary to the Association Documents.

13.20 Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved in writing by the ACC. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. An approval by the ACC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

13.21 Irrigation. The water used in the irrigation system is not suitable for drinking or water sports. Children and pets should not play in such water. Such water shall not be used by Owners to irrigate lawns. Due to water quality, irrigation systems may cause staining on Homes, other structures, paved areas, or vehicles. It is each Owner's responsibility to treat and remove any such staining. Association may require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). The yard of each Home may be equipped with irrigation lines, depending on the model of the Home. No Owner whose Home adjoins a waterway or lake, if any, may utilize the waterway or lake to irrigate unless so provided by Developer as part of original construction, subject to applicable permitting. Use of lake water by Owners is prohibited and is at the Owner's sole risk as chemicals are used to control aquatic vegetation in lakes. Association may use waterways and lakes to irrigate Common Areas, subject to applicable permitting and Developer shall not be liable for same. BY ACCEPTANCE OF A DEED TO A HOME OR PARCEL, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DEVELOPER OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. Developer and/or Association shall have the right to use one or more pumps to remove water from lakes and waterbodies for irrigation purposes at all times, subject to applicable permitting. Developer may utilize a computerized loop system to irrigate the Common Areas and/or Homes. Any computerized loop irrigation system that is not specifically the maintenance obligation of an Owner, shall be the maintenance obligation of Association and shall be deemed part of the Common Areas.

13.22 Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Parcel. Clotheslines may be installed in the rear yard of a Home so long as not visible from the front of the Home.

13.23 Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of Balmoral Estates. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Balmoral Estates shall be the same as the responsibility for maintenance and repair of the property concerned.

13.24 Leases. Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be accommodated in a Home. All leases or occupancy agreements shall be in writing and a copy of all leases of Homes shall be provided to Association. All leases shall be on forms approved by Association and shall provide (or if not provided, shall automatically be deemed to provide) that Association shall have the unilateral right to terminate the lease upon default by the tenant in observing any of the provisions of the Association Documents or other applicable provisions of any agreement, document or instrument governing Balmoral Estates or administered by Association. Each Owner hereby acknowledges and agrees that any and all leases entered into by such Owner in connection with his or her Home shall be deemed to incorporate by this reference a collateral assignment of rents and leases in favor of Association, which collateral assignment of rents and leases shall provide that in the event such Owner leasing his or her Home is past due in the payment of his or her Assessments, Association shall have the power and authority to take actions including, but not limited to: (i) collecting rents now due or that become due directly from such Owner's tenant(s) (or other party in possession of the Home); and/or (ii) pursuing any and all legal remedies available against such Owner and/or such Owner's tenant(s) including, but not limited to, actions for eviction of such Owner's tenant(s). Owners are responsible for providing their tenants with copies of all such Association Documents or instruments at such Owner's sole cost and expense. Leasing of Homes shall also be subject to the prior written approval of Association, as more particularly explained in Section 24 hereof. No Home may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No lease term shall be less than ninety (90) days. No subleasing or assignment of lease rights by the tenant is permitted. In no event shall occupancy of a leased Home (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. Each Owner shall be jointly and severally liable with the tenant to Association for all costs incurred by Association for the repair of any damage to Common Areas or to pay any claim for injury or damage to property caused by tenants. Association shall repair any such damage and the cost of such repair shall be invoiced as an Individual Assessment to the Owner. Additionally, as a condition to the approval by Association of a proposed lease of a Home, Association has the authority to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an account maintained by Association. The security deposit shall protect against damages to the Common Areas or Association Property. A security deposit held by Association under this Section shall be governed by Chapter 83 of the Florida Statutes, as it may be renumbered from time to time. Association may also charge a reasonable fee of no more than One Hundred (\$100.00) dollars to offset the costs of a background check on tenant. All leases shall also comply with and be subject to the provisions of Section 24 hereof. Notwithstanding the foregoing, this Section shall not apply to a situation where an Owner or resident of a Home receives in-home care by a professional caregiver residing within the Home.

13.25 Minor's Use of Facilities. Each Owner shall be responsible for all actions of minor children dwelling in and/or visiting his or her Home. Developer and Association shall not be responsible for any use of the facilities and Common Areas by anyone, including minors. Children under the age of sixteen (16) shall be accompanied by an adult at all times.

13.26 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Balmoral Estates is permitted. Nuisances shall include, without limitation, the playing of loud music or the gathering in front of Homes or Common Areas by an Owner or permitted occupant thereof, his or her immediate family, guests, tenants and invitees. No firearms shall be discharged within Balmoral Estates. Nothing shall be done or kept within the Common Areas, or any other portion of Balmoral Estates, including a Home or Lot which will increase the rate of insurance to be paid by Association.

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

13.28 Paint. Homes shall be repainted within forty-five (45) days of notice by the ACC.

13.29 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Parcel or Home, or any other portion of Balmoral Estates, which is unsightly or which interferes with the comfort and convenience of others.

13.30 Pools. No above-ground pools shall be permitted. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval of the ACC as set forth in this Declaration. The design must incorporate, at a minimum, the following: (i) the composition of the material must be thoroughly tested and accepted by the industry for such construction; (ii) any swimming pool constructed on any Lot shall have an elevation at the top of the pool of not over two (2) feet above the natural grade unless approved by the ACC; (iii) pool cages and screens must be of a design, color and material approved by the ACC and shall be no higher than twelve (12) feet unless otherwise approved by the ACC; and (iv) pool screening shall in no event be higher than the roof line of the Home. Pool screening shall not extend beyond the sides of the Home without the express approval of the ACC. All pools shall be adequately maintained and chlorinated (or cleaned with similar treatment). Unless installed by Developer, no diving boards, slides, or platforms shall be permitted without the approval of the ACC.

13.31 Removal of Soil and Additional Landscaping. Without the prior approval of the ACC, no Owner shall remove soil from any portion of Balmoral Estates, change the level of the land within Balmoral Estates, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Balmoral Estates. Owners may place additional plants, shrubs, or trees within any portion of Balmoral Estates with the prior approval of the ACC.

13.32 Roofs, Driveways and Pressure Treatment. Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated within thirty (30) days of notice by the ACC. No surface applications to driveways shall be permitted without the prior written approval of the ACC as to material, color and pattern. Such applications shall not extend beyond the front Lot line or include the sidewalk. No oil stains, stains or weeds are permitted on driveways or Lots. Each Owner shall be responsible to pressure clean between paintings.

13.33 Satellite Dishes and Antennas. No exterior visible antennas, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval of the ACC as required by this Declaration. The ACC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. Each Owner agrees that the location of satellite dishes, antennas and other equipment under this Section must be first approved by the ACC in order to address the welfare of the residents of Balmoral Estates. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others and satellite dishes must be on the fascia board when possible with no exposed wires. All antennas not permitted by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

13.34 Signs and Flags. No sign (including brokerage or for sale/lease signs), flag, banner, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of Balmoral Estates that is visible from the outside without the prior written approval from the ACC as required by this Declaration; and without the prior written approval thereof by governmental agencies, if necessary (e.g., permit boards); provided, however, signs required by governmental agencies and approved by the ACC may be displayed. "For Sale" and "For Rent" signs must be approved by the ACC and shall be no larger than 12" x 12". Notwithstanding the foregoing, no broker, "For Sale" or "For Rent" signs shall be exhibited, displayed, inscribed, painted or affixed in or upon any part of Balmoral Estates while the Developer still holds any Homes for sale in the ordinary course of business. No sign may be placed in the window of a Home. Developer and Builders are exempt from this Section. No in-ground flag poles (except as Developer may use) shall be permitted within Balmoral Estates, unless written approval of the ACC is obtained. Notwithstanding the foregoing, flags which are no larger than 24" x 36" attached to a Home and displayed for the purpose of a holiday, and United States of America flags shall be permitted without ACC approval.

13.35 Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Balmoral Estates without prior written approval of the ACC. No basketball backboards, skateboard ramps, or play structures will be permitted without written approval of the ACC. Such approved equipment shall be located at the rear of the Home or on the inside portion of corner Homes within the setback lines. Tree houses or platforms of a similar nature shall not be constructed on any part of a Home. No basketball hoops shall be attached to a Home and any portable basketball hoops must be stored inside the Home. No tennis courts are permitted within Lots.

13.36 Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ACC, which approval shall conform to the requirements of this Declaration. Water softeners, trash containers, propane tanks and other similar devices shall be properly screened from the street in a manner approved by the ACC.

13.37 Subdivision and Regulation of Land. No portion of any Home, Lot or Parcel shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Balmoral Estates, without the prior written approval of Developer, which may be granted or denied in its sole discretion.

13.38 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Balmoral Estates or within any Home or Parcel, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ACC.

13.39 Swimming, Fishing, Boating, Docks and Wildlife. Swimming, fishing and feeding wildlife are prohibited within any of the lakes or waterbodies within or adjacent to Balmoral Estates. Boating and personal watercraft (e.g., jet skis) are prohibited. No private docks may be erected within any waterbody.

13.40 Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

13.41 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ACC and governmental agencies. No vehicles, objects, fences, walls, hedges, shrubs or other planting shall be placed or permitted on a corner Lot where such obstruction would create a traffic problem.

13.42 Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. Neither Developer nor Association shall have liability under such circumstances for any damage or loss that an Owner may incur.

13.43 Wells. Wells are not permitted unless through the prior written approval of the ACC.

13.44 Wetlands Areas. Balmoral Estates may contain preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained in their natural state.

13.45 Windows or Wall Units. No window or wall air conditioning unit may be installed in any window or wall of a Home.

13.46 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ACC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ACC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ACC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

13.47 Workers. Workers hired by any Owner for any purpose including, without limitation, maintenance, landscaping, and/or housekeeping may not congregate in or about the Common Areas or make any personal use of such Common Areas.

14. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual nonexclusive easement is herein granted to allow the footers for such walls and such other protrusions and to permit any natural water run off from roof overhangs, eaves and other protrusions onto an adjacent Home.

15. Requirement to Maintain Insurance.

15.1 Association. Association shall maintain the following insurance coverage:

15.1.1 Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

15.1.2 Liability Insurance. Commercial general liability insurance coverage providing coverage and limits deemed appropriate. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), and Association.

15.1.3 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

15.1.4 Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

15.1.5 Developer. Prior to and including the Turnover Date, Developer shall have the right, at Association's expense, to provide any such insurance coverage it deems appropriate under its master insurance policy in lieu of any of the foregoing.

15.2 Homes.

15.2.1 Requirement to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance of his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and related costs or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to resod and landscape the property comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

15.2.2 Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("Required Repair"), or Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the ACC ("Required Demolition") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

15.2.3 Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Community Standards and any other standards established by Association with respect to any casualty that affects all or a portion of Balmoral Estates.

15.2.4 Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

15.2.5 Rights of County. In the event that any Home is destroyed by fire or other casualty, County or other authorized governmental agency shall have the right, but not the obligation, to enter such Owner's Lot and/or Home for the purpose of inspecting and assessing the damage to such Home. County shall further have the right to enforce any local laws and/or ordinances with regard to the Required Repair or the Required Demolition of the Home.



15.2.6 Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

15.3 Fidelity Bonds. If available, a blanket fidelity bond for all officers, directors, trustees and employees of Association, and all other persons handling or responsible for funds of, or administered by, Association. In the event Association delegates some or all of the responsibility for the handling of the funds to a professional management company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

15.3.1 The bonds shall name Association as an obligee.

15.3.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

15.3.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by Association.

15.3.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to Developer (until the Community Completion Date), and Association.

15.4 Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

15.5 Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Parcel or Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

15.6 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

15.7 Additional Insured. Developer and the respective Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

15.8 Cost of Insurance. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Operating Costs. Notwithstanding the foregoing or any other provisions in this Declaration, expenses incurred during the guarantee period which result from a natural disaster or an act of God occurring during such guarantee period, which are not covered by proceeds from insurance maintained by Association (i.e., the costs of any deductible, the costs incurred which are in excess of the Association's coverage, etc.), shall not be Operating Costs (and as such, are not part of the Developer's deficit funding obligation under its guarantee, if any) and may be charged as a Special Assessment against all Owners of record as of the date that the Special Assessment is assessed.

## 16. Property Rights.

16.1 Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Balmoral Estates shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

16.1.1 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

16.1.2 Rules and Regulations adopted governing use and enjoyment of the Common Areas.

16.1.3 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305, Florida Statutes, as amended from time to time.

16.1.4 The right to suspend the right to use all (except vehicular and pedestrian ingress and egress and necessary utilities) or a portion of the Common Areas by an Owner, its immediate family, etc. for any period during which any Assessment against that Owner remains unpaid.

16.1.5 The right of Developer and/or Association to dedicate or transfer all or any part of the Common Areas. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Developer.

16.1.6 The right of Developer and/or Association to modify the Common Areas as set forth in this Declaration.

16.1.7 The perpetual right of Developer to access and enter the Common Areas at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Common Areas. Association and each Owner shall give Developer unfettered access, ingress and egress to the Common Areas so that Developer and/or its agents can perform all tests and inspections deemed necessary by Developer. Developer shall have the right to make all repairs and replacements deemed necessary by Developer. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Developer relative to any portion of the Common Areas.

16.1.8 The rights of Developer and/or Association regarding Balmoral Estates as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

16.1.9 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a Lessee.

16.1.10 The right of Association to evict occupants, tenants, guests and invitees as provided in this Declaration.

16.2 Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, and through and across sidewalks, paths, walks, driveways, passageways, and lanes as the same, from time to time, may exist upon, or be designed as part of, the Common Areas, and for vehicular traffic over, through and across such portions of the Common Areas as, from time to time, may be paved and intended for such purposes.

16.3 Development Easement. In addition to the rights reserved elsewhere herein, Developer reserves an easement for itself or its nominees over, upon, across, and under Balmoral Estates as may be required in connection with the development of Balmoral Estates and other lands designated by Developer and to promote or otherwise facilitate the development, construction and sale and/or leasing of Parcels and Homes, or any portion of Balmoral Estates, and other lands designated by Developer. Without limiting the foregoing, Developer specifically reserves the right to use all paved roads and rights of way within Balmoral Estates for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications Systems provided by Developer. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. Developer shall have no liability or obligation to repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas shall be deemed ordinary maintenance of Association payable by all Owners as part of Operating Costs. Without limiting the foregoing, at no time shall Developer be obligated to pay any amount to Association on account of Developer's use of the Common Areas for construction purposes. Developer intends to use the Common Areas for sales of new and used Homes. Further, Developer may market other residences and commercial properties located outside of Balmoral Estates from Developer's sales facilities located within Balmoral Estates. Developer has the right to use all portions of the Common Areas in connection with its marketing activities including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes or the leasing of residential apartments. The easements created by this Section, and the rights reserved herein in favor of Developer, shall be construed as broadly as possible and supplement the rights of Developer set forth in Section 21 of this Declaration. At no time shall Developer incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. Developer may non-exclusively assign its rights hereunder to each Builder.

16.4 Public Easements. Fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Balmoral Estates.

16.5 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

16.6 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

16.7 Permits, Licenses and Easements. Prior to the Community Completion Date, Developer, and thereafter Association shall, in addition to the specific rights reserved to Developer herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Balmoral Estates (including Parcels and/or Homes) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Developer and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

16.8 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain

the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Balmoral Estates (including Lots, Parcels, and Homes) for the reasonable and necessary maintenance of Common Areas, utilities, cables, wires and other similar facilities.

16.9 Drainage. A non-exclusive easement shall exist in favor of Developer, Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Balmoral Estates over, across and upon Balmoral Estates for drainage, irrigation and water management purposes. A non-exclusive easement for ingress, egress and access exists as shown on the Plat for such parties to enter upon and over any portion of Balmoral Estates (including Homes) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Balmoral Estates and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through Balmoral Estates and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

16.10 Blanket Easement in Favor of Association. Association is hereby granted an easement over all of Balmoral Estates, including all Homes and Lots, for the purposes of (a) constructing, maintaining, replacing and operating all Common Areas, including, but not limited to, lakes, perimeter walls and fences and (b) performing any obligation of an Owner for which Association intends to impose an Individual Assessment.

16.11 Easement for zero lot line wall Maintenance. Maintenance of a zero lot line wall shall be the obligation of the Owner of the zero lot line wall. Developer hereby grants to each Owner of a zero lot line wall a maintenance easement over the Home adjacent to the zero lot line wall for the maintenance of the zero lot line wall and any wing wall attached thereto and for ingress and egress to the zero lot line wall and wing wall. The easement shall be four (4) feet in width, shall be immediately contiguous to the zero lot line wall, and shall run the length of the Home on which the easement exists. No improvements of any kind shall be constructed in the easement area which would block access to the zero lot line wall and wing wall, if any, or which would in any way interfere with the ability of an Owner of a zero lot line wall to maintain the zero lot line wall and wing wall. Notwithstanding the foregoing, Developer may construct a connecting wall across the easement area; provided, however, that the Owner of a zero lot line wall shall have access at all reasonable times to the easement area. In the event that there is any question about when access under the easement created by this section is reasonable, the Association's determination shall be final. In the event that the Owner of the zero lot line wall damages the adjacent Home subject to the foregoing maintenance easement, the Owner of the zero lot line wall shall be responsible to repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Owner causing the damage. In the event that an Owner shall fail to make the repairs as required herein, or if Association has the reasonable belief that such repairs will not be made in a timely manner, then Association shall have the right at reasonable times to enter the damaged Home to effect such repair, and the cost thereof shall be charged to the Owner of the zero lot line wall as an individual Assessment.

16.12 Painting of Homes and Zero Lot Line Walls. Each Owner shall be responsible for painting the exterior walls of his or her Home including, without limitation, any zero lot line walls. In connection with such obligation, the provisions of Section 16.11 regarding easements for zero lot line wall maintenance shall apply. In addition, each Owner shall be responsible for painting the portion of any fence or perimeter wall facing such Owner's Home. Without limiting the foregoing, no Owner shall be responsible for painting the wall of any other Owner's Home.

16.13 No Structural Change. No Owner shall cut a window or any opening in a zero lot line wall nor shall any Owner make any structural changes in a zero lot line wall, including, but not limited to, change of paint color, without the express written approval of the ACC.

16.14 Damage by Owner of Adjacent Home. In the event that a zero lot line wall is damaged by the Owner of an adjacent Home, the Owner of the adjacent Home shall be responsible for repairing such damage in a timely manner and in accordance with the standards established by the ACC. In the absence of specific standards, the repair shall be accomplished as soon as reasonably possible, and at the sole expense of the Owner causing the damage. In the event that an Owner shall fail to make the repairs as required herein, or if Association has the reasonable belief that such repairs will not be made in a timely manner, then Association shall have the right at reasonable times to enter the adjacent Home to effect such repair, and the cost thereof shall be charged to the adjacent Owner as an Individual Assessment.

16.15 Construction Easement. Developer reserves an easement over all zero lot line Homes for all construction purposes. By way of example, Developer and Developer's construction crews may be required to enter onto a completed zero lot line Home in order to complete construction of an adjacent Home. This easement shall permit all ingress and egress necessary to complete Homes adjacent to zero lot line Homes, and still be construed as broadly as possible.

16.16 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

17. Assessments.

17.1 Types of Assessments. Each Owner and Builder, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners shall pay Assessments. Thereafter, so long as Developer deficit funds Association, neither Developer nor any Builder shall pay Assessments. Each Builder shall pay such portion of Operating Costs which directly benefits any Parcel owned by such Builder, as determined by Developer, in Developer's sole discretion. By way of example, and not of limitation, Developer may require that each Builder pay some portion of Assessments on a Parcel owned by a Builder which does not contain a Home. As vacant Parcels owned by Builders may not receive certain services (e.g., Telecommunications Services and/or alarm monitoring services), Builders shall not be required to pay for the same. The Statutory rights afforded to Association including, without limitation, the right of Association to file liens, bring actions for foreclosure and/or the right of Association to accelerate the amount of Assessments due upon the non-payment of Assessments, shall also apply to Assessments owed by Builders with respect to Homes and/or Lots owned by such Builders. Additionally, all legal fees, late fees, interest and attorneys' fees and costs relating to the collection of Assessments from Builders shall be fully recoverable by Association against Builders. Notwithstanding the foregoing, Developer shall have the right, but not the obligation, to exempt Builders from the obligation to pay (i) Installment Assessments (if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer), (ii) Special Assessments, management fees, Reserves, and/or (iii) amounts due from, but not paid by Owners (as referenced below), pursuant to a written assignment (or partial assignment) of Developer rights which specifically provides the Builder with such exemption(s).

17.2 Purpose of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health and welfare of the residents of Balmoral Estates, and in particular for the improvement and maintenance of the Common Areas and any easement in favor of Association, including, but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

17.2.1 Any monthly or quarterly assessment (as determined by the Board) or charge for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

17.2.2 Any special assessments for capital improvements, major repairs, emergencies the repair or replacement of the Common Areas, or nonrecurring expenses (hereinafter "Special Assessments");

17.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees"); and

17.2.4 Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements comprising a portion of the Common Area (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Developer, which may be withheld for any reason.

17.2.5 Assessments for which one or more Owners (but less than all Owners) within Balmoral Estates is subject ("Individual Assessments") such as costs of special services provided to a Home or Owner or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Owner or Home. By way of example, and not of limitation, all of the Owners within a Plat may be subject to Individual Assessments for maintenance, repair and/or replacement of facilities serving only the residents of such Plat. Further, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment. As a further example, if one or more Owners receive optional Telecommunications Services such as Toll Calls, Cable Services and/or Data Transmission Services, and Association pays a Telecommunications Provider for such services, then the cost of such services shall be an Individual Assessment as to each Owner receiving such services. Further, in the event that Association decides it is in the best interest of Balmoral Estates that Association perform any other obligation of an Owner under this Declaration, the cost of performing such obligation shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

17.3 Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Developer. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

17.4 Allocation of Operating Costs.

17.4.1 For the period until the adoption of the first annual budget, the allocation of Operating Costs shall be as set forth in the initial budget prepared by Developer.

17.4.2 Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves based upon a fraction, the numerator of which is one (1) and the denominator of which is the total number of Homes in Balmoral Estates conveyed to Owners or any greater number determined by Developer from time to time. Developer, in its sole discretion may change such denominator from time to time. Under no circumstances will the denominator be less than the number of Homes owned by Owners other than Developer.

17.4.3 In the event the Operating Costs as estimated in the budget for a particular fiscal year are, after the actual Operating Costs for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments, as applicable, for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment) except to the extent specifically provided herein.

17.4.4 Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

17.5 General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner.

17.6 Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

17.7 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner. The applicable portion of Assessments shall commence as to each Builder on the day of the conveyance of title of a Lot to the Builder.

17.8 Deficit Funding, Shortfalls and Surpluses. Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, the total number of Homes to be included in Balmoral Estates, or upon the number of Homes conveyed to Owners on or prior to September 30 of the prior fiscal year (as determined in Developer's discretion), it is possible that Association may collect more or less than the amount budgeted for Operating Costs. Any time (and from time to time) prior to and including the Turnover Date, Developer shall have the option ("Developer's Option") to either (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of all Installment Assessments due from Owners and other income received by Association pursuant to Section 17.8.1 of the Declaration or (ii) to pay Installment Assessments on Homes or Lots owned by Developer. In the event that Developer elects to fund all or a portion of the shortfall in Installment Assessments, as stated above, Developer shall have no obligation to fund bad debt expenses relating to the payment of Assessments including, without limitation, estimates for bad debt allowance and actual write-offs of Owner balances. If Developer has cumulatively overfunded Operating Costs and/or prepaid expenses of Association including, but not limited to, loaning Association uncollected Assessments due from Owners which are not timely paid, Association shall refund such amounts to Developer immediately upon such prepaid or loaned amounts being received by Association (through legal collection efforts or otherwise), but in no event later than the Turnover Date or as soon as possible thereafter (e.g. once the amount is finally determined), or, in Developer's sole and absolute discretion, pursuant to terms and conditions (e.g., payment plan) approved by Developer. Developer shall never be required to (i) pay Installment Assessments if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer, (ii) pay Special Assessments, management fees or Reserves, or (iii) pay amounts due from, but not paid by, Owners, as referenced above. In addition to the foregoing, Developer shall have the right, but not the obligation, to exempt Builders from the obligation to pay (i) Installment Assessments (if Developer has elected to fund the deficit instead of paying Installment Assessments on Homes or Lots owned by Developer), (ii) Special Assessments, management fees, Reserves, and/or (iii) amounts due from, but not paid by Owners (as referenced above), pursuant to a written assignment or partial assignment of Developer rights which specifically provides the Builder with such exemption(s). Any surplus Assessments collected by Association may be (i) allocated towards the next year's Operating Costs, (ii) used to fund Reserves, whether or not budgeted, (iii) retained by Association, and/or (iv) used for any other purpose, in Association's sole and absolute discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

17.8.1 Without limiting Developer's Option under Section 17.8 of the Declaration, Developer shall be excused from the payment of the share of the Installment Assessments relating to Homes it is offering for sale, for a period beginning with the recording of this Declaration and ending the earlier of the Turnover Date or December 31 of the year in which the Declaration is recorded (the "Guarantee Expiration Date"), provided that the Installment Assessments for Operating Costs equally imposed on each Owner other than Developer shall not increase during such period over \$1,000.00 per month and provided further that Developer shall be obligated to pay any amount of Operating Costs actually incurred during such period and not produced by the Installment

Assessments at the guaranteed level receivable from Owners. The period that Developer is excused from the payment of the share of Installment Assessments relating to Homes it is offering for sale may be unilaterally extended by Developer for one or more successive periods of three months each.

17.8.2 If an audit of the Association's financial records, performed for the period which includes the Guarantee Expiration Date (including any extensions thereof), reveals that Developer has funded a greater amount (e.g. including, without limitation, pre-paid amounts, deposits for utilities, Developer's funding of delinquent Installment Assessments, or portion thereof, not paid by Owners, etc.) than required under this Section, then any such excess shall be promptly refunded to the Developer by Association.

17.9 Budgets. The initial budget prepared by Developer is adopted as the budget for the period of operation until adoption of the first annual Association budget. Thereafter, annual budgets shall be prepared and adopted by Association. To the extent Association has commenced or will commence operations prior to the date this Declaration is recorded or the first Home is closed, the Operating Costs may vary in one or more respects from that set forth in the initial budget. A Builder shall pay Assessments as per the budget for each Lot owned by such Builder commencing from the date the Builder obtained title to such Lot. Developer shall fund entirely all Operating Costs not covered by Builders' Assessments until the month prior to the closing of the first Home. Thereafter, Assessments shall be payable by each Owner and Builder as provided in this Declaration. **THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED.**

17.10 Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

17.10.1 Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association.

17.10.2 Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Developer.

17.10.3 Association may establish Use Fees, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

17.11 Initial Contribution. The first purchaser of each Lot, Home or Parcel, at the time of closing of the conveyance from Developer (or other party as directed by Developer from time to time) to the purchaser, shall pay to Association (or other party as directed by Developer from time to time) an initial contribution in an amount of up to three (3) months Assessments (the "Initial Contribution"), as determined by Developer in its sole and absolute discretion. The funds derived from the Initial Contributions shall be used at the discretion of Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Developer may waive this requirement for some Lots, Homes and/or Parcels, if the first purchaser is a subsequent Developer, and the subsequent Developer becomes unconditionally obligated to collect and pay the Initial Contribution upon the subsequent sale of each Lot, Home or Parcel to an end purchaser.

17.12 Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Home unless all sums due Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner waives its rights (if any) to an accounting related to Operating Costs or Assessments.

17.13 Payment of Home Real Estate Taxes. Each Owner shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home which is superior to the lien for Assessments created by this Declaration.

17.14 Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be a charge and continuing lien in favor of Association encumbering the Home and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a claim of lien in the Public Records stating the legal description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date that the Original Declaration of Covenants was recorded. The claim of lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment,

together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

17.15 Liability for Assessments. An owner of a Home, regardless of how such owner's title to a Home has been acquired including, without limitation, by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all Assessments that come due while an owner of such Home. An owner's liability for Assessments may not be avoided for any reason including, without limitation, by waiver or suspension of the use or enjoyment of any of the Common Areas or by abandonment of the Home upon which such Assessments are charged. An owner that acquires title to a Home shall be jointly and severally liable with the previous owner of such Home for all unpaid Assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the present owner may have to recover any amounts paid by the present owner from the previous owner. Notwithstanding the foregoing, Association may, without having any obligation to do so, reallocate any unpaid Assessments to all Owners as part of Operating Costs included within Installment Assessments. Any sale or transfer of a Home pursuant to a foreclosure (or by deed in lieu of foreclosure or otherwise) shall not relieve the owner from liability for, nor the Home from the lien of any Assessments made prior to such sale or thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than foreclosure. A Lender shall give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to such owner. In the event Association makes such payment on behalf of an owner of a Home, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of the Lender. All amounts advanced on behalf of an owner pursuant to this Section shall be added to Assessments payable by such owner with appropriate interest. Without limiting the foregoing, Developer shall be exempt from this Section and the lien for Assessments shall be superior to all other liens save and except tax liens.

17.16 Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

17.17 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. To the extent permitted by Florida law, the lien granted to Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of such lien, Association shall be entitled to seek an order of court that it is entitled to (i) collect a reasonable rent from the Owner, if the Owner remains in possession of a Home after a judgment of foreclosure is entered and (ii) obtain the appointment of a receiver for such Home to collect the rent if the Home is leased or rented during the pendency of the foreclosure action. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees, pre-trial and at all levels of proceedings, including appeals, collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Common Areas by abandonment of a Home.

17.18 Exemption. Notwithstanding anything to the contrary herein, Developer shall not be responsible for any Assessments of any nature or any portion of the Operating Costs. Developer, at Developer's sole option, may pay Assessments on Homes owned by it, or fund the deficit, if any, as set forth in Section 17.8 herein. In addition, the Board shall have the right to exempt any portion of Balmoral Estates subject to this Declaration from the Assessments, provided that such part of Balmoral Estates exempted is used (and as long as it is used) for any of the following purposes:

17.18.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

17.18.2 Any real property interest held by a Telecommunications Provider;

17.18.3 Common Areas or property (other than a Home);

17.18.4 Any of Balmoral Estates exempted from ad valorem taxation by the laws of the State of Florida or exempted from Assessments by other provisions of this Declaration; and

17.18.5 Any Association Common Areas.

17.19 Collection by Developer. If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Developer shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies, including, but not limited to, recovery of attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be deemed assigned to Developer for such purposes. If Developer advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the

Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals.

17.20 Rights to Pay Assessments and Receive Reimbursement. Association, Developer, and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

17.21 Mortgagee Right. Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home subject to the Lender's mortgage under the Association Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

17.22 Collection of Assessments. Installment Assessments shall be paid by each Owner directly to Association. Any collection proceedings for an Owner's failure to pay Assessments shall be the sole responsibility of Association. Each Owner shall be responsible to pay all Assessments to Association on time and in full.

18. Information to Lenders and Owners.

18.1 Availability. There shall be available for inspection upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Association Documents.

18.2 Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

18.3 Notice. Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

18.3.1 Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;

18.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

18.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder;

18.3.4 Any proposed action (if any) which would require the consent of a specific mortgage holder.

19. Architectural Control.

19.1 Architectural Control Committee. The ACC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to Balmoral Estates. The ACC shall consist of a minimum of three (3) members who shall initially be named by Developer and who shall hold office at the pleasure of Developer. The ACC shall have the right to form subcommittees consisting of representatives from the Association or otherwise. The ACC shall oversee such subcommittees and shall take precedence over any decision made by such subcommittees. Until the Community Completion Date, Developer shall have the right to change the number of members on the ACC, and to appoint, remove, and replace all members of the ACC. Developer shall determine which members of the ACC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Developer, Developer shall have the right to replace any member within thirty (30) days of such occurrence. If Developer fails to replace that member, the remaining members of the ACC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Developer with respect to the ACC.

19.2 Membership. There is no requirement that any member of the ACC be an Owner or a member of Association.

19.3 General Plan. It is the intent of this Declaration to create a general plan and scheme of development of Balmoral Estates. Accordingly, the ACC shall have the right to approve or disapprove all architectural, landscaping, and improvements within Balmoral Estates by Owners and Builders other than Developer. The ACC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by the ACC. The ACC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Developer, which may be granted or denied in its sole discretion.

19.4 Master Plan. Developer has established an overall Master Plan. However, notwithstanding the above, or any other document, brochures or plans, Developer reserves the right to modify the Master Plan and/or any site plan for Balmoral Estates at any time as it deems desirable in its sole discretion and in accordance with



applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DEVELOPER AND/OR BUILDERS MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING BALMORAL ESTATES. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW BALMORAL ESTATES WILL APPEAR UPON COMPLETION AND DEVELOPER RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DEVELOPER DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

19.5 Community Standards. Each Builder, Owner and their respective contractors and employees shall observe, and comply with, the Community Standards which now or may hereafter be promulgated by the ACC and approved by the Board from time to time. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Owner to alter the improvements previously constructed by Developer. Until the Community Completion Date, Developer shall have the right to approve the Community Standards, which approval, may be granted in its sole discretion.

19.6 Quorum. A majority of the ACC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. In lieu of a meeting, the ACC may act in writing.

19.7 Power and Duties of the ACC. No improvements shall be constructed on a Parcel, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on a Parcel, nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed by Developer (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ACC.

19.8 Procedure. In order to obtain the consent of the ACC, each Owner and/or Builder shall observe the following:

19.8.1 Each applicant shall submit an application to the ACC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ACC. The applications shall include such information as may be required by the application form adopted by the ACC. The ACC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ACC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ACC.

19.8.2 In the event the information submitted to the ACC is, in the ACC's opinion, incomplete or insufficient in any manner, the ACC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

19.8.3 No later than thirty (30) days after receipt of all information required by the ACC for final review, the ACC shall approve or deny the application in writing. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ACC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ACC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ACC fails to respond within such thirty (30) day period, the plans and specifications shall be deemed disapproved by the ACC.

19.8.4 In the event that the ACC disapproves any plans and specifications, the applicant may request a rehearing by the ACC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ACC, unless applicant waives this time requirement in writing. The ACC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ACC fails to provide such written decision within such thirty (30) days, the plans and specifications shall be deemed disapproved.

19.8.5 Upon final disapproval, the applicant may appeal the decision of the ACC to the Board within thirty (30) days of the ACC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ACC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

19.8.6 Construction of all improvements shall be completed within the time period set forth in the application approved by such the ACC.

19.9 Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ACC shall be subject to the approval of the ACC in the same manner as required for approval of original plans and specifications.

19.10 Variances. Association or ACC shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Standards, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Standards on any other occasion.

19.11 Permits. The Owner and/or Builder is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

19.12 Construction by Owners. The following provisions govern construction activities by Builders and Owners after consent of the ACC has been obtained:

19.12.1 Each Builder or Owner shall deliver to the ACC, if requested, copies of all construction and building permits as and when received by the Builder or Owner. Each construction site in Balmoral Estates shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, workmanlike and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Balmoral Estates shall be kept clear of construction vehicles, construction materials and debris at all times. No construction office or trailer shall be kept in Balmoral Estates and no construction materials shall be stored in Balmoral Estates subject, however, to such conditions and requirements as may be promulgated by the ACC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway or Common Areas or other Homes in Balmoral Estates or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Standards. If a contractor or Owner shall fail in any regard to comply with the requirements of this Section, the ACC may require that such Owner or contractor post security with Association in such form and amount deemed appropriate by the ACC in its sole discretion.

19.12.2 There shall be provided to the ACC, if requested, a list (name, address, telephone number and identity of contact person), of all contractors, subcontractors, materialmen and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each Builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into Balmoral Estates as are designated by the ACC for construction activities. The ACC shall have the right to require that each Builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ACC.

19.12.3 Each Builder and Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Community Standards by all of its employees and Contractors. In the event of any violation of any such terms or conditions by any employee or Contractor, or, in the opinion of the ACC, the continued refusal of any employee or Contractor to comply with such terms and conditions, after five (5) days' notice and right to cure, the ACC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or Contractor from performing any further services in Balmoral Estates.

19.12.4 The ACC may, from time to time, adopt standards governing the performance or conduct of Builders, Owners, Contractors and their respective employees within Balmoral Estates. Each Builder, Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The ACC may also promulgate requirements to be inserted in all contracts relating to construction within Balmoral Estates and each Owner shall include the same therein.

19.13 Inspection. There is specifically reserved to Association and ACC and to any agent or member of either of them, the right of entry and inspection upon any portion of Balmoral Estates at any time within reasonable daytime hours, for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Community Standards.

19.14 Violation. Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Builder or Owner shall, upon demand of Association or the ACC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Builder or Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ACC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ACC and/or Association are specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Standards, by any legal or equitable remedy.

19.15 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ACC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

19.16 Certificate. In the event that any Builder or Owner fails to comply with the provisions contained herein, the Community Standards, or other rules and regulations promulgated by the ACC, Association and/or ACC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

19.17 Certificate of Compliance. If requested by a Builder or Owner, prior to the occupancy of any improvement constructed or erected on any Home by other than Developer, or its designees, the Builder or Owner thereof shall obtain a Certificate of Compliance from the ACC, certifying that the Owner has complied with the requirements set forth herein. The ACC may, from time to time, delegate to a member or members of the ACC, the responsibility for issuing the Certificate of Compliance. The issuance of a Certificate of Compliance does not abrogate the ACC's rights set forth in Section 19.13 herein.

19.18 Exemption. Notwithstanding anything to the contrary contained herein, or in the Community Standards, any improvements of any nature made or to be made by Developer including, without limitation, improvements made or to be made to the Common Areas or any Home, shall not be subject to the review of the ACC, Association, or the provisions of the Community Standards. In addition to the foregoing, Developer shall have the right, but not the obligation, to exempt Builders from the provisions of the Community Standards and the ACC requirements contained herein pursuant to a written assignment (or partial assignment) of Developer rights which expressly exempts the Builder from such ACC requirements.

19.19 Exculpation. Developer, Association, the directors or officers of Association, the ACC, the members of the ACC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Developer, Association, ACC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Developer, Association or their respective directors or officers, the ACC or the members of the ACC, or their respective agents, in order to recover any damages caused by the actions of Developer, Association, or ACC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Developer and the ACC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ACC or their members, officers and directors. Developer, Association, its directors or officers, the ACC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

19.20 Governmental Approval. Each Builder and Owner acknowledges and agrees that ACC approval, as discussed herein, shall not be deemed to constitute an approval by any governmental authority, nor shall it relieve any Builder or Owner of the obligation to obtain necessary governmental approvals at such Builder or Owner's sole cost and expense. Additionally, in the event any governmental authority denies a Builder or Owner's application for a permit or otherwise in connection with planned alterations or improvements, such denial shall prohibit construction of such improvements (regardless of whether the ACC has previously approved the Builder or Owner's planned alterations or improvements by certificate or otherwise). Decisions of the ACC with respect to architectural control shall be based upon proposed improvements being consistent with the overall aesthetics and master plan of Balmoral Estates and such decisions shall not be deemed a waiver of a Builder or Owner's obligation to comply with state and local codes and/or ordinances. In the event that any Builder or Owner, with or without ACC approval, constructs any improvements or makes any changes to his or her Home without the required governmental permits or approvals, such Builder or Owner shall be solely liable for all fines and/or citations imposed by any governmental authority and shall further bear all costs in connection with the removal, repair or reconstruction of improvements required by such governmental authority. In addition, to the extent a Builder or Owner fails to obtain governmental permits and/or approvals prior to constructing improvements which require the same, or if any governmental entity requires the repair, removal or reconstruction of any improvements, Association shall be permitted to cause such Builder or Owner to repair, remove or reconstruct any unapproved improvement at the Builder or Owner's sole and absolute cost, and in the event such Builder or Owner fails to remove the same within a reasonable time, Association may, but shall not be obligated to remove the improvement and charge all costs in connection with the same to the Builder or Owner as an Individual Assessment. Each Builder and Owner further agrees to remise, release, acquit, satisfy, and forever discharge Developer and Association of and from all, and all manner of, action and actions, cause and causes of action, suits, debts, sums of money, accounts, bills, covenants, controversies, agreements, promises, damages (including consequential, incidental, punitive, special or other), judgments, executions, claims, liabilities and demands, whatsoever, at law and in equity (including, but not limited to, claims founded on tort, contract, contribution, indemnity or any other theory whatsoever) in any way related to any construction of any requested improvements due to any defects to the marketability, ability to obtain a loan, and/or insurability of a Home caused therefrom; any encroachment caused by requested improvements; and/or the repair, reconstruction or removal of the improvements as required by any governmental or court action.

## 20. Owners Liability

20.1 Loop System Irrigation. Some or all Homes and Common Areas may receive irrigation pursuant to a loop system. If an Owner desires to make any alterations or improvements to a Home that in any way affect the loop irrigation system, then the Owner shall be responsible for taking measures to "cap off" the main line of the loop irrigation system that leads to the Home. In addition, the Owner shall be obligated to obtain the prior written

approval of Association before taking any action that may adversely affect the loop irrigation system. Once the main line is "capped off," the Owner shall then be responsible for maintaining the irrigation system for his or her Home. Any damages to the Home resulting from an Owner's failure to comply with the terms set forth herein shall be the sole responsibility of such Owner and Developer shall not be liable for the same. Furthermore, each Owner understands that as provided in this Declaration, an Owner may be permitted to install, without limitation, a patio, and/or screened enclosure ("Improvement") on the Home upon the prior written approval of the ACC as set forth in this Declaration and/or the Community Standards. If an Improvement is approved to be installed, then a five (5) foot gate must also be installed. Before the ACC approves the installation of an Improvement, the irrigation system that will be within the Improvement portion of that Home must be re-routed, if necessary, by a professional irrigation company. In order for the ACC to approve the Improvement installation, a letter or other evidence by a professional irrigation company must be given to the ACC at least ten (10) days before the Improvement installation stating that the effectiveness of Balmoral Estates drainage system will not be affected by the re-routing of the irrigation system. Should an Owner install the Improvement without providing the necessary letter or other evidence from a professional irrigation company in advance as required herein, then Association may conduct the necessary inspection, repair any necessary drainage facilities and charge the work as an Individual Assessment to such Owner, all as further provided in this Declaration and/or Community Standards.

20.2 Right to Cure. Should any Owner do any of the following:

20.2.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration including, without limitation, any provision herein benefiting SFWMD and/or DERM; or

20.2.2 Cause any damage to any improvement or Common Areas; or

20.2.3 Impede Developer or Association from exercising its rights or performing its responsibilities hereunder; or

20.2.4 Undertake unauthorized improvements or modifications to a Home and/or the Common Areas; or

20.2.5 Impede Developer from proceeding with or completing the development of Balmoral Estates.

Then Developer and/or Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, entering upon the Home causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, removing unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, incurred shall be assessed against the Owner as an Individual Assessment.

20.3 Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Developer or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

20.3.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

20.3.2 Commence an action to recover damages; and/or

20.3.3 Take any and all action reasonably necessary to correct the violation or breach.

20.4 Expenses. All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

20.5 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

20.6 Rights Cumulative. All rights, remedies, and privileges granted to Developer, Association and/or the ACC pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Standards, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

20.7 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Developer and/or, where applicable, Owners and/or Association by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Community Standards shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration or the Community Standards.

20.8 Fines. Association may suspend, for reasonable periods of time, the rights of an Owner or an Owner's tenants, guests and invitees, or both, or use the Common Areas and/or common services including, but not limited to, cable services, and/or other services which are paid through Common Expenses, and may levy reasonable fines, not to exceed the maximum amounts permitted by Section 720.305(2) of the Florida Statutes, against an Owner, tenant, guest or invitee, for failure to comply with any provision of this Declaration including, without limitation, those provisions benefiting the SFWMD and/or DERM.

20.8.1 A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. Fines in the aggregate are not capped to any amount.

20.8.2 A fine or suspension may be imposed without notice where an Owner has failed to pay Assessments and/or other charges when due. No other fines or suspensions may be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) persons (the "Violations Committee") appointed by the Board who are not officers, directors or employees of Association, or the spouse, parent, child, brother, sister of an officer, director or employee. If the Violations Committee does not by a majority vote approve a fine or suspension the same may not be imposed. The written notice of violation shall be in writing to the Owner, tenant, guest or invitee and detail the infraction or infractions. Included in the notice shall be the date and time of the hearing of the Violations Committee.

20.8.3 The non-compliance shall be presented to the Violations Committee acting as a tribunal, after which the Violations Committee shall hear reasons why a fine should not be imposed. The hearing shall be conducted in accordance with the procedures adopted by the Violations Committee from time to time. A written decision of the Violations Committee shall be submitted to the Owner, tenant, guest or invitee, as applicable, by not later than twenty-one (21) days after the meeting of the Violations Committee. The Owner, tenant, guest or invitee shall have a right to be represented by counsel and to cross-examine witnesses.

20.8.4 The Violations Committee may impose Individual Assessments against the Owner in the amount of \$100 (or any greater amount permitted by law from time to time) for each violation. Each day of non-compliance shall be treated as a separate violation and there is no cap on the aggregate amount the Violations Committee may fine an Owner, tenant, guest or invitee. Individual Assessment fines shall be paid not later than five (5) days after notice of the imposition of the Individual Assessment. All monies received from fines shall be allocated as directed by the Board of Directors.

20.9 Right of Association to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or any person present in any Home or any portion of Balmoral Estates than an Owner and the members of his/her immediate family permanently residing with him/her in the Home, if such person shall violate any provision of the Association Documents or shall create a nuisance or an unreasonable and continuous source of annoyance to a resident of Balmoral Estates in Association's sole discretion, or shall willfully damage or destroy any of the Common Areas or personal property of Association, then upon written notice by Association, such person shall be required to immediately leave Balmoral Estates and if such person does not do so, Association shall be authorized to commence an action to evict such tenant or compel such person to leave Balmoral Estates and, where necessary, to enjoin such person from returning. Any expense incurred by Association in connection with any such action including, without limitation, attorneys' fees, shall be charged by Association to the applicable Owner of such Home as an Individual Assessment.

## 21. Additional Rights of Developer.

21.1 Sales and Administrative Offices. Developer and Lennar shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of Balmoral Estates and sales and re-sales of Homes and/or other properties owned by Developer or Lennar or others outside of Balmoral Estates. This right shall include, but not be limited to, the right to maintain models, sales offices (including sales offices in model homes, the Common Areas and in the Cabana, as determined by Developer in its sole and absolute discretion) and parking associated therewith, have signs on any portion of Balmoral Estates, including Common Areas, keep employees in the models and offices without the payment of rent or any other fee, maintain offices in models and use of the Common Areas to show Homes. Specifically, Developer and/or Lennar may construct a sign on the Common Areas in order to advertise Homes within Balmoral Estates and/or other communities or neighborhoods. The sales office and signs and all items pertaining to development and sales remain the property of Developer. Developer and/or Lennar shall have all of the foregoing rights without charge or expense. The rights reserved hereunder shall extend beyond the Community Completion Date.

21.2 Modification. The development and marketing of Balmoral Estates will continue as deemed appropriate in Developer's sole discretion, and nothing in this Declaration or Community Standards, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of Balmoral Estates to, as an example and not a limitation, amend a Plat and/or the Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Developer, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Developer, execute and deliver any and all documents and instruments which Developer deems necessary or convenient, in its sole discretion, to accomplish the same. Without limiting anything to the contrary in this Declaration, prior to and including the Turnover Date, all agreements and/or contracts which are entered into by Association shall require the prior written approval of Developer or may otherwise be voided by Developer in its sole and absolute discretion.

21.3 Promotional Events. Prior to the Community Completion Date, Developer and its successors and assigns shall have the right, at any time, to hold marketing, special and/or promotional events within Balmoral

Estates and/or on the Common Areas, without any charge for use. Developer, its agents, affiliates, or assignees shall have the right to market Balmoral Estates and Homes in advertisements and other media by making reference to Balmoral Estates, including, but not limited to, pictures or drawings of Balmoral Estates, Common Areas, Parcels and Homes constructed in Balmoral Estates. All logos, trademarks, and designs used in connection with Balmoral Estates are the property of Developer, and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Developer. Without limiting any other provision of this Declaration, Developer may assign its rights hereunder to each Builder.

21.4 Use by Prospective Purchasers. Prior to the Community Completion Date, Developer shall have the right, without charge, to use the Common Areas for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Developer outside of Balmoral Estates.

21.5 Franchises. Developer may grant franchises or concessions to commercial concerns on all or part of the Common Areas and shall be entitled to all income derived therefrom.

21.6 Management. Developer may manage the Common Areas by contract with Association. Developer may also contract with a third party ("Manager") for management of Association and the Common Areas. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Manager in connection with the costs of services provided by such Manager. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

21.7 Easements. Until the Community Completion Date, Developer reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, under, upon and across Balmoral Estates so long as any such easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation, Developer may be required to take certain action, or make additions or modifications to the Common Areas in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Developer, in perpetuity, for such purposes. Without limiting the foregoing, Developer may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Developer may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of a Parcel so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such Parcel. Developer shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Developer: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Developer, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Developer which may be granted or denied in its sole discretion.

21.8 Right to Enforce. Developer has the right, but not the obligation, to enforce the provisions of this Declaration and the Community Standards and to recover all costs relating thereto, including attorneys' fees and paraprofessional fees, pre-trial and at all levels of proceedings, including appeals. Such right shall include the right to perform the obligations of Association and to recover all costs incurred in doing so.

21.9 Additional Development. If Developer withdraws portions of Balmoral Estates from the operation of this Declaration, Developer may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Developer shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Developer, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the Common Areas and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Developer.

21.10 Representations. Developer makes no representations concerning development both within and outside the boundaries of Balmoral Estates including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Parcels or Homes and buildings in all other proposed forms of ownership and/or other improvements on Balmoral Estates or in Balmoral Estates or adjacent to or near Balmoral Estates, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

21.11 Telecommunications Services.

21.11.1 Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any part of Balmoral Estates. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association, shall be subject to the prior written approval of Developer. Developer and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of

all applicable laws, statutes, and regulations. If Developer is not the Telecommunications Provider for any particular Telecommunications Service, Developer shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within Balmoral Estates as agreed, from time to time, between the Telecommunications Provider and Developer.

21.11.2 Easements. Developer (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider that has entered into an agreement with Association respecting Telecommunications Services and/or Telecommunications Systems a perpetual right, privilege, easement and right-of-way across, over, under and upon Balmoral Estates for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon Balmoral Estates for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such Telecommunications Systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Providers are to serve all of Balmoral Estates, then the amounts payable to such Telecommunications Providers under their written agreements with Association shall be part of Operating Costs of Association and shall be assessed as a part of the Assessments.

21.11.3 Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Common Areas and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to commence such restoration within twenty (20) days after receiving written notice from Association of such failure or the Telecommunications Provider's failure to complete such restoration within ninety (90) days of commencement shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Common Areas and/or Home disturbed by such work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Common Areas and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within twenty (20) days of completion of restoration and delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of Wachovia National Bank or its successor on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as provided in an agreement between Association and a Telecommunications Provider.

21.11.4 Operating Costs. Each Owner understands that the expense of any Telecommunications Service may not be charged on a bulk basis, but may be charged at the rate equal to any rate paid by individual home owners that are not subject to a homeowners association in County. Each Owner acknowledges that Developer may receive lump sum or monthly compensation from any Telecommunications Provider in connection with the supply of Telecommunications Services. Such compensation may be paid on a per Home or other basis. All such compensation shall be the sole property of Developer, who shall have no duty to account for or disclose the amount of such compensation.

21.12 Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE ASSOCIATION DOCUMENTS, THE ASSOCIATION, BUILDERS AND THE DEVELOPER SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF BALMORAL ESTATES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

21.12.1 IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF BALMORAL ESTATES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF BALMORAL ESTATES AND THE VALUE THEREOF; AND

21.12.2 ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR COUNTY OR PREVENTS TORTIOUS ACTIVITIES; AND

21.12.3 THE PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF BALMORAL ESTATES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM

OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

21.13 Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE ASSOCIATION DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

21.14 Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN COUNTY. DEVELOPER HAS AN OFFICE IN COUNTY AND EACH HOME IS LOCATED IN COUNTY. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN COUNTY. IN ADDITION TO THE FOREGOING, EACH OWNER AND DEVELOPER AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN COUNTY.

21.15 Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DEVELOPER IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DEVELOPER. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DEVELOPER TO SUBJECT BALMORAL ESTATES TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

21.16 Access Control System. Developer may, but is not obligated to, install a tele-entry system at the entrance to Balmoral Estates. Association shall have the right, but not the obligation, to contract for the installation of additional Access Control System facilities for Balmoral Estates. Prior to the Community Completion Date, all contracts for Access Control Systems shall be subject to the prior written approval of Developer. ASSOCIATION AND DEVELOPER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. Each and every Owner and the occupant of each Home acknowledges that Developer, Association, and their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes. Developer and Association will not be responsible or liable for losses, injuries, or deaths resulting from any casualty or intrusion into a Home. Notwithstanding anything to the contrary in this Declaration, prior to the Community Completion Date, Developer shall have the unilateral right to control the operation of the community gates, if any, and the same shall remain open during normal business hours or as otherwise determined in the sole and absolute discretion of Developer.

22. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Developer in the event such refund is received by Association.

23. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Developer herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and, at Developer's option, recorded in the Public Records.



24. Selling, Leasing and Mortgaging of Homes. In order to maintain complementary uses, congenial neighbors and to protect the value of Homes, the transfer of title to or possession of Homes by any Owner shall be subject to the following provisions so long as Association exists, which provisions each Owner covenants to observe:

24.1 Transfers Subject to Approval.

24.1.1 Sale. No Owner may dispose of a Home or any interest therein by sale without approval of Association.

24.1.2 Lease. No Owner may transfer possession of a Home or any interest therein by lease for any period without approval of Association. The renewal of any lease, including any lease previously approved by Association under this Section 24, shall be re-submitted for approval by Association. No Owner may transfer possession of a Home or any interest therein by lease for any period until such Owner is current in payment of all assessments due to Association under the terms of this Declaration, and Association shall have the right to withhold approval of any lease until such time as the Owner is current in payment of such Assessments.

24.1.3 Gift. If any Owner proposes to transfer a Home by gift, the proposed transfer shall be subject to the approval of Association.

24.2 Approval by Association. To obtain approval of Association which is required for the transfer of Homes, each Owner shall comply with the following requirements:

24.2.1 Notice to Association.

24.2.1.1 Sale. An Owner intending to make a bona fide sale of his or her Home, or any interest therein, shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intentions, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as Association may reasonably require. Such notice, at the Owner's option, may include a demand by the Owner that Association furnish a new purchaser if the proposed purchaser is not approved; and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract for sale.

24.2.1.2 Lease. An Owner intending to make a bona fide lease of his or her Home or any interest therein shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as Association may reasonably require, and an executed copy of the proposed lease, which lease shall provide that it is subject to approval by Association.

24.2.1.3 Gift. An Owner who proposes to transfer his or her title by gift shall give to Association a transfer fee (in an amount determined by the Board and permitted by Florida Statutes) and notice pursuant to a form approved by Association of the proposed transfer of his or her title, together with such information concerning the transferee as Association may reasonably require, and a copy of all instruments to be used in transferring title.

24.2.1.4 Failure to Give Notice. If the notice to Association herein required is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Home, Association at its discretion and without notice may approve or disapprove the lease, sale or transfer. If Association disapproves the transaction or ownership, Association shall proceed as if it had received the required notice on the date of such disapproval.

24.2.1.5 Effect and Manner of Notice. The giving of notice shall constitute a representation and warranty by the offeror to Association and any purchaser produced by the Board that the offering is a bona fide offer in all respects. The notice shall be given by certified mail, return receipt requested, or delivered by professional courier or by hand-delivery to Association which shall give a receipt therefor.

24.2.2 Certificate of Approval.

24.2.2.1 Sale. If the proposed transaction is a sale, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the purchaser and may be recorded in the Public Records of County (the "Public Records").

24.2.2.2 Lease. If the proposed transaction is a lease then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the proper officers of Association and shall be delivered to the lessee.

24.2.2.3 Devise or Inheritance. Any person who has obtained a Home by devise or inheritance (except for the spouse, parents or children of the immediately previous Owner of such Home) shall give to Association notice thereof together with such information concerning the person(s) obtaining such Home as may be reasonably required by the Board and a certified copy of the instrument by which such Home was obtained. If such notice is not given to Association, then at any time after receiving knowledge thereof, the Board shall proceed

in accordance with Section 26.2.4 as if it had been given such notice on the date of receipt of such knowledge. Within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer. If approved, the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the person receiving title by devise or inheritance.

24.2.2.4 Gift. If the Owner giving notice proposes to transfer his or her title by gift, then, within thirty (30) days after receipt of such notice and information, Association must either approve or disapprove the proposed transfer of title to the Home. If approved, the approval shall be upon such terms and conditions as Association may reasonably require, and the approval shall be stated in a certificate executed by the proper officers of Association in recordable form and shall be delivered to the Owner and shall be recorded in the Public Records.

24.2.3 Approval of Owner Other Than an Individual. Inasmuch as the Home may be used only for residential purposes, and a corporation, trust or other entity cannot occupy a Home for such use, if the Owner or purchaser of a Home is a corporation, trust or other entity, the approval of ownership by the corporation, trust or other entity shall be conditioned upon the primary occupant or the beneficial owners of the entity being approved by Association. Any change in such primary occupant or beneficial owners of the Home shall be deemed a change of ownership subject to Association approval pursuant to this Section.

24.3 Disapproval by Association. Although an Owner complies with the foregoing requirements, Association may disapprove of the transfer. If Association disapproves a transfer or ownership of a Home, the matter shall be disposed of in the following manner:

24.3.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the Owner shall so demand, then, within thirty (30) days after receipt of such notice and information by Association, Association shall deliver by professional courier or hand-delivery, or mail by certified mail, to the Owner an agreement to purchase by Association, or a purchaser approved by Association who will purchase and to whom the Owner must sell the Home, upon the following terms:

24.3.1.1 The price to be paid by the purchaser, to be identified in the agreement, shall be that stated in the disapproved contract to sell.

24.3.1.2 The purchase price shall be paid by official check or federal wire.

24.3.1.3 The sale shall be closed within ninety (90) days after the delivery or mailing of the agreement to purchase to the Owner and shall be upon terms no less favorable than the terms of the disapproved contract.

24.3.1.4 If Association fails to provide a purchaser upon the demand of the Owner in the manner provided, or if a purchaser furnished by Association shall default in his or her agreement to purchase, the proposed transaction shall be deemed to have been approved and Association shall furnish a certificate of approval as provided in this Section 24.

24.3.2 Lease. In the event the Board disapproves of a transfer of possession of a Home by lease, then the Owner may not lease the Home to the intended lessee for whom the Owner sought approval.

24.3.3 Transfer by Gift, Devise or Inheritance. In the event the Board disapproves of such transfer of title by gift, devise or inheritance, the Board shall advise in writing within such thirty (30) day period, the person who has obtained such title of a purchaser approved by the Board to purchase the respective Home at its fair market value. The fair market value of the Home will be determined by any one of the following methods determined by the Board: (i) by three (3) M.A.I. appraisers, one of whom shall be selected by the Association's proposed purchaser, one by the person holding title, and one by the two (2) appraisers so selected; or (ii) by mutual agreement by the Association's proposed purchaser and the person holding title. All costs for such appraisal shall be paid by the Association's proposed purchaser. The purchase price shall be paid by federal wire or official check and the sale closed within thirty (30) days after the determination of the purchase price. Simultaneously upon notification to the person holding title that the Board has a purchaser for the respective Home, the person holding title and such purchaser shall execute a contract providing for the acquisition of such Home in accordance with the terms of this Declaration. In the event the purchaser furnished by Association shall default in his or her obligation to purchase such Home, then the Board shall be required to approve the passage of title to the person then holding title thereof and shall issue and deliver a certificate of approval therefor.

24.4 Exceptions. The foregoing provisions of this Section shall not apply to a transfer or purchase by a Lender or other approved mortgagee which acquires its title as the result of owning a mortgage upon the Home concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successor in title or through foreclosure proceedings; nor shall such provisions apply to a transfer, sale or lease by a Lender or other approved mortgagee which so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Home at a duly advertised public sale with open bidding which is provided by law including, but not limited to, an execution sale, foreclosure sale, judicial sale or tax sale. The provisions of this Section shall not apply to Developer.

24.5 Unauthorized Transactions. Any sale, transfer mortgage or lease which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by Association.

24.6 Notice of Lien or Suit.

24.6.1 Notice of Lien. An Owner shall give notice to Association of every lien upon his or her Home other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of such lien.

24.6.2 Notice of Suit. An Owner shall give notice to Association of every suit or other proceeding which may affect the title to his or her Home; such notice is to be given within five (5) days after the Owner receives knowledge thereof.

24.6.3 Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial sale.

25. General Provisions.

25.1 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

25.2 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

25.3 Execution of Documents. Developer's plan of development for the Property (including, without limitation, the creation of one (1) or more special taxing districts may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that such documents require the joinder of Owners other than Developer, Developer, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any special taxing district); and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact, for such purpose. Such appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home or any other portion of Balmoral Estates, to execute or otherwise join in any petition and/or other documents required in connection with the creation of any special taxing district relating to Balmoral Estates or any portion(s) thereof.

25.4 Affirmative Obligation of Association. In the event that Association believes that Developer has failed in any respect to meet Developer's obligations under this Declaration or has failed to comply with any of Developer's obligations under law or the Common Areas are defective in any respect, Association shall give written notice to Developer detailing the alleged failure or defect. Association agrees that once Association has given written notice to Developer pursuant to this Section, Association shall be obligated to permit Developer and its agents to perform inspections of the Common Areas and to perform all tests and make all repairs/replacements deemed necessary by Developer to respond to such notice at all reasonable times. Association agrees that any inspection, test and/or repair/replacement scheduled on a business day between 9 a.m. and 5 p.m. shall be deemed scheduled at a reasonable time. The rights reserved in this Section include the right of Developer to repair or address, in Developer's sole option and expense, any aspect of the Common Areas deemed defective by Developer during its inspections of the Common Areas. Association's failure to give the notice and/or otherwise comply with the provisions of this Section will damage Developer. At this time, it is impossible to determine the actual damages Developer might suffer. Accordingly, if Association fails to comply with its obligations under this Section in any respect, Association shall pay to Developer liquidated damages in the amount of \$250,000.00 which Association and Developer agree is a fair and reasonable remedy.

25.5 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

25.6 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

25.7 Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF BALMORAL ESTATES ARE HEREBY PLACED ON NOTICE THAT (1) DEVELOPER AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO BALMORAL ESTATES. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF BALMORAL ESTATES, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO BALMORAL ESTATES WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF

ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DEVELOPER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF BALMORAL ESTATES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

25.8 Title Documents. Each Owner by acceptance of a deed to a Home acknowledges that such Home is subject to certain land use and title documents and all amendments thereto which include among other items, unrecorded land use documents and all title documents of record affecting title to Balmoral Estates (collectively, the "Title Documents").

Developer's plan of development for Balmoral Estates may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DEVELOPER RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Developer, Developer, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Developer, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon the Community Completion Date Association shall assume all of the obligations of Developer under the Title Documents unless otherwise provided by Developer by amendment to this Declaration recorded by Developer in the Public Records, from time to time, and in the sole discretion of Developer.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this 3 day of June, 2010.

WITNESSES:

A. N. GARCIA ENTERPRISES, INC., a Florida corporation

Print Name: [Signature]  
 Print Name: D. Gomez

By: [Signature]  
 Name: LILIANA MESA  
 Title: VICE PRESIDENT

[SEAL]

STATE OF FLORIDA )  
 COUNTY OF Miami-Dade ) SS.:

The foregoing instrument was acknowledged before me this 3 day of June, 2010 by Liliana Mesa, as V.P. of A. N. Garcia Enterprises, Inc., a Florida corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires:

[Signature]  
 NOTARY PUBLIC, State of Florida at Large  
 Print Name: \_\_\_\_\_



JOINDER

BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC.

BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC. ("Association") does hereby join in the Amended and Restated Declaration for Balmoral Estates (the "Declaration") to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association acknowledges that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Declaration, as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 7<sup>th</sup> day of June, 2010.

WITNESSES:

Jamie Stencos  
Print Name: Jamie Stencos  
Francisco Fernandez  
Print Name: FRANCISCO FERNANDEZ

BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation

By: [Signature]  
Name: Maria Carolina Herrera  
Title: President

STATE OF FLORIDA )  
COUNTY OF MIAMI-DADE ) SS.:

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of June, 2010 by [Signature], as President of BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced [Signature] as identification, on behalf of the corporation.

My commission expires: LIZETH C. FRANCO  
MY COMMISSION #DD568421  
EXPIRES: JUN 26, 2010  
Bonded through 1st State Insurance



[Signature]  
NOTARY PUBLIC, State of Florida at Large

Print Name: Lizeth Franco

**EXHIBIT 1**

**LEGAL DESCRIPTION**

All of BALMORAL SUBDIVISION PHASE I, according to the Plat thereof, as recorded in Plat Book 151, at Page 40 of the Public Records of Miami-Dade County, Florida.

All of BALMORAL SUBDIVISION PHASE II, according to the Plat thereof, as recorded in Plat Book 158, at Page 51 of the Public Records of Miami-Dade County, Florida.

All of BALMORAL SUBDIVISION PHASE III, according to the Plat thereof, as recorded in Plat Book 158, at Page 53 of the Public Records of Miami-Dade County, Florida.

Amended and Restated Declaration  
Balmoral Estates

**EXHIBIT 2**  
**ARTICLES OF INCORPORATION**

Amended and Restated Declaration  
Balmoral Estates





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- (b) To make and collect assessments against Members to defray the Common Expenses;
- (c) To use the proceeds of assessments in the exercise of its powers and duties located thereon;
- (d) To maintain, repair, replace and operate the Common Area and the Improvements;
- (e) To reconstruct Improvements upon the Common Area after casualty;
- (f) To make and amend the Bylaws for the Association and Rules and Regulations respecting the use of the Property;
- (g) To pay all taxes and other assessments which are liens against the Common Area;
- (h) To enforce by legal means the provisions of the Declaration, these Articles, and Bylaws, and the Rules and Regulations of the Association.

(i) To provide for management and maintenance, and, in its discretion, to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as collection of assessments, preparation of records, enforcement schedules and maintenance of the Common Area. The Association shall, however, retain at all times the powers and duties granted it by common law, Florida Statutes and local ordinances including, but not limited to, the making of assessments, the promulgation of Rules and Regulations, and the execution of contracts on behalf of the Association.

(j) To possess, enjoy and exercise all powers necessary to implement, enforce, and carry into effect the powers above described, including the power to acquire, hold, and convey real and personal property.

(k) To do and perform all such other acts and things permitted and to exercise all powers granted to a corporation not for profit under the laws of the State of Florida as those laws now exist or as they may hereafter provide.

**Section 3. FUNDS AND TITLE TO PROPERTIES** All funds and title to all properties acquired by the Association and the proceeds thereof shall be held only for the benefit of the Members in accordance with the provisions of the Declaration.

**Section 4. LIMITATIONS** The powers of the Association shall be subject to and be exercised in accordance with the provisions of the Declaration.

**ARTICLE IV.  
MEMBERSHIP AND VOTING RIGHTS**

**Section 1. MEMBERSHIP** Every Owner of a Lot shall automatically become a Member of the Association upon the acquisition of fee simple title to any Lot, by filing a deed therefor in the Public Records of Dade County. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

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Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred or conveyed by operation of law, at which time membership, with respect to the Lot conveyed, shall automatically be conferred upon the transferee. No person or entity holding an interest of any type or name whatsoever in any Lot or security for the performance of obligation shall be a Member.

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

Class A Class A Members shall originally be all Owners with the exception of the Developer for so long as there exists a Class B Membership. Class A Members shall have one vote for each Lot owned. In the event a Lot is owned by more than one individual or by a corporation or other entity, the Class A Member shall file a certificate with the Secretary of the Association naming the person authorized to cast votes for said Lot. If the certificate is not on file, the Owner(s) shall not be qualified to vote and the vote of such Owner(s) shall not be considered nor shall the presence of such Owner(s) at a meeting be considered in determining whether the quorum requirement has been met. If a Lot shall be owned by a husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for said Lot, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the Members, unless prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Lot at the meeting, in which case the certificate requirements set forth above shall apply.

Class B The Class B Member shall be the Developer. The Developer shall be entitled to one (1) vote for each Lot owned, plus, until the Change of Control Date (as such term is hereinafter defined), two (2) votes for each vote which may be cast, in the aggregate, by the Class A Members. The Class B membership shall cease and terminate at such time as the Developer elects, but in no event, later than three (3) months after the last Lot is conveyed by the Developer. Notwithstanding anything to the contrary contained herein, the Class A Members shall have the right to appoint or direct that there be elected a majority of the Board of Directors of the Association no later than three (3) months after ninety percent (90%) of Lots have been conveyed by the Developer (the "Change of Control Date"), provided, however, that so long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots, the Developer shall be entitled to elect at least one (1) Director.

#### ARTICLE V. DURATION

The Association shall have perpetual existence.

#### ARTICLE VI. BOARD OF DIRECTORS

The affairs of the Association shall be managed by a Board of Directors consisting of not less than three (3) or more than seven (7) Directors. Until such time as the Developer relinquishes control of the Association, as described in the Declaration and Bylaws, the Developer shall have the right to appoint a majority of the members of the Board of Directors and to approve or disapprove the appointment of all Officers of the Association. Further, no Director appointed by the Developer need be a Member, however, all Directors

- 3 -

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electd by Members other than the Developer must be Members. The Initial Board shall consist of three (3) Directors appointed by the Developer. The Developer shall be entitled at any time, and from time to time, to remove or replace any Director originally appointed by the Developer. The Developer may waive or relinquish in whole or in part any of its rights to appoint any one of the Directors it is entitled to appoint. The following persons shall constitute the Board of Directors:

Name	Address
Tony Garcia	Midway Self Storage 8103 Park Boulevard Miami, FL 33178

**ARTICLE VII  
OFFICERS**

The Officers named in this Article VII shall serve until replaced by the Developer or until the first regular meeting of the Board of Directors, whichever shall occur first. Officers elected at the first meeting of the Board shall hold office until the next annual meeting of the Board of Directors, or until their successors shall have been appointed and shall qualify. So long as the Developer retains control of the Association, as defined in the Declaration, no Officer elected by the Board shall serve the Association until such time as the Developer approves the Officer. Upon the election of an Officer by the Board of Directors, whether the election occurs at the annual meeting or otherwise, the Board shall forthwith submit the name of such newly appointed Officer or officers, as the case may be, in writing, to the Developer. The Developer shall approve or disapprove said Officer, or Officers, within twenty (20) days after receipt of said name or names. In the event the Developer fails to act within such time period, such failure shall be deemed approved by the Developer. The Initial Officers shall consist of a President, Secretary, and Treasurer. The following persons shall serve as Officers of the Association.

President, Vice President Secretary and Treasurer	Antonio Garcia
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**ARTICLE VIII  
INDEMNIFICATION**

Every Director and Officer of the Association shall be indemnified by the Association as provided in the Declaration.

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**ARTICLE IX.  
SUBSCRIBER**

The name and address of the subscriber to these Articles of Incorporation is:

**Name**  
Antonio Garcia

**Address**  
Midway Self Storage  
8105 Park Boulevard  
Miami, FL 33178

**ARTICLE X.  
BYLAWS**

The Bylaws of the Association may be adopted, amended, altered, or repealed as provided in the Bylaws; provided, however, that at no time shall the Bylaws conflict with these Articles of Incorporation or the Declaration. Until such time as the Developer relinquishes control of the Association, no amendments to the Bylaws shall be effective unless the Developer shall have joined in and concurred to such amendments in writing.

**ARTICLE XI.  
AMENDMENTS**

**Section 1. METHOD OF AMENDMENT.** Alteration, amendment or repeal of these Articles shall be proposed and adopted in the following manner:

(a) The Board shall adopt a resolution setting forth the proposed amendment, and directing that it be submitted to a vote at a meeting of the Members, which may be either at the annual or a special meeting.

(b) Written notice setting forth a proposed amendment or a summary of the changes to be effected thereby shall be given to each Member entitled to vote thereon, which meeting may not occur less than fourteen (14) days nor later than thirty (30) days from the giving of notice of the meeting to consider the proposed amendment.

(c) At each meeting of the Members, a vote of the Members entitled to vote thereon, as provided in the Declaration, shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of seventy-five percent (75%) of the votes of the Members.

**Section 2. NUMBER OF AMENDMENTS.** Any number of amendments may be submitted to the Members and voted upon by them at one meeting.

**Section 3. WRITTEN CONSENT.** If all of the Members eligible to vote sign a written statement manifesting their intentions that an amendment to the Articles be adopted, then the amendment shall thereby be adopted as though the procedure set forth in Section 1 of this Article has been satisfied.

- 5 -

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Section 4. **DEVELOPER'S CONSENT** For so long as after the Developer is the Owner of any Lot or property affected by these Articles or amendment hereto, no amendment will be effective without the Developer's express written consent.

**ARTICLE XII  
DISSOLUTION**

The Association may be dissolved with the written consent of not less than seventy-five percent (75%) of each class of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

**ARTICLE XIII  
REGISTERED AGENT AND REGISTERED OFFICE**

The registered office of this corporation shall be at Biaknol Estates Homeowners' Association Inc., c/o Antonio Garcia whose address shall be Midway Self Storage, #105 Park Boulevard, Miami, FL 33176. The Association shall have the right to designate subsequent registered agents without amending these Articles of Incorporation.

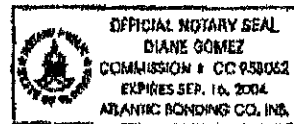
IN WITNESS WHEREOF, the undersigned subscriber has hereunto set [his] hand this 10 day of September, 2003.

*Antonio Garcia*  
Antonio Garcia, President

STATE OF FLORIDA }  
COUNTY OF MIAMI-DADE }

The foregoing instrument was acknowledged before me this 10 day of September, 2003 by Antonio Garcia, who is personally known to me or who produced identification.

Printed Name: *Diane Gomez*  
Notary Public, State of Florida at large  
Commission Expires: \_\_\_\_\_



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**CERTIFICATE OF DESIGNATING PLACE OF BUSINESS  
FOR SERVICE OF PROCESS WITHIN THIS STATE,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

Pursuant to Sections 48.091 and 617.023, Florida Statutes (1995), the following is submitted in compliance with said Statute:

BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC., desiring to organize under the laws of the State of Florida, with its principal offices at Midway Self Storage, 8101 Park Boulevard, Miami, FL 33178 has named Antonio Garcia, whose address is Midway Self Storage, 8101 Park Boulevard, Miami, FL 33178 as its agent to accept service of process within the State of Florida.

**Acknowledgment**

Having been named to accept service of process for the above-named Association, at the place designated in this Certificate, Antonio Garcia hereby accepts the responsibility to act in this capacity and agrees to comply with the provisions of said act relative to keeping open said office.

Dated this 10 day of September, 2003.

By:   
ANTONIO GARCIA

STATE OF FLORIDA  
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**EXHIBIT 3**

**BY-LAWS**

Amended and Restated Declaration  
Balmoral Estates

RESTATED AND AMENDED BY-LAWS  
OF  
BALMORAL ESTATES HOMEOWNERS' ASSOCIATION, INC.

1. Name and Location The name of the corporation is BALMORAL ESTATES HOMEOWNERS' ASSOCIATION INC. ("Association") The principal office of the Association shall be located at 8105 N.W. 2<sup>nd</sup> Street, Miami, Florida 33126, or at such other location as determined by the Board of Directors ("Board") from time to time.

2. Definitions

The definitions contained in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Balmoral Lakes (the "Declaration") relating to the residential community known as Balmoral Lakes, recorded, or to be recorded, in the Public Records of Miami Dade County, Florida, are incorporated herein by reference, and , made a part hereof. In addition to the terms defined in the Declaration, the following terms shall have the meaning set forth below:

"Annual Members Meeting" shall have the meaning assigned in Section 3.2 of these By-Laws.

"Articles" shall mean the Articles of Incorporation for the Association, as amended from time to time.

"Declaration" shall mean the Declaration as modified from time to time.

"Developer" shall mean A.N. GARCIA ENTERPRSES INC., a Florida corporation, and any of its designees, successor and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"By-Laws" shall mean these By-Laws as amended from time to time.

"Member" shall mean each Owner and Developer.

"Minutes" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the minutes

"Official Records" shall mean all records required to be maintained by the Association pursuant to Section 617.303 (4) of the Florida Statutes, as amended from time to time.

"Special Members Meeting" shall have the meaning assigned to such term in Section 3.3 of these By-Laws.

"Turnover Date" shall have the meaning set forth in Section 4.6 of these By-Laws.

"Voting Interests" shall mean the voting rights held by the Members.

3. Members



3.1 Voting Interests Each Owner and Developer shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from the person who holds an interest in a Home. There shall be one vote appurtenant to each Home. For the purposes of determining who may exercise the Voting Interest associated with each Home, the following rules shall govern:

3.1.1 Home Owned by Husband and Wife Either the husband or wife, but not both, may exercise the Voting Interest with respect to a Home. In the event the husband and wife cannot agree, neither may exercise the voting interest.

3.1.2 Trusts In the event that any trust owns a home, Association shall have no obligation to review the trust agreement with respect to such trust. If the Home is owned by John Doe, as trustee, John Doe shall be deemed the Owner of the Home for all Association purposes. If the Home is owned by John Doe as Trustee for the Margarita Princess Trust, the John Doe shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Margarita Princess Trust, and the deed does not reference a Trustee, then Margarita Princess shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Pie Family Trust, the Pie Family Trust may not exercise its "Voting Interest" unless it presents to the Association, in the form of an attorney's opinion letter or affidavit reasonable acceptable to Association, the identification of the person who should be treated as the Member with respect to the Home for all Association purposes. If John Doe and Margarita Princess, as Trustees, hold title to a Home, either Trustee may exercise the Voting Interest associated with such Home. In the event of a conflict between the Trustees, the Voting Interest for the Home in question, cannot be exercised. In the event that any other form of trust ownership is presented to the Association, the decision of the Board as to who may exercise the "Voting Interest" with respect to any Home shall be final. Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.1.3 Corporations If a Home is owned by a corporation, the corporation shall designate a person, an officer, employee or agent who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.4 Partnerships If a Home is owned by a limited partnership, any one of the general partners may exercise the "Voting Interest" associated with such Home. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof, governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Home is owned by a general partnership, any one of the general partners may exercise the "Voting Interest" associated with such Home. In the event of a conflict among general partners entitled to exercise a "Voting Interest", the "Voting Interest" of such Home cannot be exercised.

3.1.5 Multiple Individuals If a Home is owned by more than one individual, any one of such individuals may exercise the "Voting Interest" with respect to such Home. In the event there is a conflict among such individuals, the "Voting Interest" for such Home cannot be exercised.

3.1.6 Liability of Association Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which Association, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as Association acts in good faith, Association shall have no liability or obligation with respect to the exercise of "Voting Interests", and no election shall be invalidated (in the absence of fraud) on the basis the Association permitted or denied any person the right to exercise a "Voting Interest". In addition, the Board may impose additional requirements respecting the exercise of "Voting Interests" (e.g. the execution of a Voting Certificate).

3.2 Annual Meeting The annual meeting of the Members (the "Annual Members Meeting") shall be held at least once each calendar year on a date, at a time, and at a place to be determined by the Board.

3.3 Special Meeting of the Members Special meetings of the Members (a "Special Members Meeting") may be called by the President, a majority of the Board, or upon written request by twenty percent (20%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by Florida Statutes.

3.4 Notice of Members Meeting Written notice of each Members meeting shall be given by, or at the direction of, any officer of the Board or any management company retained by the Association. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than ten (10) days before the meeting, (provided, however, in the case of an emergency, two (2) days notice will be deemed sufficient). The notice shall be addressed to the Members address last appearing on the books of the Association. The notice shall specify the place, day, and hour of the meeting and, in case of a Special Members Meeting, the purpose of the meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Members of the Annual Members Meeting or a Special Members Meeting.

3.5 Quorum of Members Until control of the Association has been turned over to the owners of the Homes, a quorum shall be established by the Developer's presence at any meeting. After, control of the Association has been turned over, a quorum shall be established by the presence, in person or by proxy, of the Members entitled to cast twenty five percent (25%) of the Voting Interests, except as otherwise provided in the Articles, the Declaration, and these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Members to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6 Adjournment of Members Meetings If, however, a quorum shall not be present at any Members meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Members present shall have power to adjourn the meeting and reschedule it on another date.

3.7 Action of Members Decisions that require a vote of the Members must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8 Proxies At all meetings, Members may vote their Voting Interests in person or by proxy. All proxies shall comply with the provisions of Section 617.306 (6) of the Florida Statutes, as amended from time to time, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given.

#### 4. Board of Directors

4.1 Number The affairs of the Association shall be managed by a Board consisting of three (3) persons. Board members appointed by Developer need not be Members of the Association. Board members elected by the other members must be Members of the Association.

4.2 Term of Office The election of Directors shall take place after the Developer no longer has the authority to appoint the Board and pursuant to Florida Statutes 617.307, and shall take place at the Annual Members Meeting or on the Turnover Date. Directors shall be elected for a term ending upon the election of the new Directors at the following Annual Members Meeting (except that the term of the Board appointed by the Developer shall extend until the date designated by the Developer, or until the Turnover Date).

4.3 Removal Any vacancy created by the resignation or removal of a Board member appointed by the Developer may be replaced by Developer. Developer may replace or remove any Board member appointed by the Developer in the Developer's sole and absolute discretion. In the event of death

or resignation of a Director elected by the Members, the remaining Directors may fill such vacancy. Directors may be removed with or without cause by the vote or agreement in writing of Members holding a majority of the "Voting Interests".

4.4 Compensation No Director shall receive compensation for any service rendered as a Director to Association; provided, however, any Director may be reimbursed for actual expenses incurred as a Director.

4.5 Action Taken Without a Meeting Except to the extent prohibited by law, the Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same affect as though taken at a meeting of Directors.

4.6 Appointment and Election of Directors Until the Turnover Date of the Association, and until required by the provisions of Florida Statutes § 617.307, as amended from time to time, the Developer shall have the unrestricted power to appoint all of the Directors of the Association. From and after the Turnover Date, and consistent with the provisions of the Florida Statutes, the Members shall elect all Directors of the Association at or in conjunction with the Annual Members Meeting of the Members.

4.7 Election Election to the Board shall be by secret written ballot, unless unanimously waived by all Members present. The persons receiving the largest number of votes shall be elected. Cumulative Voting is not permitted.

5. Meeting of Directors

5.1 Regular Meetings Regular meetings of the Board shall be held on a schedule adopted by the Board from time to time. Meetings shall be held at such place and hour as may be fixed, from time to time, by resolution of the Board.

5.2 Special Meetings Special meetings of the Board shall be held when called by the President, or by any two (2) Directors. Each Director shall be given not less than two (2) days notice except in the event of an emergency. Notice may be waived. Attendance shall be by a waiver of notice. Telephone conference meetings are permitted.

5.3 Emergencies In the event of an emergency involving immediate danger of injury or death to any person, or damage to property, if a meeting of the Board cannot be immediately convened to determine a course of action, the President or, in his or hers absence, any other officer or director shall be authorized to take such action on behalf of the Association, as shall reasonably be required to appropriately respond to the emergency situation, including the expenditure of Association funds in the minimum amount as may be reasonable required under the circumstances. The authority of officers to act in accordance herewith shall remain in effect until the first to occur of the resolution of the emergency situation or a meeting of the Board convened to act in response thereto.

5.4 Quorum A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be the action of the Board.

5.5 Open Meetings Meetings of the Board shall be open to all Members.

5.6 Voting Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.7 Notice of Board Meetings Notices of meetings of the Board shall be posted in a conspicuous place on the Common Areas at least forty eight (48) hours in advance, except in the event of an emergency. Alternatively, notice may be given to Members in another manner provided by Florida Statute. For the purposes of giving notice, the areas for notices shall be in the clubhouse or pool area and shall be considered a conspicuous place. Notices of any meetings of the Board at which Assessments against Homes are to be established, shall specifically contain a statement that Assessments shall be considered and a statement of the nature of the Assessment.

6. Powers and Duties of the Board

6.1 Powers The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of the Association, including, but not limited to, the power to cause the Association to do the following:

6.1.1 General Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws, the Articles, the Declaration, including without limitation, adopt budgets, levy Assessments, enter into contracts with Service Providers for Telecommunication Services.

6.1.2 Rules and Regulations Adopt, publish, promulgate and enforce Rules and Regulations governing the use of Twin Lakes by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any.

6.1.3 Enforcement Suspend the right of use of the Common Areas (other than for vehicular and pedestrian ingress and egress and for utilities) of a member during any period in which such Member shall be in default of the payment of any Assessment or charge levied, or collected by Association.

6.1.4 Declare Vacancies Declare the office of a member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular Board meetings.

6.1.5 Hire Employees Employ, on behalf on the Association, managers, independent contractors, or such other employees as it deems necessary, to prescribe their duties and delegate to such manager, contractor, etc., any and all of the duties and functions of Association and/or its officers.

6.1.6 Common Areas Acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas, as provided in the Declaration, and with other matters involving Association, or its Members, on behalf of the Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and its accomplishing the purposes set forth in the Declaration.

6.1.7 Granting of Interest Grant licenses, easements, permits, leases, or privileges to any individual or entity, which affect Common Areas and to alter, add to, relocate or improve the Common Areas as provided in the declaration.

6.1.8 Financial Reports Prepare all financial reports required by Florida Statutes.

6.2 Vote The Board shall exercise all powers so granted except where the Declaration, Articles, or these By-Laws specifically require a vote of the Members.

6.3 Limitations Until the Turnover Date, Developer shall have and is hereby granted a right to disapprove or veto any such action, policy, or program proposed or authorized by Association, the Board, the ACC, any committee of Association, or the vote of the Members. The right may be exercised by Developer at any time within ten (10) days following a meeting held pursuant to the terms and provisions hereof. The right to disapprove may be used to veto proposed actions but shall not extend to the requiring

of any action or counteraction on behalf of the Association, the Board, the ACC or any committee of the Association,

7. Obligations of the Association Association, subject to the provisions of the Declaration, Articles, and these By-Laws, shall discharge such duties as necessary to operate Association pursuant to the Declaration, including, but not limited to, the following:

7.1 Official Records Maintain and make available all Official Records.

7.2 Supervision Supervise all officers, agents and employees of Association, and to see that their duties are properly performed.

7.3 Assessments and Fines Fix and collect the amount of the Assessments and Fines; take all necessary and legal action; and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members.

7.4 Enforcement Enforce the provisions of the Declaration, Articles, these By-Laws, and Rules and Regulations.

8. Officers and Their Duties

8.1 Officers The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer.

8.2 Election of Officers Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each Annual Members Meeting.

8.3 Term The officers named in the Articles shall serve until their replacement by the Board. The officers of the Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise disqualified to serve.

8.4 Special Appointment The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

8.5 Resignation and Removal Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies A vacancy in any office shall be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

8.7 Multiple Offices The office of the President and Vice President shall not be held by the same person. All other offices may be held by the same person.

8.8 Duties The duties of the officers are as follows:

8.8.1 President The President shall preside at all meetings of the Association and Board, sign all leases, mortgages, deeds and other written instrument and perform such other duties as may be required by the Board. The President shall be a member of the Board.

8.8.2 Vice President The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required of the Board.

8.8.3 Secretary The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of the Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of Association; keep appropriate current records, showing the names of the Members of Association together with their addresses; and perform such other duties as required by the Board.

8.8.4 Treasurer The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks and promissory notes of the Association; cause to be kept proper books of the account and accounting records required pursuant to the provisions of Section 617.303 of the Florida Statutes caused to be prepared in accordance with general accepted accounting principles all financial reports required by the Florida Statutes; and perform such other duties as required by the Board.

9. Committees

9.1 General The Board may appoint such committees as deemed appropriate. The Board may fill any vacancies on all committees.

9.2 ACC The Developer shall have the sole right to appoint the members of the ACC until the Turnover Date. Upon expiration of the right of the Developer to appoint members of the ACC, the Board shall appoint the members of the ACC. As provided under the Declaration, Association shall have the authority and standing to seek enforcement in courts of competent jurisdiction and decisions of the ACC.

10. Records The official records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased, by a Member, at a reasonable cost.

11. Corporate Seal Association shall have an impression seal in circular form.

12. Amendment

12.1 General Restriction on Amendments Notwithstanding any provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Developer unless such amendment receives the prior written consent of Developer which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

12.2 Amendments Prior to Turnover Date Prior to the Turnover Date, Developer shall have the right to amend these By-Laws as it deems appropriate, without joinder or consent of any person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by the Developer may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same shall be reflected in the Public Records.

12.3 Amendments from and After the Turnover Date After the Turnover Date, but subject to the general restrictions on amendments as set forth above these By-Laws may be amended with the approval of ( i ) two-thirds (66 2/3%) of the Board; ( ii ) seventy-five (75%) of all of the votes in Association. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by two thirds percent (66 2/3%) of the Board acting alone to change the number of directors on the Board.

Such change shall not require approval of the Members. Any change in the number of directors shall not take effect until the next Annual Members Meeting.

13. Conflict In the case of any conflict between the Articles and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

14. Fiscal Year The first fiscal year shall begin on the date of incorporation and end December 31, of that year. Thereafter, the fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year.

15 Miscellaneous

15.1 Florida Statutes Whenever these By-Laws refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded, except to the extent provided otherwise as to any particular provision of the Florida Statutes.

15.2 Severability Invalidation of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.

**EXHIBIT 4**

**PERMIT**

Amended and Restated Declaration  
Ballmer & Estates





**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
PERMIT MODIFICATION NO. 13-00795-S**

**DATE ISSUED: JULY 12, 2001**

**PERMITTEE:** CDS HOLDING I AND II  
(BALMORAL SUBDIVISION)  
247 S.W. 8TH STREET, SUITE 154,  
MIAMI, FL 331130

**ORIGINAL PERMIT ISSUED:** APRIL 13, 1995

**ORIGINAL PROJECT DESCRIPTION:** CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM TO SERVE 19.45 ACRES OF RESIDENTIAL DEVELOPMENT TO BE KNOWN AS BALDORAL LOCATED IN DADE COUNTY WITH TOTAL ON-SITE RETENTION OF THE 25-YEAR, 3-DAY STORM EVENT.

**APPROVED MODIFICATION:** APPROVAL OF THE REVISED MITIGATION PLAN TO ADDRESS IMPACTS TO 9.79 ACRES OF WETLANDS AND FOR THE CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM TO SERVE A 19.95 ACRE RESIDENTIAL DEVELOPMENT KNOWN AS BALMORAL SUBDIVISION.

**PROJECT LOCATION:** MIAMI-DADE COUNTY,

SECTION 24 TWP 63S RGE 39E  
SECTION 19 TWP 63S RGE 40E

**PERMIT DURATION:** Five years from the date issued to complete construction of the surface water management system as authorized herein. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit Modification is approved pursuant to Application No. 000407-10, dated April 7 2000. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of any activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S. between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S. or as otherwise stated herein.

This Permit Modification may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit Modification may be transferred pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), F.A.C.

All specifications and special and limiting/general conditions attendant to the original Permit, unless specifically rescinded by this or previous modifications, remain in effect.

This Permit Modification shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and Environmental Resource Permit Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit Modification. All activities authorized by this Permit Modification shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitting activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.381 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

**SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:**  
SEE PAGES 2 - 3 OF 6 (11 SPECIAL CONDITIONS).  
SEE PAGES 4 - 6 OF 6 (19 GENERAL CONDITIONS).

**PERMIT MODIFICATION APPROVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

FILED WITH THE CLERK OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ON \_\_\_\_\_ ORIGINAL SIGNED BY:  
BY JENNIFER KROMLAUF  
DEPUTY CLERK

Original signed by  
BY TONY BURNS  
ASSISTANT SECRETARY

*Handwritten signature/initials*

SPECIAL CONDITIONS

1. MINIMUM BUILDING FLOOR ELEVATION: 8 FEET NGVD.
2. MINIMUM ROAD CROWN ELEVATION: 7.2 FEET NGVD.
3. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
4. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
5. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.
6. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 4:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE TOP SOILED AND STABILIZED THROUGH SEEDING OR PLANTING FROM 2 FEET BELOW TO 1 FOOT ABOVE THE CONTROL ELEVATION TO PROMOTE VEGETATIVE GROWTH.
7. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
8. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF BALMORAL HOMEOWNERS ASSOCIATION, INC.. THE PERMITTEE SHALL SUBMIT A COPY OF THE RECORDED DEED RESTRICTIONS (OR DECLARATION OF CONDOMINIUM, IF APPLICABLE), A COPY OF THE FILED ARTICLES OF INCORPORATION, AND A COPY OF THE CERTIFICATE OF INCORPORATION FOR THE HOMEOWNERS ASSOCIATION CONCURRENT WITH THE ENGINEERING CERTIFICATION OF CONSTRUCTION COMPLETION.
9. ACTIVITIES ASSOCIATED WITH IMPLEMENTATION OF THE WETLAND MITIGATION, MONITORING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE FOLLOWING WORK SCHEDULE. ANY DEVIATION FROM THESE TIME FRAMES SHALL REQUIRE FORMAL SFWRM APPROVAL. SUCH REQUESTS MUST BE MADE IN WRITING AND SHALL INCLUDE (1) REASON FOR THE MODIFICATION; (2) PROPOSED START/FINISH DATES; AND (3) PROGRESS REPORT ON THE STATUS OF THE EXISTING MITIGATION EFFORTS.

COMPLETION DATE	ACTIVITY
AUGUST 12, 2001	SUBMIT VERIFICATION OF PAYMENT OF \$149,373.44 TO SFWRM WETLAND MITIGATION FUND

10. NO LATER THAN AUGUST 12, 2001 THE PERMITTEE SHALL PROVIDE A MITIGATION PAYMENT OF \$149,373.44 TO THE DISTRICT'S WETLAND MITIGATION FUND FOR THE ACQUISITION, ENHANCEMENT AND MANAGEMENT OF 24.32 ACRES OF LANDS WITHIN THE PENNSUCO REGION OF MIAMI-DADE COUNTY \$74,686.72 FOR ACQUISITION, \$59,749.38 FOR ENHANCEMENT AND \$14,937.34 FOR LONG-TERM MAINTENANCE AND PERPETUAL MANAGEMENT). THE PERMITTEE SHALL REMIT PAYMENT WITHIN THIRTY (30) DAYS OF RECEIPT OF DISTRICT INVOICE FOLLOWING PERMIT ISSUANCE.

PAYMENT OF THE MITIGATION FEE IS AN ENFORCEABLE CONDITION OF THE PERMIT SUBJECT TO THE DISTRICT'S COMPLIANCE RULES. THE MITIGATION FEE IS CALCULATED AT THE RATE OF \$6142.00 PER ACRE OF MITIGATION. LATE PAYMENT OF MITIGATION FEES MAY BE SUBJECT TO HIGHER MITIGATION COST PER ACRE AS THOSE COSTS ARE ADJUSTED BY THE DISTRICT.

11. ALL SPECIAL CONDITIONS, EXHIBITS AND TEXT OF STAFF REPORTS PREVIOUSLY STIPULATED

PERMIT NO: 13-00795-S  
PAGE 3 OF 6

BY PERMIT NUMBER 50-00795-S REMAIN IN EFFECT UNLESS OTHERWISE REVISED AND SHALL  
APPLY TO THIS MODIFICATION.

GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988), INCORPORATED BY REFERENCE IN RULE 40B-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0950 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.
6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY, THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO. 0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF AS-BUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "AS-BUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.

7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE: UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.
10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER 40E-4 OR CHAPTER 40E-40, F.A.C.
12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR

OTHER STATE-OWNED LANDS.

13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.
16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.
18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

ENVIRONMENTAL RESOURCE PERMIT

CHAPTER 40E-4 (10/95)

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to Individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, Amended 7-1-88, 4/20/94, 10-3-95