

of the foreclosure or otherwise of an Institutional Mortgagee shall be deemed to have made, assumed or otherwise undertaken any covenants or obligations of Declarant: (i) to guarantee the level and/or duration of any Guaranteed Assessments provided for under any of the Botanica Lakes Documents; or (ii) to pay the difference between the actual Operating Expenses and the Guaranteed Assessments, if any, assessed against Lots and the Owners thereof during the Guarantee Period (as same may have been previously extended) as may be provided for in any of the Botanica Lakes Documents; provided, however, that an Institutional Mortgagee may, at its option, determine to continue the obligation of Declarant to guarantee the amount of the Assessments as herein provided. Additionally, a successor declarant shall not be deemed to guarantee the level and/or duration of any Guaranteed Assessments provided for under any of the Botanica Lakes Documents or be obligated or pay the difference between the actual Operating Expenses and the Guaranteed Assessments, if any, assessed against Lots and the Owners thereof during the Guarantee Period (as same may have been previously extended) unless such obligation is assumed in writing by such successor declarant.

Section 7. WORKING FUND CONTRIBUTION. Each Owner who purchases a Lot with a Home thereon from Declarant shall pay to the Association at the time legal title is conveyed to such Owner, a "Working Fund Contribution." The Working Fund Contribution shall be an amount equal to a three (3) months' share of the annual, non-abated Operating Expenses applicable to such Lot pursuant to the initial Budget (which shall be prepared as if all Lots are Completed Lots and may be different from the Budget in effect at the time of closing). The purpose of the Working Fund Contribution is to insure that the Association will have cash available for initial start-up expenses, to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Board. Working Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments, nor will they be held in reserve. To further ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Working Fund Contribution to be paid by such Owner to the Association pursuant to this Section shall be paid directly to Declarant in reimbursement of the advance, instead of to the Association. Working Fund Contributions (whether paid by Owner or advanced by Declarant) may also be used to offset Operating Expenses, both during the Guarantee Period (as same may have been previously extended) and thereafter.

Section 8. WAIVER OF USE. No Owner, other than Declarant, may exempt himself from personal liability for Assessments duly levied by the Association. No Owner may release the Lot owned by such Owner from the liens and charges hereof either by waiver of the use and enjoyment of the Association Property and the facilities thereon or by abandonment of such Owner's Home.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE; BOTANICA LAKES DESIGN REVIEW COMMITTEE

Section 1. MEMBERS OF THE ARCHITECTURAL CONTROL COMMITTEE. The Architectural Control Committee, sometimes referred to in this Declaration as the "ARC," shall be comprised of three (3) members. The initial members of the ARC shall consist of persons designated by Declarant. Each of said persons shall hold office until all Lots and Homes have been conveyed or such earlier time as Declarant may, at its sole option, elect. Thereafter, each new member of the ARC shall be appointed by the Board and shall hold office until such time as such new member has

resigned, has been removed, or such new member's successor has been appointed, as provided herein. Members of the ARC, other than those designated by Declarant, may be removed at any time without cause. The Board shall have the sole right to appoint and remove all members of the ARC other than those designated by Declarant.

Section 2. REVIEW OF PROPOSED CONSTRUCTION.

A. No Improvements, including, by way of example and not of limitation, accessory structures, exterior lighting fixtures, brick pavers, stamped concrete, concrete flatwork, basketball goals, gym sets and play structures, buildings, fences, walls, pools, roofs, gutters or rain spouts, antennae, aerials, microwaves, reception devices, mailboxes, external enclosures or attachments (including entry screen and patio screen enclosures), or landscaping (including hedges, massed plantings and trees) shall be commenced, erected, installed, altered, modified, painted, planted, or maintained on the Property, including the Lots, nor shall any canopies, shutters, or window coverings be attached to or placed upon outside walls or roofs of any Home or building by any Owner other than Declarant, unless such Improvements have been reviewed by and received the written approval of the ARC in accordance with Paragraph B herein below. Any Owner desiring to make Improvements shall submit two (2) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person determined by the ARC to be qualified, showing the nature, dimensions, materials and location of the same, together with the security deposit if required by the ARC, to be held and disbursed by the Association in accordance with Section 3 herein below.

B. The ARC shall approve proposed plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be detrimental to the appearance of the surrounding area of the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The ARC may also issue and amend from time to time rules or guidelines setting forth procedures for the submission of plans and specifications. If the proposed construction, alterations or additions are to a portion of the Improvements which the Association is obligated to maintain, said approval shall also be subject to approval by the Board. The ARC may condition its approval of proposed plans and specifications in such a manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such plans. Notwithstanding anything to the contrary in the Botanica Lakes Documents, diversity of architectural elevation and exterior color scheme for Homes in Botanica Lakes shall be required by compliance with the following: (i) no identical homes shall be placed next to one another (i.e., same elevation with same exterior color scheme); (ii) no more than three (3) Homes with the same elevation shall be placed next to each other; and (iii) no more than three (3) Homes with the same exterior color scheme may be placed next to each other. The ARC shall have no obligation to and shall not approve (nor grant any variances for) any plans and specifications submitted if approval of same would result in failure to comply with the foregoing requirements

C. The ARC shall have forty-five (45) days after delivery of all required materials to give written approval or rejection of any such plans and, if written approval is not given within such forty-five (45) day period, such plans shall be deemed rejected, provided, however, that in any event, no such addition, construction or alteration shall be made by any Owner which is detrimental to or inconsistent with the harmony, appearance or general scheme of the Property as a whole.

D. No landscaping or other Improvements on the Lake Lots which materially interfere with the view of the Lake by immediate neighbors who are also Lake Lot Owners shall be

permitted. In its review of proposed plans and specifications of landscape design and materials for Lake Lots, including, but not limited to, any massed plantings, the ARC will take into consideration the effect on Lake views of such landscaping, both at the proposed time of installation and at the time when maximum growth shall have occurred. The only fence type allowed on the back and sides of a Lake Lot shall be an aluminum rail picket fence, with the rails no wider than one inch (1") and no closer together than three inches (3") on center and having a height of no greater than sixty inches (60"), unless otherwise required by applicable governmental laws, statutes, ordinances, rules or regulations. Notwithstanding anything to the contrary in this Declaration, such aluminum rail picket fence is the only type of fence which the ARC may approve for installation on the back or sides of a Lake Lot. No Owner shall be permitted to install any fence (or landscaping) within any Lake Maintenance Easement or Lake Maintenance Access Easement whatsoever. (Refer to Article X, Section 17 for additional restrictions regarding fencing.)

E. No plantings, landscaping and/or improvements whatsoever including, without limitation, pool decks, patios, screen enclosures, hedges, trees, etc. shall be installed in the Drainage Swale Easement except only as expressly provided in Article IV, Section 7 above

F. No plantings, landscaping and/or Improvements whatsoever, including, without limitation, pool decks, patios, screen enclosures, hedges, tree, etc. shall be installed in the Drainage Swale Easement except only as expressly provided in Article IV, Section 7 above.

G. Notwithstanding anything to the contrary in this Declaration, in no event shall any fence or other Improvement (including, without limitation, landscaping) be permitted within any Landscape Easement, Landscape and Drainage Easement, Lake Maintenance Easement, or Lake Maintenance Access Easement, if any, on any Lot, except that landscaping shall be permitted in any Landscape Easement or Landscape and Drainage Easement. No landscaping installed in any Landscape Easement, Landscape and Drainage Easement or other area of a Lot shall interfere with the flow of rainfall runoff to or through the Drainage System.

H. Notwithstanding any provision in this Article to the contrary, the approval of the ARC shall not be required for any additions, changes or alterations within any Homes if such additions, changes or alterations are not visible from the outside of such Homes. All changes and alterations shall be subject, independently, to all applicable governmental laws, statutes, ordinances, codes, rules and regulations.

I. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Declarant shall require the prior approval or any certificate of consent of the ARC or any security deposit.

Section 3. SECURITY DEPOSIT FOR IMPROVEMENTS; INDEMNIFICATION. Any Owner desiring to make Improvements may be required by the ARC, depending upon the Improvements being requested and the manner of installation of such Improvements, to provide to the ARC, at the time of the Owner's submission of plans and specifications for review and approval by the ARC, a Five Thousand Dollar (\$5,000.00) security deposit to cover costs of incidental damage caused to Association Property, an adjacent Home or Lot, or any other property (whether real or personal) by virtue of such Owner's construction of Improvements. The ARC shall have the sole and absolute discretion to determine whether a security deposit is required for the Improvements being requested. The Association shall not be obligated to place the security deposit in an interest bearing account. The Owner shall be entitled to the return of the security deposit upon: (i) such Owner's written notice to the ARC that the Improvements covered by the security deposit have been completed in

accordance with the plans and specifications approved by the ARC; and (ii) the ARC's (or its duly authorized representative's) inspection of such Improvements confirming completion; provided, however, should any incidental damage be caused to Association Property by virtue of such Owner's construction of Improvements, the security deposit shall not be returned to Owner until such damages have been repaired. In the event that Owner has not repaired such damages to the Association Property to the satisfaction of the ARC, Association shall have the right (but not the obligation), after five (5) days notice to the offending Owner, to repair such incidental damage and to use so much of the security deposit held by the Association to reimburse itself for the costs of such work. Further, the offending Owner hereby agrees to indemnify and reimburse the Association for all reasonable costs expended by the Association that exceed the security deposit, including Legal Fees, if any, incurred in connection therewith. Should any incidental damage be caused to an adjacent Lot or Home by virtue of such Owner's construction of Improvements, the Owner of the adjacent Lot (the "Adjacent Lot Owner") shall, at such Adjacent Lot Owner's sole option: (a) remedy such damage and submit to the Association a receipt, invoice or statement therefor for reimbursement from the offending Owner's security deposit; or (b) allow the offending Owner to repair such incidental damage to the Adjacent Lot Owner's Lot or Home, at the offending Owner's sole cost and expense, and upon receipt by the Association of written notice from the Adjacent Lot Owner that such incidental damage has been repaired, the offending Owner shall be entitled to a return of the balance of the security deposit being held by the Association, if any.

Notwithstanding anything contained in this Section to the contrary, the Association's return of the security deposit being held by it for any such Improvements shall be based solely on considerations set forth above. The Association's return of the security deposit does not and shall not be construed to constitute a determination by members and representatives of the ARC, the Declarant, and/or the Association of the structural safety, approval or integrity of any Improvement, conformance with building or other codes or standards, or the proper issuance of governmental permits and approvals for any Improvement.

Association shall not be liable or responsible to anyone for any damages, losses or expenses resulting from Association's holding of the security deposit or disbursement thereof unless same shall be caused by the gross negligence or willful malfeasance of the Association. In the event of any disagreement relating to the security deposit held by the Association or the disbursement thereof, Association shall be entitled (but not obligated) to refuse to disburse the security deposit (or any portion thereof) as long as such disagreement may continue, and Association shall not become liable in any way for such refusal. Association shall have the right, at any time, after a dispute has arisen, to pay the security deposit (or any portion thereof) held by it into any court of competent jurisdiction for payment to the appropriate party, whereupon Association's obligations hereunder shall terminate and Association shall be automatically released of any and all obligations.

Section 4. MEETINGS OF THE ARCHITECTURAL CONTROL COMMITTEE. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate a ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC, except the granting of variances pursuant to Article VIII, Section 10 below. In the absence of such designation, the vote of any two (2) members of the ARC shall constitute an act of the ARC.

Section 5. NO WAIVER OF FUTURE APPROVALS. The approval of the ARC of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal

subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, the denial of approval by the ARC of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

Section 6. COMPENSATION OF MEMBERS. The members of the ARC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 7. INSPECTION OF WORK. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon the completion of any work for which approved plans are required under this Article, the submitting party shall give written notice of completion to the ARC.

B. Within thirty (30) days after written notice of completion, the ARC or its duly authorized representatives may inspect such Improvement. If the ARC finds such work was not done in substantial compliance with the approved plans, it shall notify the submitting party in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the submitting party to remedy such noncompliance.

C. If upon the expiration of fifteen (15) days from the date of such notification the submitting party shall have failed to remedy such noncompliance, notification shall be given to the Board in writing of such failure. Upon such notice, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the submitting party shall remedy or remove the same within a period of not more than thirty (30) days from the date of announcement of the Board's ruling. If the submitting party does not comply with the Board's ruling within such period, the Board, at its option, may remove the Improvement, remedy the noncompliance, or proceed in court to compel compliance and the submitting party shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, including Interest and Legal Fees. If such expenses are not promptly repaid by the submitting party to the Association, the Board shall levy an Assessment against such submitting party for reimbursement, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

D. If, for any reason, notification is not given to the submitting party of acceptance within thirty (30) days after receipt of said written notice of completion from the submitting party, the Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

Section 8. DESIGN REVIEW COMMITTEE. Pursuant to Section 25-270.77(a) of the City Code, Sub-Part B, Growth Management Code; Chapter 25, Land Use Regulations; Article II, Districts, Division 15 Master Development Plan District (the "Future Land Use Plan"), every Master Development Plan ("MDP") is required to have an MDP Design Review Committee. The primary role of the MDP Design Review Committee is to enforce the design review guidelines and procedures contained within the Master Development Plan District in which the property is located. Botanica Lakes is designated as an MDP on the Future Land Use Plan. As required under the Future Land Use Plan and Ordinance No. 3223 of the City Council of the City (the "Ordinance"), the

Declarant has created the Botanica Lakes Design Review Committee (the "DRC"). The Declarant, as developer of Botanica Lakes, is required to appoint the members of the DRC. Declarant may, however, in its sole and absolute discretion, transfer the right to appoint the DRC members to a property owners association and/or a community development district once Declarant no longer owns property within Botanica Lakes, or earlier at its option. The Association shall be obligated to accept such obligation if and when Declarant elects to assign this obligation to the Association.

In accordance with the Ordinance, the DRC shall be responsible for reviewing and approving the following matters with respect to property within the Botanica Lakes MDP (the "Required Approval Matter(s)"):

- (a) All final MDP master plans to be submitted to the City for review with a preliminary plat; and
- (b) All sign permits, building permits, final subdivision plats and applications for administrative deviations.

Each Owner of a Lot in Botanica Lakes, shall, in addition to the ARC, submit a request for approval to the DRC for all Required Approval Matters. Each Owner further acknowledges and agrees that the City requires approval from the DRC for any Required Approval Matter submitted to the City for a building permit or other approval. Applications to be reviewed by the DRC shall be submitted to the DRC on the standard City application and in accordance with the Future Land Use Plan and the Ordinance. The approval from the DRC is cumulative with the approval required from the ARC and the DRC shall not approve any submittal without the approval of the ARC. Notwithstanding anything to the contrary, regardless of any approval from the DRC and the City, no Improvements shall be installed by any Owner unless such Owner has received approval for such Improvements by the ARC as provided in this Article VIII.

In connection with seeking DRC approval, Owner shall submit the following documentation to the DRC: (i) any necessary attachments required under the City's application; (ii) a completed application checklist (the form of which shall be maintained by the DRC); (iii) the number of plan sets or application copies as may be required by the City; and (iv) written evidence of the prior approval of the Required Approval Matter by the ARC. The DRC shall, upon completion of its review, issue an approval or denial based on the plans and related information and the requirements set forth in the Future Land Use Plan and the Ordinance.

Section 9. NON-LIABILITY OF COMMITTEE MEMBERS. Neither the ARC, the DRC, any member of the ARC and/or DRC, any duly authorized ARC and/or DRC representative, or the Declarant, shall be liable to the Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the ARC's and/or DRC's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The ARC's review and approval or disapproval of plans submitted to it for any proposed Improvement shall be based solely on considerations of the overall benefit or detriment to the community as a whole. The DRC's review and approval shall be to enforce the design review guidelines and procedures contained within the Botanica Lakes MDP. The ARC and DRC shall not be responsible for reviewing, nor shall their approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes or standards, and no member or representative of the ARC, DRC or the Association, nor Declarant, shall be liable for the safety, soundness, workmanship, materials or

usefulness for any purpose of any such Improvement or alteration proposed by the plans. By submitting a request for review and approval by the ARC and/or DRC, an Owner shall be deemed to have and does automatically agree to indemnify, defend and hold harmless the ARC, the DRC, the Association and Declarant (and each of their respective officers, directors, partners, affiliates, members and representatives) from and against any and all claims, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, Legal Fees) arising from, relating to or in any way connected with the Improvement or alterations for which such request was submitted, and/or the security deposit (including, without limitation, the disbursement thereof). Furthermore, approval by the ARC of any request does not excuse Owner from also obtaining approvals from all applicable governmental authorities and the Botanica Lakes Design Review Committee as set forth in Section 8 above.

Section 10. VARIANCE. The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require; provided, however, the ARC shall not give or authorize (and the ARC is hereby prohibited from giving or authorizing) any variance with respect to: (i) the diversity of architectural elevation and exterior color scheme requirements of Section 2.B. of this Article VIII above, (ii) the type of fencing permitted by Section 2.D of this Article VIII above, or (iii) the displaying of any signs for the sale or renting of the Home as prohibited in Section 11 of Article X below. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the Improvements for which the variance was granted.

Section 11. DECLARANT EXEMPTION. Declarant is hereby exempt from having to comply with the ARC requirements contained in this Article VIII in their entirety.

ARTICLE IX MAINTENANCE AND REPAIR OBLIGATIONS

Section 1. BY THE ASSOCIATION.

A. The Association, at its expense, shall be responsible for the operation, maintenance, repair and replacement of all of the Improvements and facilities located over, through and upon the Association Property, including, without limitation, the Recreation Tract, as otherwise provided herein (except public utilities and Community Systems, to the extent same have not been made Association Property). Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Association Property as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Association Property, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

B. The Association shall operate, maintain, repair and replace the Irrigation System constructed over, through and upon the Association Property as it shall deem appropriate, including, without limitation, to make such alterations and/or connections as are necessary to utilize reclaimed water if and when available by the City and if requested by the City. The Association shall be responsible for the costs of operation, maintenance, repair and replacement of the Irrigation