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ARTICLES OF AMENDMENT OF  
SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

Document Number N35558

Pursuant to the provisions of F.S. 617.1006, Fla. Stat., the undersigned officer certifies that the following amendment was adopted by an affirmative vote of the members owning not less than two-thirds (2/3) of the voting interests on December 8, 2002, which was sufficient for approval, and further certifies that the undersigned corporation hereby adopts the following Articles of Amendment to its Articles of Incorporation, which shall become effective upon the filing of the Articles of Amendment with the Secretary of State - State of Florida:

1. The Articles of Incorporation of Six Mile Creek Subdivision Homeowners Association, Inc. are hereby amended to read as follows:

ARTICLES OF INCORPORATION OF SIX MILE CREEK SUBDIVISION HOMEOWNERS  
ASSOCIATION, INC., a corporation not for profit

In order to form a corporation under and in accordance with the provisions of the laws of the State of Florida for the formation of corporations not for profit, we, the undersigned, hereby associate ourselves into a corporation for the purpose and with the powers hereinafter mentioned; and to that end we do by these Articles of Incorporation, set forth:

ARTICLE I - NAME

The name of the corporation shall be SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC.

ARTICLE II - PURPOSE

The purposes and objectives of the corporation shall be to administer the operation and management of the SIX MILE CREEK SUBDIVISION, having been established by JEAN-YVES CLERC, not individually, but solely as Trustee under the unrecorded Trust Agreement known as Land Trust No. I-88120, hereinafter called Developer, upon the following described property, situate, lying and being in Brevard County, Florida, to wit: AS DESCRIBED IN THE RECORDED PLATS, AS THE CASE MAY BE, and to undertake the performance of the acts and duties incident to the administration of the operation and maintenance of the SIX MILE CREEK SUBDIVISION and in accordance with the terms, provisions, conditions and authorizations contained in these articles and which may be contained in the Declaration of Covenants, Conditions, Restrictions, Reservations, License and Easements for the Six Mile Creek Subdivision, hereafter referred to as the Declaration of Restrictions, which has been recorded in the Public Records of Brevard County, Florida, and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of the SIX MILE CREEK SUBDIVISION. The corporation shall be conducted as a non-profit organization for the benefit of its members.

ARTICLE III - POWER

The corporation shall have the following powers:

- A. All of the powers and privileges granted to corporations not for profit under the law pursuant to which this corporation is chartered, and all of the powers and

privileges which may be granted unto said corporation or exercised by it under any other applicable laws of the State of Florida.

B. All of the powers reasonably necessary to implement and effectuate the purposes of the corporation, including, but not limited to:

1. Making and establishing reasonable rules and regulations governing the use of common areas in accordance with the terms as may be defined in the Declaration of Restrictions.

2. Levying and collecting assessments against members of the corporation to defray the common expenses of the maintenance and operation of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC. as may be provided in the Declaration of Restrictions and in the By-Laws of this corporation which may be hereafter adopted, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, which may be necessary or convenient in the operation and maintenance of the common areas and in accomplishing the purposes set forth in the Declaration of Restrictions.

3. Maintaining, repairing, replacing, operating and managing the common areas of this subdivision and the property comprising same, including the right to reconstruct improvements after casualty and to make further improvement of said property.

4. Enforcing the provisions of the Declaration of Restrictions and these Articles of Incorporation, the By-Laws of the corporation which may be hereafter adopted, and the rules and regulations governing the use of the common areas as the same may be hereafter established.

5. To now or hereafter acquire and enter into leases and agreements of every nature, whereby the corporation acquires leaseholds, memberships and other possessory or use interests in land or facilities, including recreational facilities, whether or not contiguous to lands of this subdivision, to provide enjoyment, recreation, or other use of benefit to the owners of the property within the subdivision, all as may be deemed to be in the best interests of the corporation.

6. To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the corporation pursuant to the Declaration of Restrictions.

#### ARTICLE IV – MEMBERS

The qualification of the members, the manner of their admission to membership, termination of such membership, and voting by members shall be as follows:

A. The owners of all lots in the subdivision shall be members of the corporation, and no other persons or entities shall be entitled to membership.

B. Membership shall be established by the acquisition of fee title to a lot in the subdivision or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise and the membership of a party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in any subdivision lot except that nothing herein contained shall be construed as terminating the membership of any party who may own two (2) or more subdivision lots, so long as such party shall retain title to or a fee ownership interest in any lot.

C. The interest of member in the funds and assets of the corporation cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his lot. The funds and assets of the corporation shall belong solely to the corporation, subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein in the Declaration of Restrictions and in the said By-Laws.

D. That Association shall have one class of voting membership:

1. The voting membership shall be all owners, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

#### ARTICLE V – TERM

The corporation shall have perpetual existence. Upon dissolution of the corporation, other than incident to a merger or consolidation, the assets of the corporation shall be dedicated to an appropriate public agency to be used for the purposes similar to those for which this corporation 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 VI – LOCATION

The principal office of the corporation shall be located at 250 East Drive, Suite E, Melbourne, Florida 32904, but the corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

## ARTICLE VII – DIRECTORS

The affairs of the corporation shall be managed by the Board of Directors. The number of members of the first Board of Directors of the corporation shall be three (3). The number of members of succeeding boards of directors shall be three (3) except as changed from time to time by the By-Laws of the corporation. The members of the Board of Directors shall be elected as provided by the By-Laws of the corporation, which provide for election of directors at the annual meeting to be held on the second Tuesday of January each year. The first annual meeting shall be held on or before the 31<sup>st</sup> day of August, 1990. The Board of Directors shall be members of the corporation or shall be authorized representatives, officers or employees of the corporate member of this corporation.

Any vacancies in the Board of Directors occurring before the first election will be filled by the remaining directors.

The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

JEAN-YVES CLERC	250 East Drive, Suite E Melbourne, Florida 32904
NATALIE CLERC	250 East Drive, Suite E Melbourne, Florida 32904
CHARLES BOUDREAUX	250 East Drive, Suite E Melbourne, Florida 32904

## ARTICLE VIII – OFFICERS

The Board of Directors shall elect a President, Vice President and Secretary/Treasurer and as many additional Vice Presidents and Assistant Secretary/Treasurers as the Board shall determine. The President shall be elected from among the membership of the Board of Directors but no other officer needs to be a director. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, that the office of the President and Vice President shall not be held by the same person, nor shall the office of President and Secretary/Treasurer or Assistant Secretary/Treasurer be held by the same person.

The affairs of the corporation shall be administered by the officers designated in the By-Laws of this corporation. Said officers will be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and, with the approval of the Board of Directors, may employ a managing agent and/or such other managerial and supervisory personnel or entitles to administer or assist in the administration of the operation and management of the affairs of the corporation.

The names and addresses of the officers who will serve until their successors are designated are as follows:

JEAN-YVES CLERC President	250 East Drive, Suite E Melbourne, Florida 32904
NATALIE CLERC Vice President	250 East Drive, Suite E Melbourne, Florida 32904
CHARLES BOUDREAUX Secretary/Treasurer	250 East Drive, Suite E Melbourne, Florida 32904

#### ARTICLE IX – SUBSCRIBERS

The subscribers to these Articles of Incorporation are the three (3) persons herein named to act and serve as members of the first Board of Directors of the corporation, the names of which subscribers and their respective addresses are more particularly set forth in Article VII above.

#### ARTICLE X – BY-LAWS

The original By-Laws of the corporation shall be adopted by the Board of Directors and thereafter, such By-Laws may be altered or rescinded by the Board in such manner as said By-Laws may provide.

#### ARTICLE XI – INDEMNIFICATION

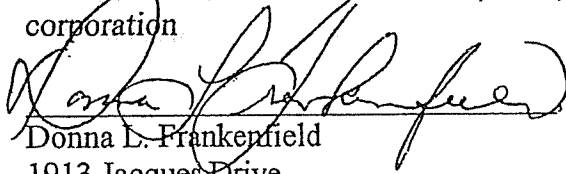
Every director and every officer of the corporation shall be indemnified by the corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement of indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

#### ARTICLE XII – AMENDMENTS

Any amendment or amendments to these Articles of Incorporation may be proposed by the Board of Directors of the corporation acting upon a vote of the majority of the directors, or by the membership of the corporation owning a simple majority (186 votes) of the lots in the subdivision, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these articles being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the corporation or other office of the corporation in the absence of the President, who shall thereupon call a special meeting of the members of the corporation for a date not sooner than twenty (20) days before the date set for such meeting. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the corporation, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the members owning not less than simple majority of the lots in the subdivision in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these articles shall be effective. Thereupon, such amendment or amendments of these articles shall be transcribed and certified in such form as may be necessary to register the same in the office of the Secretary of State of Florida; and upon the registration of such amendment or amendments with said Secretary of State, a certified copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which the same are so registered, at any meeting held to consider such amendment or amendments of these articles; the written vote of any member of the corporation shall be recognized, if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the corporation at or prior to such meeting.

The undersigned officers of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC. ("the Association"), which is the Association responsible for the management and operation of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., hereby certify that the foregoing Restatement was duly approved by the members of the Association at a duly-noticed meeting thereof, which was held on December 8, 2002.

SIX MILE CREEK SUBDIVISION  
HOMEOWNERS ASSOCIATION, INC., a Florida  
corporation

 President  
Donna L. Frankenfield  
1913 Jacques Drive  
Viera, Florida, 32940

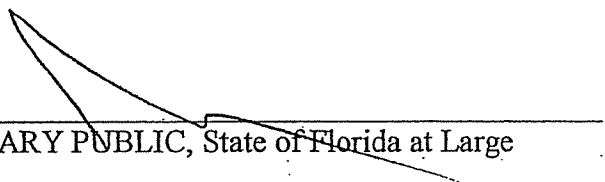
  
\_\_\_\_\_, Secretary  
Kevin Marrs  
Space Coast Property Management of Brevard, Inc.  
1617 Cooling Avenue  
Melbourne, FL 32935

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8th day of December, 2002, by Donna L. Frankenfield, as President of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced F652-172-60-556-0 as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

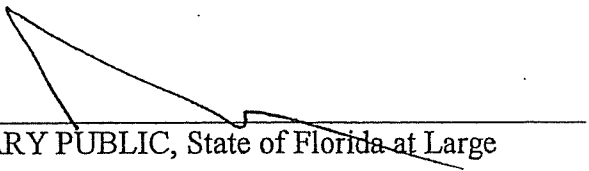
My Commission Expires:

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8th day of December, 2002, by Kevin Marrs, as Secretary of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced M62050767184-0 as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:





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RESTATEMENT OF THE BY-LAWS OFSIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC.ARTICLE I – NAME AND LOCATION

The name of the corporation is the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association." The initial principal office of the corporation shall be located at 250 East Drive, Suite E, Melbourne, Florida 32904, but the meeting of members and directors may be held at such places within the State of Florida, County of Brevard, as may be designated by the Board of Directors.

ARTICLE II – DEFINITIONS

All terms and definitions used herein are to be further defined and clarified as set forth in the accordance with the DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, LICENSE AND EASEMENTS FOR SIX MILE CREEK SUBDIVISION as recorded in the Public Records of Brevard County, Florida.

SECTION 1. "Association" shall mean and refer to the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

SECTION 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot, tract or parcel which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "Properties" shall mean and refer to that certain real property described in Exhibit A attached hereto and incorporated herein, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Common Area" shall mean all real and personal property (including improvements thereto) owned by the Association, in fee simple, by virtue of dedication to the Association, or otherwise, for the common use and enjoyment of the owners.

SECTION 5. "Lot" shall mean and refer to any unit, dwelling, home, parcel, tract or numbered plot of land in any stage or phase of or in the overall SIX MILE CREEK SUBDIVISION on file with the County of Brevard with the exception of the Common Area, and/or road right-of-ways as shown or subsequently shown on any recorded subdivision map or stage of the overall properties if dedicated to a public authority or the Association for maintenance. Each lot is subject to assessment and entitles each owner to voting rights as hereinafter defined.

**Scott Ellis**

Clerk Of Courts, Brevard County

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#Pgs: 11	#Names: 2	
Trust: 6.00	Rec: 45.00	Serv: 0.00
Deed: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00

SECTION 6. "Declarant" shall mean and refer to JEAN-YVES CLERC, not individually, but solely as Trustee under the unrecorded Trust Agreement known as Land Trust No. I-88120, his predecessors in title, successors and assigns if such successors or assigns should acquire more than one lot from the Declarant for the purpose of development.

SECTION 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration and Articles of Incorporation of the Association.

SECTION 8. "'Declaration" shall mean and refer to that set of Declaration of Restrictions as applicable to SIX MILE SUBDIVISION HOMEOWNERS ASSOCIATION, INC., and to any part of SIX MILE CREEK SUBDIVISION. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, Reservations, License and Easements for SIX MILE CREEK SUBDIVISION, and all amendments, modifications and supplements thereto as are from time to time recorded among the Public Records of Brevard County, Florida.

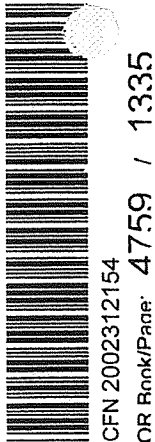
SECTION 9. "SIX MILE CREEK SUBDIVISION" shall mean the overall SIX MILE CREEK SUBDIVISION on file with Brevard County.

### ARTICLE III – MEETING OF MEMBERS

SECTION 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date turnover is completed to the Association, as provided for in the Articles of Incorporation, and each subsequent regular annual meeting of the members shall be held on the second Tuesday of January of each year thereafter, to begin/commence between the hours of 6:00 p.m. and 9:00 p.m. in Brevard County, Florida. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

SECTION 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the vote. Business conducted at a special meeting is limited to the purpose described in the notice of the meeting.

SECTION 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purposes of notice. Such notices shall specify the place, day and hour of the meeting, and in the case of a special meeting; the purpose of the meeting.



SECTION 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, 30 percent of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting, until a quorum as aforesaid shall be present or represented.

SECTION 5. Proxies. At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

#### ARTICLE IV – BOARD OF DIRECTORS SELECTION: TERM OF OFFICE

SECTION 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

SECTION 2. Term of Office. At the first annual meeting, the members shall elect three (3) directors for a term of one (1) year, and at each annual meeting thereafter the members shall elect three directors for a term of one (1) year.

SECTION 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected/appointed by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

SECTION 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the directors or by obtaining verbal approval by telephone. Any action so approved shall have the same effect as though taken at a meeting of the directors.

#### ARTICLE V – NOMINATION AND ELECTION OF DIRECTORS

SECTION 1. Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting. The nominating committee shall compile a list of



candidates for election to the Board of Directors, but not less than the number of vacancies that are to be filled. The list shall be provided to the Board of Directors 60 days prior to the annual meeting. Such nominations may be made from among members or non-members who are in "good standing" for purposes hereof shall mean persons who are not defendants in litigation brought by the Association and who are not 90 days or more in arrears (as shown by the records of the Association) as of the date of nomination.

SECTION 2. Election. Election to the Board of Directors shall be by written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI – MEETING OF DIRECTORS

SECTION 1. Regular Meetings. Regular meetings of the Board of Directors shall be held not less than quarterly at such place and hour as may be fixed from time to time by resolution of the board. Should said meeting fall upon a legal holiday, then that meeting shall be held within one calendar week.

SECTION 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, with at least three (3) days notice to each director.

SECTION 3. 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 shall be regarded as the act of the Board.

## ARTICLE VII – POWERS AND DUTIES OF THE BOARD OF DIRECTORS

SECTION 1. Powers. The Board of Directors shall have power to:

A. adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for any infraction thereof;

B. suspend the voting rights and right to use the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

C. exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration;



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D. declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

E. employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties;

F. mortgage and encumber Common Areas as set forth in the Declaration and assign such assessments or portions thereof to owners;

G. to contract for the management of the Association and common areas and to delegate to such contractor all of the powers and duties of the Association, if so approved by the Board of Directors;

H. to employ personnel to perform the services required for proper administration of the Association; and

I. the undertakings and contracts authorized by said first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership.

SECTION 2. Duties. It shall be the duty of the Board of Directors to:

A. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of all the members who are entitled to vote;

B. supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

C. as more fully provided in the Declaration to:

(1) fix the amount of the annual assessment against each unit or projected unit at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period;

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.



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D. issue, or to cause an appropriate officer to issue, up demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

E. procure and maintain adequate liability and hazard insurance on property owned by the Association;

F. cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate;

G. cause the Common Area to be maintained;

H. protect all property rights, interests, easements or rights-of-way, or otherwise, which are acquired by or conveyed to this Association, now or hereafter;

I. mortgage or encumber common areas as set forth in the Declaration, and assign such assessment or portions thereof to owners.

J. Enforce the provisions of the Declaration, Articles of Incorporation, and By-Laws, and

K. Ensure annual filing of corporation documents in accordance with Florida Statutes.

#### ARTICLE VIII – OFFICERS AND THEIR DUTIES

SECTION 1. Enumeration of Officers. The officers of this Association shall be president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

SECTION 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors immediately following each annual meeting of the members.

SECTION 3. Term. The officers of this Association shall be elected annually by the board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the board may, from time to time, determine.



SECTION 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 giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this article.

SECTION 8. Duties. The duties of the officers are as follows:

A. **PRESIDENT:** The President shall preside at all meetings; shall see that orders and resolutions of the board are carried out; shall sign all leases, mortgages, deeds, contracts and other written instruments and shall sign all checks and promissory notes previously approved by the Board of Directors. The President shall co-sign all checks and promissory notes not previously approved by the Board of Directors.

B. **VICE PRESIDENT:** The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

C. **SECRETARY:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the board.

D. **TREASURER:** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; can sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and made available to the members.

#### ARTICLE IX – COMMITTEES

The Board of Directors shall appoint an Architectural Review Committee (ARC) as provided in the Declaration, and a nominating committee, as provided in these By-



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Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE X – BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### ARTICLE XI – ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. The Association may bring an action at law against the owner or owners personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added.

#### ARTICLE XII – CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., a corporation not for profit.

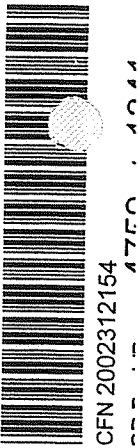
#### ARTICLE XIII – AMENDMENTS

SECTION 1. These By-Laws may be amended, at a regular or special meeting of the members, by a written vote of a quorum of membership present in person or by proxy.

SECTION 2. In the case of any conflict between the Articles of Incorporation 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; and in the case of any conflict between the Articles of Incorporation and the Declaration, the Declaration shall control.

#### ARTICLE XIV- MISCELLANEOUS

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 every year.



## ARTICLE XV – FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration and Articles of Incorporation shall be supplemented by the following provisions:

A. The association shall maintain accounting records for each property it maintains in the county where the property is located, according to good accounting practices. The records shall be open for inspection by owners or their authorized representatives upon written request within ten (10) business days. The records shall include, but are not limited to:

(1) A record of all receipts and expenditures.

(2) An account for each lot and unit designating the name and current address of the lot and unit owner, the amount of each assessment, the date on which the assessments come due, the amount paid upon the account and the balance due.

B. The Board of Directors shall adopt a budget for each fiscal year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the common expense budget, which shall include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance, and operation of common areas, landscaping, streets and walkways, office expense, utility services, replacements and operating reserve, casualty insurance, liability insurance, administration and salaries. The Board of Directors shall also establish the proposed assessments against each member as more fully provided in the Declaration. Delivery of a copy of any budget to each member shall not affect the liability of any member for any such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget as originally adopted.

C. The Association shall maintain tax returns, financial statements, and financial reports of the Association.

D. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by check.

E. Fidelity bonds may be required by the Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association for officers and employees.



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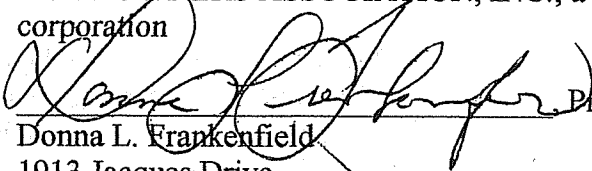
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ARTICLE XVI – PARLIAMENTARY RULES

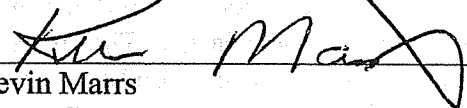
Robert's Rules of Order (latest edition) shall govern the conduct of the corporate meetings when not in conflict with the Articles of Incorporation and these By-Laws or with statutes of the State of Florida.

The undersigned officers of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC. ("the Association"), which is the Association responsible for the management and operation of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., hereby certify that the foregoing Restatement was duly approved by the members of the Association at a duly-noticed meeting thereof, which was held on December 8, 2002.

SIX MILE CREEK SUBDIVISION  
HOMEOWNERS ASSOCIATION, INC., a Florida  
corporation

  
Donna L. Frankenfield  
1913 Jacques Drive  
Viera, Florida, 32940

President

  
Kevin Marrs

Secretary

Space Coast Property Management of Brevard, Inc.  
1617 Cooling Avenue  
Melbourne, FL 32935

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8th day of December, 2002, by Donna L. Frankenfield, as President of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced F652-172-60-556-Q as identification and did not take an oath.

\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

STATE OF FLORIDA  
COUNTY OF BREVARD



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THROUGH FARM INSURANCE, INC.



The foregoing instrument was acknowledged before me this 8th day of December, 2002, by Kevin Marrs, as Secretary of Six Mile Creek Subdivision Homeowners Association, Inc., on behalf of the corporation who produced

M620 507 67184 as identification and did not take an oath.



John L. Solleau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:



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12-09-2002 10:23 am

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SIXTH AMENDMENT TO AND RESTATEMENT OF THE  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
RESERVATIONS, LICENSE AND EASEMENTS  
FOR SIX MILE CREEK SUBDIVISION

This Sixth amendment to and restatement of Declaration of Covenants, Conditions, Restrictions, Reservations, License and Easements for Six Mile Creek Subdivision ("Declaration") is made this 8<sup>th</sup> day of December, 2002 by the Six Mile Creek Subdivision Homeowners Association, Inc., a Florida corporation (hereinafter referred to as "Association"), filed on December 8, 1989 by the State of Florida, as corporation document number N35558. This Declaration was originally made and executed on the 24<sup>th</sup> day of May, 1989 by Jean-Yves Clerc not individually, but solely as Trustee under unrecorded Trust Agreement known as Land Trust No. I-88120 (The Declarant). It was subsequently amended by that certain First Amendment recorded April 18, 1990, in Official Records Book 3055, Page 1040; Second Amendment recorded September 14, 1990 in Official Records Book recorded 3082, page 3147; Third Amendment recorded November 29, 1990 in Official Records Book 3095, Page 4987, Amendment recorded May 1, 1991 in Official Records Book 3123, Page 1395; Amendment recorded October 26, 1992 in Official Records Book, Page 3936; Fourth Amendment recorded August 3, 1993, in Official Records Book 3311, Page 2978; Fifth Amendment recorded September, 1994, in Official Record Book 3419, Page 2809; and Correction to the Fifth Amendment recorded September 30, 1994, in Official Records Book 3425, Page 0388. All previous amendments have been incorporated into this Restatement.

WITNESSETH

WHEREAS, the Association is the record owner of fee simple title to certain real property situated in Brevard County, Florida, which is more particularly described as Six Mile Creek Subdivision, Phase I, recorded in Plat Book 35, Pages 100 and 101, Six Mile Creek Subdivision – Phase II, recorded in Plat Book 36, Page 93, Six Mile Creek Subdivision – Phase III, recorded in Plat Book 37, Pages 40 and 41, and Six Mile Creek Subdivision – Phase IV, recorded in Plat Book 39, Pages 46, 47, and 48, Public Records of Brevard County, Florida (the "Subject Property"); and

WHEREAS, the Association desires to adopt a general and uniform plan for the orderly development and improvement of the Subject Property and for the maintenance of the certain Common Area and easements as hereinafter defined to insure that the Subject Property is developed, improved, used, occupied, maintained and enjoyed as an architecturally, harmonious and desirable residential area which will enhance the general welfare, quality of life, and the property values of all the Owners; and

WHEREAS, the Subject Property is part of and subject to the restrictions, rules and regulations for the development, use and maintenance of Viera East Community (formerly referred to as Viera Southeast Community), the overall mixed use development (the "Community") established by Duda Lands, Inc., (recorded in Official Records Book 3022, Pages 1576 through 1611, Public Records of Brevard County, Florida.

**Scott Ellis**

Clerk Of Courts, Brevard County

NOW THEREFORE, the Association hereby declares that all the Subject Property shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements and reservations which are for the purpose of protecting the value and desirability of, and which will run with, the Subject Property and be binding on all parties having any right, title or interest in the subject Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE ONE - DEFINITIONS

For purposes of this Declaration, the following terms shall have the following definitions and meanings:

1.1 "ARC" shall mean and refer to the Architectural Review Committee appointed by the Board of Directors pursuant to Article IV and having the responsibilities set forth therein.

1.2 "Association" shall mean and refer to the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., its successors and assigns, to which shall be delegated and assigned the power, authority, duty and obligation: (a) to enforce and administer the covenants, conditions, restrictions, reservations, license and easements governing Subject Property including without limitation the Common Area, Landscape and Wall Easements, Pedestrian Access Easement and Retention Lakes; (b) to collect and disburse all assessments and charges deemed necessary for such maintenance, administration and enforcement; (c) to maintain the Common Area, Landscape and Wall Easements, Pedestrian Access Easement and Retention Lakes including any recreational facilities thereon; and (d) to perform such other services as may be deemed desirable to benefit the Owners all as hereinafter provided.

1.3 "Common Area" shall mean all real and personal property (including improvements thereto) owned by the Association, in fee simple, by virtue of dedication to the Association, or otherwise, for the common use and enjoyment of the Owners.

1.4 "Community" shall mean and refer to Viera East Community, the overall mixed use development established by the Community Developer.

1.5 "Community Association" shall mean and refer to the master association established by the Community Developer pursuant to the Community Declaration, herein after called the Viera East Community Association (VECA).

1.6 "Community Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for the Viera East Community Association recorded in the Public Records of Brevard County at Official Record Book 3022, Page 1576 through 1611, and all amendments, modification, and supplements thereto and as from time to time recorded in the Public Records of the County.

1.7 "Community Developer" shall mean and refer to Duda Lands, Inc. and its successors and assigns as limited and defined in the Community Declaration.



1.8 "County" shall mean and refer to Brevard County, a political subdivision of the State of Florida, specifically including each and all of its departments and agencies.

1.9 "Six Mile Creek" shall mean and refer to Six Mile Creek Subdivision, the single family residential community planned for and developed on the Subject Property and reflected on the Plats.

1.10 "Declarant" shall mean and refer to Jean-Yves Clerc, not individually, but solely as Trustee under the unrecorded Trust Agreement known as Land Trust No. I-88120, his predecessors in title, successors and assigns if such successors or assigns should acquire more than one lot from the Declarant for the purpose of development.

1.11 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, Easements, License and Reservations for Six Mile Creek Subdivision, and all amendments, modifications and supplements thereto as are from time to time recorded among the Public Records of the County.

1.12 "Governmental Regulations" shall mean and refer to all applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments or other requirements of any governmental authority having jurisdiction over the Subject Property or any improvements constructed or located thereon, including, without limitation, those pertaining to building and zoning.

1.13 "Lake Lots" shall mean and refer to all of the Lots in Phase I, Lots A-1, A-11 through A-18, B-2 through B-13, B-15 through B-18, B-36 through B-42 and D-6; in Phase II, Lots A-26 through A-35, B-1 through B-7, B-9 through B-14, and B-16 through B-29; in Phase III, Lots H-1, H-2, H-4 through H-14, I-1 through I-24, and I-26 through I-33; and Phase IV, Lots E-1, E-2, E-4 through E-15, G-1 through G-17, G-19 through G-21, and G-23 through G-44.

1.14 "Lot" shall mean and refer to any unit, dwelling, home, parcel, tract or numbered plot of land in any stage or phase of or in the overall SIX MILE CREEK SUBDIVISION on file with the County of Brevard with the exception of the Common Area, and/or road right-of-ways as shown or subsequently shown on any recorded subdivision map or stage of the overall properties if dedicated to a public authority or the Association of maintenance. Each lot is subject to assessment and entitles each Owner to voting rights as hereinafter defined.

1.15 "Maintenance Fund" shall mean and refer to a fund composed of the total revenues received by the Association from the Regular assessments, Special assessments, Individual assessments and Lake Lot assessments levied by the Association pursuant to Article VII hereof.

1.16 "Member" and/or "Members" shall mean and refer to all those Owners who are entitled to membership in the Association as provided in Article V hereof.

1.17 "Owner" shall mean and refer to the record Owners, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subject Property including the



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Declarant, its successors and assigns, and contract sellers, but excluding those having an interest in any such Lot, merely as security for the payment of debt or the performance of an obligation.

1.18 "Plat or Plats" shall mean and refer to the plats of Six Mile Creek Subdivision, as recorded in Plat Book 35, Pages 100 and 101, Public Records of Brevard County, Florida ("Plat of PHASE I"), Plat Book 34, Page 93, Public Records of Brevard County, Florida ("Plat of PHASE II"), Plat Book 37, Pages 40 and 41, Public Records of Brevard County, Florida ("Plat of PHASE III"), and Plat Book 39, Pages 46, 47, and 48 Public Records of Brevard County, Florida ("Plat of PHASE IV").

1.19 "Person" shall mean and refer to a natural person, firm, corporation, partnership, or any legal entity, public or private.

1.20 "Subject Property" shall mean and refer to all lands included within and comprising Six Mile Creek Subdivision, as described above, on Exhibit A to the Initial Declaration, and also described and depicted on the Plat of PHASE I; the property described in Exhibit A to First Amendment to the Declaration, and also described as depicted on the Plat of PHASE II; the property described in Exhibit A to Second Amendment to the Declaration, and also described and depicted on the Plat of PHASE III; and the property described in Exhibit A to the Third Amendment to the Declaration, and also described and depicted on the Plat of PHASE IV.

1.21 "Surface Water Management System" shall mean and refer to all lands designated on a plat or plats as retention lakes, and other facilities and appurtenances necessary for and comprising the surface water management and drainage system of Six Mile Creek Subdivision, as reflected on the plans therefore on file with and approved by Brevard County and the St. Johns River Water Management District.

## ARTICLE II - REGULATION OF USES

2.1 Residential Use. The Lots shall be used only for residential purposes. No structure shall be erected or permitted to remain on any Lot other than one residential dwelling. No garage shall be used or converted to living quarters. No building or other improvements situated on any Lot shall be rented or leased separately from the rental or lease of the entire Lot.

2.2 Subdivision. No Lot shall be resubdivided, replatted or divided.

2.3 Offensive Activity. No illegal, noxious, unpleasant, unsightly or offensive activity shall be carried on or conducted upon any Lot or on any portion of the Subject Property, nor shall anything be permitted or done thereon which is or may tend to become or cause an annoyance; nuisance, source of embarrassment or discomfort to the neighborhood or Six Mile Creek.

2.4 Household Pets and Livestock. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other usual household pets may be kept; provided that they are not kept, bred, or maintained for any commercial purpose, they are leashed when off the Owner's premises, and provided that if any of such permitted animals shall,



in the sole and exclusive opinion of the Association, become dangerous or an annoyance or nuisance in the neighborhood or nearby property or destructive of wildlife, they may not thereafter be kept in or on the Lot.

2.5 Storage of Vehicles or Equipment and Garage Doors. No motor vehicle or non-motorized vehicles, recreational vehicle (Class A, B, or C), trailer, travel trailers, boat, marine craft, hovercraft, aircraft, tow truck, machinery or equipment of any kind may be parked or stored on any part of any Lot, easement or right-of-way unless granted written approval by the Board of Directors of the Association or such vehicle or object is completely concealed from public view inside a garage or approved enclosure. Passenger automobiles, passenger vans, motorcycles; or pick-up trucks that are in operating condition, having current license plates, are in daily use as motor vehicles on the streets and highways of the State of Florida, and which do not exceed one-half (1/2) ton capacity are excepted herefrom provided that they shall not be parked in the public right-of-way within the boundaries of Six Mile Creek between the hours of midnight and 7:00 a.m. and they do not bear any commercial signage (with the exception of law enforcement vehicles), insignias, nor openly display materials, equipment, supplies, tools, or the like.

(a) This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity.

(b) Any vehicle parked or stored in violation of these restrictions or in violation of any rules and regulations adopted by the Association concerning the same may be towed away or otherwise removed by or at the request of the Association and at the sole expense of the Owner of such vehicle in violation of these restrictions or such rules and regulations. In the event of such towing or other removal, the Association and its employees or agents shall not be liable or responsible to the Owner of such vehicle for trespass, conversion or damage incurred as an incident to or for the cost of such removal. The towing or removal of such vehicle shall not be viewed as a criminal act or have any civil liability.

(c) All garage doors shall be maintained in operable condition and remain closed, except when ingress, egress or garage area is in use.

2.6 Maintenance. Each Lot and all improvements, including landscaping located thereon, shall at all times be kept and maintained in a safe, clean, wholesome and attractive condition and shall not be allowed to fall into disrepair or become unsafe or unsightly. The Owner of each Lot shall, at his or her own expense, keep such Lot, including any easement areas located on such Lot, free of weeds, tall grass, undergrowth, dead trees, dangerous and/or dead tree limbs, trash and rubbish, and any other unsightly objects. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or debris of any kind. In the event the Owner fails to comply with this Section 2.6 then, after giving the Owner ten (10) days written notice, the Association shall have the right, but not the obligation, to go upon such Lot and to cut and remove tall grass, undergrowth and weeds, and to remove rubbish and any unsightly or undesirable things and objects from the Lot, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain the property in a neat and attractive condition, all at the expense of the Owner of such Lot, which expense shall constitute an



Individual Assessment as provided in Section 7.9 against the Lot. Such entry by the Association upon a Lot shall not be deemed a trespass.

2.7 Garbage and Trash Containers and Collection. No garbage, trash containers and their storage areas shall be visible from the street, or any adjacent or neighboring property. All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. All trash, garbage or other refuse shall be placed for pickup not earlier than the evening preceding pickup, and any and all containers for such trash, garbage or refuse shall be returned no later than the evening of the pickup to their normal location.

2.8 Burning. No burning of leaves, trash, rubbish, garbage or other waste materials of any type shall be permitted or conducted on any Lot. Nothing herein contained, however, shall be deemed to prohibit the burning of wood, logs or charcoal in properly constructed or installed fireplaces, barbecue cookers or the like, whether inside or outside of the dwelling located on any lot.

2.9 Storage Tanks. No storage tanks, including but not limited to, those for heaters, oil, propane gas, or other liquid, fuels or chemicals, including those used for swimming pools or the like, shall be visible from the street or any adjacent or neighboring property.

2.10 Mineral Exploitation. No exploration, mining, quarrying, or drilling for or exploitation of gas, oil, phosphate or other minerals of any type or kind shall be conducted on any Lot.

2.11 Laundry & Clothes Drying. No laundry or clothes drying lines or areas shall be permitted outside on any building on any Lot unless the same shall be placed in the rear yard inside of walls, fences, landscaping screens or similar type enclosures and only on portable laundry dryers. In no event shall any of the same be permitted if visible from any adjacent or neighboring property. Nothing in this section shall be construed, however, to limit the reasonable use of renewable resource energy devices as described in Section 13.04, Florida Statutes.

2.12 Basketball Equipment. No basketball hoops or backboards shall be located or attached to the dwelling or garage.

2.13 Radio Transmission Equipment. No radio, microwave or other electronic transmission equipment, including ham radios, citizen band radios, walkie talkies and the like, shall be operated on any Lot without the prior written consent of the Association, and such consent, once given, may be revoked by the Association in the event that the operation of any such equipment interferes with ordinary radio and television reception or equipment, including any central cable television, security system, or any other communication system.

2.14 Pumping. The Owner of any Lot which includes or is adjacent to a pond, creek, drainage canal, retention area or other body of water shall not draw down such body of water by pumping or draining therefrom.



2.15 Signs. No sign of any kind shall be displayed to public view on any Lot except one (1) professionally prepared sign of not more than thirty-six inches (36") by twenty-four inches (24") placed in the front yard between the sidewalk and the front of the home displaying the names or otherwise advertising the identity of the architect, contractor, subcontractor, real estate broker or the like employed in connection with the construction, installation, alteration, improvement upon the sale or leasing a Lot.

2.16 Drainage. All storm water from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, retention areas or Common Area in accordance with the recorded Plat for Six Mile Creek Subdivision as approved by the County and filed with the St. Johns River Water Management District (the "Established Drainage Plan"). Storm water from any Lot shall not be permitted or allowed to drain or flow unnaturally onto, over, under, across or upon any contiguous or adjacent Lot unless a drainage easement shall exist therefor. No Owner shall be permitted to alter the grade of the Established Drainage Plan for any Lot, or change the direction of, obstruct or retard the flow of surface water drainage. Provided, however, in the event the County or the St. Johns River Water Management District requires the modification of the Established Drainage Plan, the Owner of the affected Lot shall at the Owner's expense make adequate provisions to change the Established Drainage Plat over his Lot.

### ARTICLE III - REGULATION OF IMPROVEMENTS

3.1 Generally. The erection, placement, construction and installation of all improvements on all Lots shall be subject to and governed by the following covenants, conditions, restrictions and reservations;

3.2 Plan Approval. No building, or structure or improvement shall be constructed, erected, placed, altered, maintained or permitted, or the erection thereof begun, or changes made in the design thereof after original construction, on any Lot until the construction plans and specifications are approved as set forth in Article IV. The construction of any building, structures or improvements shall also be governed by the Community Declaration, which requires that all such construction;

(i) be in accordance with certain planning and design criteria, and

(ii) be approved prior to the commencement of construction by the Community Residential Review Committee of the Viera East Community Association.

3.3 Construction. The construction of all residential dwellings and other improvements on all Lots must be performed by such builders, general contractors and subcontractors as are licensed in the State of Florida and the County to engage in the business of residential building and construction.

3.4 Construction Time. Upon commencement of construction, such construction shall be prosecuted diligently, continuously and without interruption to completion within a reasonable time; but in no event more than one (1) year from the date of the commencement of such construction. However, the ARC shall have the power and authority to extend the period



permitted for construction, provided that the Owner and general contractor involved make written application for such extension stating the reasons for the requested extension of time and provided further that the ARC, in the exercise of its reasonable discretion, determines that the request is reasonable and the extension is warranted.

3.5 Grades. The grades and slopes in all Lots are fixed so that they may conform to the general plan. Each Owner of a lot has the obligation to maintain the grades and slopes on the lot so as to allow drainage into the Storm Water Management System.

3.6 Character of Homes.

(a) Minimum Square Footage and Height. No dwelling shall have a square foot of living area of less than Twelve Hundred Ninety (1,290) square feet, exclusive of screened areas, open porches, terraces, patios and garages. No dwelling shall exceed two (2) stories in height.

(b) Garages and Carports. No carports shall be placed, erected, constructed, installed or maintained on any Lot. Each single family residential dwelling constructed and maintained on any Lot shall have an attached, enclosed garage which shall correspond in style, color and architecture to the main residence for not less than two (2) standard sized passenger automobiles. All garage doors must be wood, fiberglass or metal. The garage doors are to have wood grain and/or raised panel exterior finish.

(c) Roofs. The roofs of the main body of all buildings and other structures, including the principal residence shall be pitched. No flat roofs shall be permitted without the approval of the ARC. The ARC may, in its discretion, approve flat roofs on part of the main body of a building if architecturally compatible with the remainder of the roof structure, the particular building on which it is to be constructed and all adjacent residence and other structures. All roofing material shall be a minimum of Two Hundred Twenty (220) pounds and the roof may be constructed of either clay, tile, cement tile, slate, asbestos shingle or asphalt construction, or other materials approved by the ARC. All roof colors must be approved by the ARC.

(d) Roof Structures. No antennas, other aerial devices, wind generator appliances or other rooftop installation, projection or structure of any type shall be placed, located, erected, constructed, installed or maintained upon the exterior roof of any building or structure unless the same shall first be approved in writing by the ARC and shall be erected, constructed, installed and maintained on the rear yard side of the roof or otherwise in such manner and at such location that the same shall not be visible from any street or neighboring residence and is capable of providing an "acceptable quality signal" as defined under FCC regulations. It is expressly provided, however, that chimneys, rooftop attic ventilators and fans and solar collector panels, which are designed and architecturally treated in an aesthetically acceptable manner may be permitted if approved by the ARC within its reasonable discretion. With regard to satellite dish receiving devices which are less than one meter in diameter; Multipoint Distribution System ("MDS") receiving devices less than one meter in diameter; and off-the-air television antennas, the following shall apply:



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(1) No Owner may maintain on site more than one such receiving device of each kind (for example, two MDS receiving devices would not be permitted, but an MDS device and a less than one meter satellite dish shall be permitted).

(2) An Owner intending to have such a receiving device installed shall provide notice to the ARC in advance of installation, and the notice shall designate the type of antenna to be installed, the name, address and telephone number of the installer, the proposed site of the installation, and whether the proposed location is the sole location allowing the Owner to receive an "acceptable quality signal" as defined under FCC regulations.

(3) Subject always to the requirement that the Owner be provided an "acceptable quality signal", the ARC may designate to the installer a site on the property which, in the ARC's determination, reduces the aesthetic impact of the antenna installation. Subject always to the Owner's right to receive an "acceptable quality signal", the following order of choice as to location shall apply: 1) Interior installation (i.e. attic); 2) back or rear yard, rearward of the residence and away from any site street; 3) side yard, rearward of the front plane of the residence, and on the side not exposed to a side street; 4) side yard exposed to a side street; 5) front yard, forward of the front plane of the residence.

(4) For each given installation, the ARC may direct the Owner to camouflage or modify the installation, provided however that there is no interference with the "acceptable quality signal", and provided further that the camouflage or modification does not impose an "unreasonable expense" on the Owner in light of the total value of the installation.

(5) To the extent possible, for devices described in the last sentence of Section 3.6 (d), within seven (7) working days after the ARC's receipt of the notice from an Owner as described above, the ARC shall respond to the Owner or the Owner's installer, so as to determine the location, construction and aesthetic issues set forth above. The ARC shall expedite this process where devices described in the last sentence of Section 3.6 (d) are concerned, the intention being that any delay in installation be minimized.

(6) The ARC may prohibit any mast(s) rising more than 12 feet above the top of the roofline of the residence, in each case where the ARC demonstrates a documented safety concern. A documented safety concern shall appear in any case where the ARC receives an opinion by a professional engineer licensed in Florida, that the installation or improvement would post an unreasonable risk of property damage or personal injury arising from any inadequacy in the design, location, materials, construction, or guying of the device or improvement.

(7) With regard to any transmitting or receiving device other than those specifically described in the last sentence of Section 3.6 (d), the following provisions shall apply:

(i) The device must be camouflaged as an umbrella; the height of the installation shall not be greater than six feet above ground level; the diameter of the device shall not exceed eight feet in its greatest dimension; and the device shall be obscured by an approved screening on all exposed sides of the Lot.



(ii) No such radio, television, or other transmission receiving or sending device, dish, or antenna not fitting the description set forth in the last sentence of Section 3.6 (d) may be installed or maintained on any lot or the exterior of any structure located on any lot without approval as herein required, and the ARC shall have the power to deny any such installation solely upon safety concerns, aesthetic concerns, or otherwise. Application for approval shall be in writing and shall set forth; the type of device to be installed; the name, address and telephone number of the installer; the site of the proposed installation; and a rough drawing with dimensions depicting the device to be installed.

(e) Screening of Equipment. All heaters, pool equipment, water softeners, air conditioning compressors and other ancillary or mechanical equipment located outside of the residential dwelling shall be suitably screened from the view of street and road right-of-way and adjacent Lots. If vegetation is used for screen, the vegetation must be tall enough and full enough to block the view of the equipment. Absolutely no window or wall air conditioning units shall be permitted.

(f) Exterior Building Materials, Finishes and Colors. All exterior building materials, finishes and colors shall be approved in writing by the ARC. Uncovered or exposed (whether painted or not) concrete or concrete block imitation brick or simulated stone face shall not be permitted as the exterior finish of any building structure or wall except for decorative purposes and then only with written approval of the ARC. The foregoing restriction shall be equally applicable to the initial as well as any subsequent painting of any improvements located on any Lot. The color of doors and door window frames shall be in keeping with the scheme and architecture of the building, and approved in writing by the ARC. Mill finish aluminum door and window frames are prohibited.

(g) Driveways. All driveways, turnarounds and parking areas shall be paved or finished with a concrete, brick or other non-asphalt hard dust-free material approved in writing by the ARC. Each driveway shall extend the entire distance from the garage door to the paved portion of the street or roadway in front of or adjacent to the Lot on which such driveway is constructed. The driveway shall be graded in such a manner as to not impede the drainage within the right-of-way or Lot.

(h) Mirrored Glass. No mirrored glass shall be used on, in or for the windows or doors of any buildings or other improvements constructed upon any Lot.

3.7 Fences, Walls and Hedges. There shall be no fences, walls or hedges permitted on a Lot within the Development unless they comply with the requirements below and the size, material, location and color are approved in writing by the ARC. Fences, walls, or hedges are not permitted on Lots 1 through 18, and Lots 35 through 42, Block B of Phase I; Lots 1 through 29, Block B of Phase II; Lots 1 through 14, Block H and Lots 1 through 34, Block I of Phase III; and Lots 1 through 45, Block G of Phase IV.

(a) Types. The following types of fences and walls are permitted:

(i) "Split rail" and "log rail" fences are subject to approval by the ARC. All wood fences shall remain unpainted to ensure a uniform weathering color.



(ii) "Stockade" and "shadow box" pattern with dog-eared-pickets of rough cypress or pine slats with pressure treated 4"x4" posts and split rail and log rail fences with pressure treated 4"x4" posts and 2"x4" rails, not to exceed six feet in height to avoid appearance of broken elevation. All wood fences shall remain unpainted to ensure a uniform weathering color unless approved by ARC.

(iii) The erection of "chain link" or other metal type fences is specifically and permanently prohibited. However, non-climbing mesh may be attached to log rail and split rail fences after written approval by ARC.

(iv) Walls are subject to approval by the ARC. Building material, finishes, and color shall be consistent with the dwelling as to preserve and enhance property values.

(b) Heights, Perimeter and Location. Fences, walls and hedges not in excess of six feet (6') in height, may be installed within the perimeter of a Lot, provided that no fence may be constructed forward of Sixty feet (60') from the front of the property line with a landscape buffer.

(c) Landscape Buffers. Landscape buffers may be required on the outside of any privacy fences and walls by the ARC in its sole discretion at the Owner's expense.

(d) Installation and Maintenance. All fences must be installed with the posts on the inside and must have landscape buffers, as may be required herein. All fencing, walls, and landscape buffers shall be maintained in good condition by the Owner.

3.8 Swimming Pools and Screens. No swimming pool of the so-called "above-ground" type shall be erected on any Lot. Any below ground swimming pools installed must be fenced or in a screen enclosure in accordance with these regulations.

3.9 Exterior Lighting. Exterior lighting or illumination of buildings, yards, parking areas, sidewalks and driveways on a Lot shall be designed and installed so as to avoid visible glare (direct or reflected) from street and road right-of-way or any adjacent Lot. Any and all holiday decorations, lights, displays shall be removed and stored no later than 30 days after said holiday.

3.10 Mailboxes and other Delivery Boxes. Any type or design that meets the rules and regulations of the United States Post Office Department are acceptable. All other delivery boxes or receptacles of any kind, including those for newspapers shall be placed on the same post as the mailbox or inconspicuously attached to the main dwelling.

3.11 Sidewalk Installation. It shall be a requirement that sidewalks, as approved by the County, be installed and constructed as a part of each Lot. Each Lot Owner shall be required to install such sidewalk within one (1) year from the date of purchase and closing of the Lot or at the time of construction of the residence dwelling, whichever time or event first occurs.





3.12 Use of Front Yard. No portion of any lot nearer to any street than the building setback line or lines shown upon the Plat shall be used for any purpose other than that of a lawn. Nothing herein contained, however, shall be construed, upon written approval of the ARC, as preventing the use of such portion of said lots for walks, (and drives if otherwise permitted), the planting of trees or shrubbery, the growing of flowers, or ornamental plants, or for statuary, fountains and similar ornamentations, for the purposes of beautifying said Lot; but not vegetables, so called, nor grains of the ordinary garden or field variety shall be grown upon such portion thereof.

3.13 Tree and Dirt Removal, Landscaping. The digging or removal of any dirt or tree from any Lot or other portion of the Subject Property, is prohibited except as necessary in conjunction with the landscaping or construction of approved improvements thereon.

(a) Trees and Shrubs Required. The landscape of each Lot shall include, at a minimum, three (3) trees planted in the front yard in compliance with Brevard County landscaping requirements. As used herein the term "trees" shall mean and be defined as any tree eight (8) feet in height or greater in height. No fruit trees are permitted in the front yard.

(b) Sod. All Lots shall have entire sodded front, side and rear lawns of Floratam sod, Bahia sod or such substitute sod as approved by the ARC, except in approved landscape areas as submitted on the landscape plan.

(c) Wells. Wells and all well pump equipment shall be set back from the front of the property and placed within landscape screens so as not to be visible from any adjacent or neighboring property.

(d) Owners Expense. The Owner shall, at his own expense, design and install all landscaping on the Lot in accordance with these provisions, within thirty (30) days of the time construction of a dwelling is completed, as evidenced by the issuance of a Certificate of Occupancy.

(e) Artificial Vegetation. No artificial vegetation shall be permitted on the exterior of any building on any Lot.

3.14 Underground Utilities. All utility lines and facilities shall be located and installed underground or concealed under or within a building or other on-site improvements approved by the ARC; provided, however, that the foregoing restriction shall not be deemed to prohibit the following: (a) temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved permanent improvements, and provided further, that the same are removed immediately following the completion of such construction; (b) above-ground electric transformers, meters and similar apparatus properly screened; (c) permanent outdoor safety light poles located and installed as approved by the ARC.

3.15 Cable Television System. Six Mile Creek has been wired to receive and accept cable and fiber optics for potential residential connection. The cost of the installation and maintenance of the individual cable television system for each single-family residential dwelling on any Lot shall be borne by the Owner of each Lot. It is expressly provided, however, that the

Association shall not have any responsibility or liability to anyone whomsoever or whatsoever, including, without limitation, any Owner, for any failure, deficiency or malfunction of any individual cable television system or the Six Mile Creek central cable television system.

3.16 Setbacks. Setbacks shall conform with the regulations set forth by Brevard County for single-family residence. A swimming pool may not be located in the front yard of any Lot, nor extend forward of the rear plane of the dwelling, as extended to the side lot lines. The swimming pool and its enclosure, may not extend outside of the "line of sight" of the dwelling's side wall lines as sighted from the street to the rear lot line.

3.17 Temporary Structures and Outbuildings. No structure of a temporary or permanent character, whether trailer, tent, shack, greenhouse, garden house, tree house, tool shed, bathhouse, garage (other than the garage required by Section 3.6(b) hereof) barn or other outbuilding shall be maintained or used on any Lot at any time for any purpose; provided, however, that playhouses shall be permitted hereunder, provided plans for the same are approved in advance in writing by the ARC.

3.18 Damaged Buildings. Any building destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a six-month period and the land restored to an orderly and attractive condition. Any repair, rebuilding or reconstruction on account of casualty or other damage on any Lot or any part or parts thereof, shall be substantially in accordance with the plans and specification for such property and areas as originally constructed or with new plans and specification approved by the ARC.

#### ARTICLE IV - ARCHITECTURAL CONTROL

4.1 The Architectural Review Committee ("ARC"). The ARC Committee shall consist of three (3) persons appointed by the Board of Directors of the Association.

4.2 Purpose. The ARC shall regulate the size, location, type, style of architecture, use, the materials of construction thereof, the color scheme thereof, the grading plan of the Lot including the grade elevation of said dwelling, the plot plan showing the proposed location of each dwelling, the plot plan showing the proposed location of each dwelling upon said Lot, and the plan including the landscape plan and maintenance of said Lot and of improvements thereon in such a manner so as to preserve the enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

4.3 Submission of Plans and Specifications. No building or other structure of any character shall be erected or placed, or the erection or placing thereof commenced upon a Lot, nor shall any other improvement be made unless plans and specifications including a description of any proposed new use thereof shall have been submitted to and approved in writing by the ARC. Such plans and specification shall be submitted in two duplicate sets and shall be in such form and shall contain such information as may be required by the ARC. One (1) complete set of such plans and specifications shall be permanently lodged with the ARC.

4.4 Procedures. In the event the ARC fails to approve, modify or disapprove in writing an application within thirty (30) days after plans and specification in writing have been submitted



to it, in accordance with adopted procedures, the applicant may petition the Board of Directors for a resolution.

4.5 Transfer of Authority to the Association. The duties, rights, powers, and authority of the ARC may be assigned at any time, to the Board of the Association, and to the Board of Trustees of any similar association having jurisdiction over any portion of the Subject Property and from and after the date of such assignment and the acceptance thereof by the Board or Boards, the Board or Boards shall have full right, authority, and power and shall be obligated to perform the functions of the ARC as provided herein, including the right to designate a representative or representatives to act for it.

4.6 Community Residential Review Committee. Prior to construction, plans and specifications for all buildings, structures or other improvements shall be reviewed and approved by the Viera East Community Association Community Residential Review Committee in accordance with criteria and procedures established under the Community Declaration and other related documents.

## ARTICLE V - THE ASSOCIATION

5.1 Organization. The Declarant has caused the Association to be organized and formed as a non-profit corporation under the laws of the State of Florida.

5.2 Purpose. The purpose of the Association, in general, shall be to collect the annual maintenance assessments, annual lake lot assessments and special assessments, to administer the Maintenance Fund, to disburse funds for the purposes set forth in Section 7.2, to provide for the maintenance, repair, preservation, upkeep and protection of the Common Area and the Retention Lakes located within the boundaries of the Subject Property, the Recreation Easement on the Natural Area, and to enforce these Declarations and such other purposes as are stated in the Articles of Incorporation, By-Laws and Rules and Regulations of the Association, consistent with the provisions of this Declaration.

5.3 Membership. Every person who is an Owner of any Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation.

5.4 Voting Rights. In an election of Board Members of the Association and on all other matters submitted to a vote of the Members of the Association, there shall be one class of voting membership:

(a) Class A: Class A members shall be entitled to one (1) vote for each Lot attributable to portions of the Subject Property owned or leased by such Members. When more than one person holds an interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such unit. Notwithstanding the foregoing, in the event a conflict arises between a Member who is the Owner of a Lot and a



Member who has a leasehold interest in said Lot as to who will exercise the vote for the units associated with said Lot, the Owner shall be entitled to determine whether the Owner or his tenant shall have the right to exercise the vote, and the Owner's decision shall be conclusive.

(b) Builders Excluded. Notwithstanding the foregoing provision of this Section 5.4, a builder or building contractor who, in the normal course of his or its business, purchases and thereby becomes the record Owner of a Lot for the purposes of constructing thereon a residential dwelling and related improvements for resale to and occupancy by a third party, shall not thereby become a Member of the Association.

5.5 Approval by Members. The passage of any vote of the membership shall require a simple majority of the votes of the Class A membership.

5.6 Reserved.

5.7 Approval by Members. Unless otherwise specifically provided in this Declaration, or the Articles of Incorporation or By-Laws of the Association, any provision of this Declaration or the Article of Incorporation and By-Laws of the Association which requires the vote or approval of a majority or other specified fraction or percentage of the total voting power of the Association or of the membership therein shall be deemed satisfied by either, both or a combination of the following:

(a) The vote in person or by proxy of a simple majority (186 votes) or other specified fraction or percentage of the entire membership at a meeting duly called and noticed pursuant to the provisions of the By-Laws of the Association dealing with annual or special meetings of the members of the Association.

(b) Written consents signed by a simple majority or other specified fraction or percentage of membership as specified in this Declaration or the Articles of Incorporation or the By-laws of the Association.

5.8 Obligation for Maintenance of Liability Insurance. The Association shall obtain and maintain comprehensive general liability and property damage liability insurance in such limits as the Association from time to time determines, insuring the Association, each Director and each Owner against any liability to the public or the other Owners (and their families, invitees, tenants, agents and employees) arising out of or incident to the ownership, use or maintenance of: (a) the Common Area and any improvements thereto, (b) Tract A, B, C, D, (c) and Landscape Easements, and (d) Retention Lakes. The Board of Directors shall review these limits once each year, but in no event shall such insurance be less than Two million dollars (\$2,000,000) covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of umbrella liability insurance in excess of primary limits shall also be obtained in an amount not less than three million dollars (\$3,000,000).

The policy described in this Section 5.8 shall provide that:



(a) The policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least sixty (60) days prior written notice to the Association.

(b) The deductible, if any, on the insurance policy shall be a common expense of the Association; provided, however, that the Association may, pursuant to Section 5.8 of this Declaration, assess any deductible amount necessitated by the negligence, misuse or neglect of the Owner against that Owner.

(c) All policies of insurance shall be written by reputable companies licensed to do business in Florida.

5.9 Maintenance Agreement. For the purpose of the Association providing the required maintenance pursuant to the terms of this Declaration, the Association shall have the right to enter into a maintenance agreement with a third party (or parties), for the purpose of contracting for maintenance and operation of the Common Areas, easements and facilities for the common benefit of the residents of Six Mile Creek. Terms and conditions of any such agreement shall be determined by the Board of Directors of the Association.

5.10 Membership in The Community Association. Every Owner shall be deemed to have Membership in the Community Association with the rights and obligations of such membership as set forth in the Viera East Community Association Declaration. The Owners of Lots in Six Mile Creek shall be represented at meetings of the Community Association by the Senior Elected Officer of the Association who shall be a "voting member" of the Community Association with the authority to cast the votes on Community Association affairs as the representative of all the Owners of Lots in Six Mile Creek.

## ARTICLE VI - COMMON AREA

6.1 Conveyance. The Declarant by the recordation of the Plat of the Subject Property shall be deemed to have dedicated the Common Area as shown on such Plat and defined in Section 1.3 for the common health, safety, welfare and passive recreation of the residents of and visitors to Six Mile Creek. The conveyance to the Association of the Common Area shall be free of all liens and easements, except for those set forth and those reserved herein. The Declarant hereby covenants for itself, its successors and assigns that said Common Area shall be subject to and bound by the terms of this Declaration and Exhibits hereto. The use and enjoyment of the Common Area shall be subject to such rules and regulations relating thereto as are adopted or amended by the Association.

6.2 Reserved.

6.3 Improvement of Common Area. The Association reserves the right to construct or make such improvements as the Association determines to the Common Area, provided the improvements are for the purposes specified in this Declaration. The right of the Association herein reserved shall entitle the Association, but not obligate the Association, to make or construct improvements to the Common Area, including without limitation the installation of landscaping, signage, irrigation, and a fence or wall as the Association determines in its sole



discretion. The maintenance, repair and replacement of the Common Area, including improvements thereto, shall be the proportionate obligation of each of the Owners of the Lots as hereinafter provided in this Declaration. All improvements and maintenance of the Common Area must be approved by the Board of Directors before work commences

6.4 Property Rights. Every Owner of a Lot shall have the non-exclusive right and easement of enjoyment in and to the Common Area for the purpose for which the same is conveyed and maintained by the Association. Such right and easement of each Owner in and to the Common Area shall be appurtenant to and shall pass with the title to every Lot. The rights and easements of enjoyment created hereby shall be subject to the following provisions:

(a) The right of the Association to adopt and publish rules governing the use of the Common Area and the personal conduct of the Owners and their guests and to establish penalties for the infraction thereof;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(c) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations in accordance with Florida Statute 720;

(d) The right of the Association to require the Owners to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by a simple majority of members qualified to vote has been recorded.

(e) No Owner shall plant, place, fix, install or construct any vegetation, hedge, tree, shrub, fence, wall, structure or other improvement or store any of its or his personal property or prohibit the free flow of pedestrian traffic on the Common Area or any part thereof. The Association shall have the right to remove or cause to be removed anything placed on the Common Area in violation of the provisions of this Section 6.4(e), to restore the Common Area to its condition prior to the violation and to assess the Owner or Owners responsible for the cost of such removal and restoration, which assessment may constitute a lien against the Lot of said Owner or Owners that may be enforced in the manner set forth in Section 7.10 hereto.

6.5 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws adopted by the Board of Directors of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

## ARTICLE VII - COVENANT FOR ASSESSMENTS

7.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is



deemed to covenant and agree to pay to the Association: (a) Annual assessment or charges, (b) Special assessments for capital improvements, (c) Individual assessments, and (d) the Lake Lot assessments, where applicable; all such assessments to be established and collected as provided in this Declaration. Each such assessment together with interest, late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

## 7.2 Purpose of Assessment.

(a) In general the assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Subject Property and in particular for the improvement and maintenance of the Common Area, the Walls, Landscape, and Pedestrian Access Easements and the Retention Lakes.

(b) Regular assessments shall be levied in order to provide for and assure the availability of the funds necessary to pay Common Expenses, which shall include without limitation the following:

(i) Those incurred in connection with the maintenance, protection and improvement of the Common Area, including without limitation, landscaping, irrigation, signage, fence or walls.

(ii) Those incurred for utility services to the Common Area, including without limitation, electric or gas power for any common entry, street lighting, or fence lighting, water for the common irrigation system and any other properties owned by the Association.

(iii) Those incurred in the administration of the business of the Association, including without limitation, necessary and appropriate fees for services rendered by engineers, accountants, attorneys, and property managers.

(iv) Those incurred for the payment of real and personal property taxes and assessments for any property owned by the Association.

(v) Those incurred for the maintenance of adequate casualty and liability insurance on the Common Area and Retention Lakes, and for director and officer liability insurance.

(vi) Those incurred under the terms of the Recreational Easement Agreement for the purpose of maintaining any amenities constructed on the Natural Area reserved for the use or benefit of the Association and the Owners of the Subject Property.

(vii) Those incurred for doing any other thing necessary or desirable which in the judgment of the Association may be of general benefit to the Owners of Lots within the Subject Property.



7.3 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$125.00 per Lot:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(b) After January 1, 1993, the maximum annual assessment may be increased above fifteen percent (15%) by a vote of a simple majority of the membership.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

7.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or within the Wall and Landscape Easements, including fixtures and personal property and the financing of same related thereto, provided that any such assessment shall have the assent of a simple majority of the votes of the membership.

7.5 Lake Lot Assessment. In addition to the regular annual assessment described in Section 6.3 the Owners of the Lake Lots shall pay an annual lake lot assessment of \$30.00. The lake lot assessments shall be paid to the Association and become a part of the maintenance fund to be used for the expenditures related to the maintenance, preservation and improvement of the Retention Lakes.

7.6 Notice and Quorum for Any Action Authorized Under Sections 3, 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 7.3, 7.4 or 7.5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the meeting, the presence of members or of proxies entitled to cast a simple majority of all the votes of the membership shall constitute a quorum.

7.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual basis, or such other basis as the Board of Directors determines.

7.8 Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided herein shall commence as to all Lots on the first day of the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate



of the Association as to the status of assessments on a Lot is binding upon the association as of the date of its issuance.

**7.9 Individual Assessment.** In addition to any other assessment for which provisions are made in this Declaration, the Association shall have the authority to levy and collect against a particular Lot and the Owner of such Lot an individual lot assessment for:

(a) Costs and expenses incurred by the Association in bringing a particular Lot into compliance with the provisions of this Declaration, including any action taken or cost or expense incurred by the Association to cure and eliminate any violation or noncompliance within fourteen (14) days following written notice from the Association of the nature of the violation of or noncompliance with this Declaration, to cure or remedy such violation or noncompliance. After the fourteen (14) day period and a hearing before a committee of at least three persons appointed by the Board in accordance with Section 720.305 of the Florida Statutes, the Association may impose a TWENTY FIVE (\$25.00) DOLLAR fine for each day of non-compliance up to a maximum of ONE THOUSAND (\$1,000.00) DOLLARS, and this fine shall be considered an individual assessment. Collection and enforcement shall be as described in Paragraph 7.10, Effect of Non-Payment of Assessments: Remedies of the Association. This shall be in addition to any other remedies provided herein, at law, and in equity, and all such remedies are cumulative and not exclusive.

(b) Costs and expenses, including reasonable attorney's fees, whether or not suit be brought, incurred by the Association in the enforcement of the provisions of this Declaration against a particular Lot or the Owner of such Lot;

(c) Costs and expenses incurred by the Association in furnishing or providing labor, services and materials which benefit a particular Lot or the Owner of a particular Lot provided that such labor, services or materials can be accepted or rejected by such particular Owner in advance of the Association's furnishing or providing the same and that such Owner's acceptance of any such labor, services or materials shall be deemed to have been such Owner's agreement that the costs and expenses associated therewith shall be levied and collected as an individual lot assessment against such particular Owner and his particular Lot; and

(d) Reasonable overhead expenses of the Association associated with any Individual Lot assessment levied and collected pursuant to this Section 7.9, in an amount not to exceed fifteen percent (15%) of the actual costs and expenses incurred by the Association for any Individual Lot assessment specified in this Section 7.9.

**7.10 Effect of Non-Payment of Assessments: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall incur a \$25.00 late fee. The Association shall have a lien on an Owner's property for any unpaid assessment and fee thereon any and all costs which have been assessed against the defaulting Owners. The said lien shall be effective from and after the time of recording in the Public Records of Brevard County, Florida, of a Claim of Lien; and said lien shall continue in effect until all sums secured by the lien shall have been fully paid. All such Claim of Liens shall include only assessments which are payable and due when the said Claim of Lien is recorded, and all such Claim of Liens shall be signed and verified by an officer or agent of the Association. When any such liens shall have been paid in



full, the party making payment thereof shall be entitled to receive a Satisfaction of such lien in such form that it may be recorded in the Public Records of Brevard County, Florida. The Board of Directors may take such action as they deem necessary to collect assessments, by personal action or by enforcing and foreclosing said lien, and may settle and compromise the same if in the best interest of the Association. The delinquent Owner shall pay all costs including reasonable attorney's fees, incurred by the Association incident to the collection of such assessments. The lien shall be deemed to cover said additional costs and advances. Filing of one action shall not bar the filing of other actions. The Association, through its Board of Directors, will be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and it may apply as a cash credit against its bid all sums due the Association covered by the lien enforced. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area of abandonment of his Lot.

7.11 Exempt Property. The Common Area and those portions of the Subject Property located within any public utility easement and dedicated to and accepted by the applicable local public authority and devoted to public use shall be exempt from the assessments, charges and liens created herein.

7.12 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate and inferior to all liens securing amounts due or to become due under any mortgage now or hereafter encumbering any Lot and to any executory land sales contract owned by the Veterans Administration or its assigns, wherein the named seller is the Administrator of Veterans Affairs, whether such contract is recorded or not to the extent of any such assessment accrued and recorded or not to the extent of any such assessment accrued and unpaid prior to foreclosure of any such Mortgage; and further, provided that as a condition precedent to any proceeding to enforce such lien for assessment upon any Lot upon which there is a valid and existing first Mortgage, the Association shall give the holder of such Mortgage sixty (60) days written notice of such proposed action, which notice shall be sent to the nearest office of such first mortgage lienholder by prepaid U.S. certified mail and shall contain a statement of the delinquent assessment upon which the proposed action is based. Upon the request of any such first Mortgage lienholder, the Association shall acknowledge in writing its obligations to give the foregoing notice with respect to the particular Lot covered by such Mortgage to the holder thereof. Sale or transfer of any Lot shall not affect the assessment lien. Nevertheless, any foreclosure by a prior lienholder shall cut off and extinguish the liens securing the assessments which became due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from securing charges thereafter becoming due and payable, nor shall any personal obligation of any Owner be extinguished by any foreclosure.

## ARTICLE VIII - EASEMENTS, LICENSE, RESTRICTIONS ON LAKES

8.1 Construction of Lakes. The Retention Lakes are (a) an essential element of the Storm Water Management System for Six Mile Creek as required by the County and St. Johns Water Management District, and (b) for the recreation and enjoyment of those Owners of the Lake Lots.

8.2 Ownership of Lakes. Pursuant to the Plat filed on record with the County, each of the Lake Lots includes fee simple title to a portion of that Retention Lake.



8.3 Grant of License Upon Conveyance of Lake Lot. Pursuant to the provisions of this Declaration each Owner of a Lake Lot shall be deemed to have been granted along with the conveyance of each Lake Lot, a non-exclusive license to use all parts of the respective Lake to which the Owner's Lake Lot is contiguous for recreation purposes subject to the conditions, reservations and restrictions provided in this Article VIII.

8.4 Non-exclusive License. The license to use the Lakes hereby granted is non-exclusive and is limited to reasonable use of the Lakes for recreation purposes by those Owners who now or hereafter reside on the above described Lake Lots; their families, invitees, and tenants. The license hereby granted to a Lake Lot Owner is limited to the use of the Lake to which an Owner's Lot is contiguous.

8.5 Reserved.

8.6 Limitation on Use. Each Owner and any other persons and their guests entitled to use of the Lakes under the terms of the license hereby granted shall not use such Lake or carry on any activity on such Lake that will detract from, impair or interfere in any way with the use or enjoyment (including aesthetic enjoyment) of such Lake by the Owners, their heirs or assigns, or any other person now or hereafter licensed to use such Lake, or such use shall not detract from, impair or interfere in anyway with the value, use, or enjoyment (including aesthetic enjoyment) of any property that now or hereafter abuts such Lake. The Association shall have the right to prohibit any use of such Lake which, in the opinion of the Association, is in violation of the foregoing restriction.

8.7 Docks and Other Structures. No dock, walkway, ramp, wall, piling, float or other structure shall be erected, constructed, installed, maintained, altered, changed or relocated on, in or over the Lakes, unless the ARC consents to such dock, walkway, ramp, wall, piling, float or other structure, and unless in accordance with plans approved in writing by the ARC. Dock specifications have been included in Exhibit B.

8.8 Chains, Cables. No cable, chain or other device that interferes with the free passage of boats on and across the Lakes shall be installed or maintained by any Owner with the exception of those maintained by the Association for the purpose of locating fountains and the like.

8.9 Motors. No gasoline motors or other internal combustion engines of any nature whatsoever shall be used on the Lakes.

8.10 Dumping. No dirt, sand, fill, debris, rubbish, sewage, goods, chattels, chemicals or other materials shall be dumped, drained or deposited in or on the Lakes by any Owner or by any other person using the Lakes under the terms of the license hereby granted.

8.11 Commercial Activity. The Lakes shall not be used in any way for commercial purposes.

8.12 Reserved.



8.13 Exculpation of Liability and Responsibility for Maintenance. Each Lake Lot Owner shall be responsible for maintenance of the entire Lot including the portion to the edge of the lake. Said Lakes and the littoral zone plantings are an integral part of the Surface Water Management System for Six Mile Creek. They are private, not public. Said Lakes have not been and will not be dedicated to or accepted or maintained by any governmental authority, including the County. As stated in Article IX, that easements for the Surface Water Management System have been granted to the Association. Subject to the terms and provisions of this Declaration, the Association has sole and exclusive jurisdiction over responsibility for the administration, management, regulation, care, maintenance, repair, restoration, replacement, improvement, preservation and protection of the Surface Water Management System within Six Mile Creek. Accordingly, each Owner of a Lot in Six Mile Creek, by the acceptance of a deed or other conveyance to his Lot shall be deemed to have agreed that neither the Community Developer, the County nor any other governmental agency shall have any liability or responsibility whatsoever (whether financial or otherwise) with respect to the Surface Water Management System for Six Mile Creek and the Retention Lakes and their littoral planting zones, and each such Owner of a Lot in Six Mile Creek shall be deemed to have further agreed to look solely and exclusively to the Association with respect to any such liability or responsibility.

8.14 Exculpation of Liability and Responsibility for Damages.

(a) Each Owner and his successors and assigns shall be responsible for the conduct of all persons who use the Lakes under terms of the License hereby granted and shall be liable for any loss or damage resulting from the violation by any such person or persons of the terms, conditions and restrictions herein provided.

(b) Neither the Association nor the Community Developer shall be responsible for any loss or damage to any Owner, his heirs or assigns, or any other person who uses the Lakes under the terms of this license due to any act or omission or any contractor or subcontractor employed by them, or either of them, for the construction and development, enlargement, or maintenance of the Lakes, or due to any act or omission of any adjoining Owner, or due to any act or omission of any other person or persons using the Lakes under any other license heretofore or hereafter granted by the Association to use the Lakes, or due to any act of omission of any other person or persons using the Lakes without license or other authorization.

(c) Use of the Lakes by an Owner, his heirs or assigns, or any person who occupies the above described property owned by the Owner or the guests of such person, shall be at the risk of the user and neither the Association nor the Community Developer shall be responsible for any loss or damages to such user or any other person resulting from such use. Each Owner, by acceptance of the license, agrees for himself and his heirs and assigns to indemnify and save Association and the Community Developer, its successor and assigns harmless from any claim of loss or damage resulting from the use of the Lakes by an Owner, his heirs or assigns, such persons who occupy Owner's property, or the guests of such persons.

8.15 Enforcement. The foregoing terms, conditions, reservations and restrictions shall be enforced by the Association.



8.16 License Appurtenant to Lake Lots. The license herein granted shall be an appurtenance and shall not be separated from ownership of said Lake Lots. No Owner, his heirs and assigns shall convey or transfer this license, or otherwise transfer any rights under this license except in connection with the conveyance or lease of said Lot.

8.17 Owner's Covenant. An Owner by the purchase of a Lake Lot accepts this license, agrees for himself and his heirs and assigns that the terms, reservations and restrictions set forth herein regarding use of the Lakes shall apply to the portion of the Lakes now or hereafter located on the Owner's respective Lot and that the terms, conditions, reservations, and restrictions set herein shall be binding upon the Owner and his heirs and assigns.

#### ARTICLE IX - RESERVATIONS AND EASEMENTS

9.1 Reservation of Easements on Plats. The Association, on behalf of itself and for the benefit, where so stated of the County, all Owners and also for the benefit of all the Subject Property, hereby creates, declares and reserves easement under and over those portions of the rear and side of each Lot, designated as utility easements on the recorded Plat, for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including but not limited to water, sewer, gas, telephone, electricity, television, cable or other communications lines or systems subject to the limitations set forth in Section 9.2 No structure shall be erected on any of said easements, and no improvements may be placed within said easements without the written approval of any utility company using such easements. Neither the easement rights reserved herein, nor as shown on the Plat shall impose any obligation on the Association to maintain such easements or to install or maintain utilities or any drainage in or under such easements.

9.2 Reservation of Right to Consent to Construction. The Association reserves the exclusive right to grant consents for the construction, operation and maintenance of electric lights, telephone lines and conduits, water, gas, storm drainage, sewer and pipes and conduits and any other public utility facilities, together with the necessary or proper easements, incidents and appurtenances in, through, under and/or upon any and all streets and right-of-way, now existing or hereafter established, upon which any portion of said premises may now or hereafter front or abut. The Association on behalf of itself and for the benefit where so stated of the County, all the Owners and also for the benefit of the Subject Property reserves the right to grant consent for the construction, operation and maintenance of all said utility and service lines and systems referred to in Section 9.1

Provided, however, that the right to grant consent for the installation, operation and maintenance of the cable television shall be subject to the limitations set forth in the Declaration of Easements and Development Covenants and Restrictions recorded on December 22, 1988, Official Records of the County at Vol. 2970, Page 0948. Community Developer in said Declaration of Easements and Development Covenants and Restrictions has reserved for itself the exclusive right for a period of one (1) year commencing on December 20, 1988, to select a franchise and negotiate agreements with cable television services to service the Subject Property with cable television. Thereafter, the Community Developer shall have the non-exclusive right to install, operate and maintain cable television and communication services to the residential



units. Owners may install and maintain individual cable television systems in each single-family residential dwelling as provided in Section 3.15.

9.3 Drainage Easements. There is hereby created, declared and reserved for the benefit of the Association and all Owners a non-exclusive easement for storm water collection, retention, detention and drainage over, upon all drainage easements shown on the Plat or otherwise reserved, declared or created pursuant to this Declaration, together with an easement and license to enter upon such easements and easement areas for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing any and all storm water drainage systems, improvements and facilities from time to time located therein or thereon. Additionally, the Association, for the benefit of itself, and all Owners hereby reserves easements over any and all other portions of the Subject Property as may be reasonably required from time to time in order to provide storm water drainage to all or any portions of the Subject Property; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owners of the particular Lots or the Common Area affected thereby or any improvements from time to time placed, located, constructed, erected or installed thereon. The easements hereinabove created, declared and reserved contemplate the construction of storm water drainage improvements and facilities shown on the plans for the Surface Water Management System for Six Mile Creek as approved by the County and the St. Johns River Water Management District, and any replacement or substitute permits issued by the St. Johns River Water Management District, and such additional or supplemental facilities as may reasonably be required to provide adequate storm water drainage and surface water management to all portions of the Subject Property.

9.4 Emergency Access and Drainage Easement. There is hereby created, declared, granted and reserved for the benefit of the County, a non-exclusive easement over and upon all drainage easements comprising and appurtenant to the Surface Water Management System for the purpose of undertaking emergency maintenance and repairs to the Surface Water Management System in the event that inadequate maintenance or repair of the Surface Water Management System shall create a hazard to the public health, safety or general welfare. It is expressly provided, however, that the creation, declaration and reservation of such Emergency Access and Drainage Easement shall not be deemed to impose upon the County any obligation, burden, responsibility or liability to enter upon the Subject Property or any portion thereof to take any action to maintain or to repair the Surface Water Management System or any portion or portions thereof.

9.5 Maintenance of Easements. The Owners of the Lot or Lots, subject to the easements shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes, mains, valves, lines or other equipment or facilities placed on, over or under the property which is subject to the easements. With regard to specific easements for drainage as shown on the Plat, the Association shall have the right, but without any obligation imposed thereby, to alter or maintain drainage facilities on such easements, including slope control areas. No structure, irrigation system, planting or other material shall be placed or permitted to remain which may damage or interfere with access to, or the installation and maintenance of, the easements or any utilities or drainage facilities, or which may change the direction of flow or obstruct or retard the flow of water through drainage channels on any easement or which may reduce the size of any ponds, creeks, lakes or other water retention areas which are shown on the Plat or which may be



constructed on such easement. The Association shall not be responsible for maintaining any easement areas on individual Lots designated on the Plat as Drainage or Utility Easements. Such drainage and utility easements shall be maintained by the individual Lot Owners.

9.6 Wall and Landscape Easements. There is hereby created, declared, granted and reserved for the benefit of the Association an easement over and upon all Wall and Landscape Easement areas shown on the recorded Plat together with the easement and license to enter upon such Wall and Landscape Easement areas for the purposes of erecting, constructing, installing, inspecting, maintaining, repairing and replacing: (a) any and all security or screening walls or fences, (b) any and all landscaping, including trees, grasses, shrubs, bushes, ground covers and other plant material, and (c) any irrigation systems of any kind, whether the same shall be required by the County and/or deemed necessary or desirable by the Association.

9.7 Association Easement. There is hereby created, declared and granted to the Association, such easements over and upon all or any portion of the Subject Property as may be reasonably necessary to permit the Association to carry out and discharge its duties, obligations and responsibilities under and pursuant to this Declaration and the Articles of Incorporation, By-Laws and Rules and Regulations of the Association. Such Association Easement shall be in addition to the Drainage Easements hereinabove granted to the Association pursuant to Section 9.3 of this Declaration for the purpose of constructing, installing, inspecting, maintaining, repairing and replacing any and all portions of and facilities comprising the Surface Water Management System.

9.8 Future Easements. There is hereby reserved to the Association and its successors and assigns, together with the right to grant and transfer the same, the right, power and privilege to, any time hereafter, grant to itself, the Association, the County or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of the Association, for the future orderly development of Six Mile Creek in accordance with the objects and purposes set forth in this Declaration. Provided, however, any easement created on the Subject Property pursuant to this Section 9.8 may only be located within easements heretofore or herein established of record. It is expressly provided, however, that no such further or additional easements shall be granted or created over and upon any Lot pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of a particular Lot as a single-family residential home site. The easements contemplated by this Section 9.8 may include, without limitation, such easements as may be required for utility, drainage, road right-of-way or other purposes reasonably related to the orderly development of Six Mile Creek in accordance with the objects and purposes specified in this Declaration. Such further or additional easements may be hereafter created, granted or reserved by the Association without the necessity for the consent of the Owner of a particular portion of the Subject Property over which any such further or additional easement is granted or required.

#### ARTICLE X - GENERAL COVENANTS AND RESTRICTIONS

10.1 Laws and Ordinances of the State of Florida. The laws and ordinances of the State of Florida and Brevard County, as well as the rules and regulations of their administrative agencies now or hereafter in effect, are hereby incorporated herein and made a part hereof.



10.2 Rules and Regulations. In addition to the foregoing restrictions on the use of the Lots and the Common Area, and the Landscape, the Association shall have the right, power and authority to promulgate and impose reasonable rules and regulations governing and/or restricting the use of the Lots and Common Area and said Easements and to hereafter change, modify, alter, amend, rescind and augment any of the same. Any such rules and regulations so promulgated by the Association shall be applicable to and binding upon all Lots and the Owners thereof and their successors and assigns, as well as all guests or invitees of and all parties claiming by, through or used such Owners. Copies of the regulations and amendments thereto shall be furnished by the Association to all Owners.

10.3 Duration. This Declaration shall run with and bind all of the Subject Property perpetually, and shall inure to the benefit of and be enforceable by the Association and the Owners of the Lots, their respective successors, assigns, heirs, executors, administrators and personal representatives, except that a duration of forty (40) years, at the end of which period said restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least ninety-five percent (95%) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument or instruments, in which they shall agree to change said restrictions in who or in part, and said instrument shall be recorded in the office of the clerk of the County prior to the expiration of the initial period of any extension thereof. ---

10.4 Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration or the Articles of Incorporation or By-Laws shall be deemed to have been properly sent, and notice thereby given, when mailed, by regular post, with postage prepaid, addressed to the member or Owner at the last known post office address of the person who appears as a Member on the records of the Association at the time of such mailing. Notice to one Owner shall constitute notice to all Owners thereof. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Valid notice may also be given to Members by: (a) personal delivery to any occupant of any dwelling over fourteen (14) years of age, or (b) by affixing said notice to or sliding same under the front door of any dwelling within the Subject Property.

10.5 Enforcement. Enforcement of this Declaration shall be by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction, against any person or persons, firm or corporation violating or attempting to violate or circumvent any provision herein contained, either to restrain or enjoin such violation or threatened violation or to recover damages, and against any Lot to enforce any lien created by this Declaration, and failure by the Association or any Owner to enforce any covenant or restriction herein contained for any period of time, shall in no event be deemed a waiver or estoppel of the right to thereafter enforce the same. In the event that the Association should at any time fail to discharge its obligations to maintain any portion of the Subject Property as required by this Declaration, or to enforce the provisions hereof, any Owner shall have the right to enforce such obligations by any proceeding at law or equity. A failure to so enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.



10.6 Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions and restrictions set forth in this Declaration set or establish standards, limitations or restrictions on use in excess of Governmental regulations, the covenants, conditions and restrictions set forth in this Declaration shall take precedence and prevail over less stringent Governmental Regulations.

10.7 Severability. Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

10.8 Amendment.

(a) Reserved.

(b) Amendment by Association. Subject to the provisions of Section 10.8(d) of this Declaration, the terms and provisions of this Declaration may be changed, amended, or modified at any time and from time to time by the Association upon the affirmative written consent or the vote of a simple majority of the total voting power of the members of the Association.

(c) Manifestation of Requisite Consent. In the case of any change, amendment or modification of this Declaration by the Association which requires the affirmative written consent or vote of members of the Association as hereinabove, and as provided in Section 10.8(d), the acquisition of the requisite written consent or vote of members shall be manifested on the face of the amending instrument in a certificate duly executed and sworn to before a Notary Public by the President and Secretary of the Association affirmatively stating that such requisite affirmative written consent or vote has, in fact, been acquired or obtained prior to the recording of such amending instrument among the public records of the County. Such change, amendment or modification of this Declaration shall be effective as of the date of recording in the public records of the County.

(d) Limitations on Amendments. Notwithstanding anything to the contrary set forth in this Declaration, the rights of the Association to change, amend or modify the terms and provisions of the covenants, conditions, restrictions, easements, license and reservations set forth in this Declaration shall at all times be subject to and limited and restricted as follows, to wit:

(i) To the extent that particular rights or interests are expressly conferred upon or granted to the County pursuant to this Declaration, the particular terms and provisions of this Declaration pursuant to which any such rights and interests are conferred upon, or granted to the County shall not be changed, amended or modified without the prior written consent and "Joinder of the County."

(ii) To the extent that any term or provision of this Declaration may be included herein in satisfaction of the conditions to approval of the platting or subdivision of the



Subject Property by the County, such terms or provisions of this Declaration shall not be changed, amended, or modified or otherwise deleted or eliminated from this Declaration without the prior written consent and "Joinder of the County."

(iii) This Declaration may not be changed, amended or modified in such manner as to terminate or eliminate any easements granted or reserved herein to the Association or to the County, respectively, without the prior written approval of the Association or the County, as the case may be, and any attempt to do so shall be void or have no force and effect.

(iv) This Declaration may not be changed, amended or modified in any fashion which will result in or facilitate the dissolution of the Association or the abandonment or termination of the obligation of the Association to maintain the Common Area after it meets Brevard Country standards and has been accepted by the Association, including specifically the Surface Water Management System, and or the obligation of the Association to establish, make, levy, enforce and collect assessments for such purposes, and/or the obligation of the Association to maintain liability insurance as provided in Section 5.8.

(v) This Declaration may not be changed, amended or modified in any fashion which would affect the Surface Water Management System, or its maintenance by the Association, without the prior written consent and approval of the St. Johns River Water Management District.

(vi) This Declaration may not be changed, amended or modified in such fashion as to change, amend, modify, eliminate or delete the provisions of this Article X related to the granting of the license to use the Lake Lots and the indemnification of the Association, by the Lake Lot Owners for any damages arising out of the construction, use and maintenance of the Retention Lakes without the prior written consent of the Association.

(vii) This Declaration may not be changed, amended or modified in any manner so as to adversely and materially affect the priority or validity of any permitted first mortgage or the value of any Lot and its properly approved improvement.

10.9 Annexation. Additional, contiguous land now or hereafter owned by the Association, its successor or assigns, may be added or annexed to the Subject Property. Any portion of the Subject Property may be made subject to the terms hereof by the Association, its successors or assigns, without the consent of Owners at any time or from time to time by the recording in the official records of the County of any instrument expressly stating an intention to so annex such additional land. Such additional land which may be added or annexed shall be subject to the annual assessment existing at the time of such addition or annexation.

10.10 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10.11 Ratification, Confirmation and Approval of Agreements. The purchase of a Lot, and the acceptance of the Deed therefor by any party, shall constitute the ratification,



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confirmation and approval by such purchaser, his heirs, legal representative and assigns of the property and legality of said agreements.

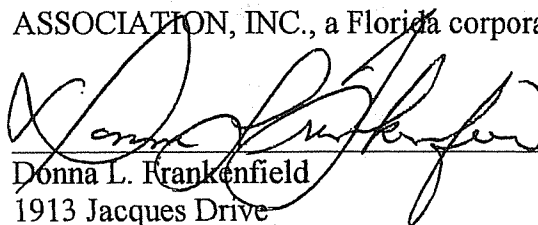
10.12 Conflict with Deeds of Conveyance. If any one of the covenants, conditions or restrictions contained in this Declaration shall be in conflict with any covenant, condition or restriction within a previously recorded deed of conveyance to any portion of the Subject Property, the covenants, conditions, or restrictions within the prior deed of conveyance shall control and be superior and supersede the covenants, conditions or restrictions within this Declaration to the extent of such conflict, but no greater.

10.13 Constructive Notice and Acceptance. Every person, corporation, partnership, limited partnership, trust, association or other legal entity, who or which shall hereafter have, claim, own or acquire any right, title, interest or estate in, or to any portion of the Subject Property, whether or not such interest is reflected upon the public records of the County, shall be conclusively deemed to have consented and agreed to each and every term, provision, covenant, condition, restriction, license, easement and reservation contained, or by reference incorporated in this Declaration, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such person, corporation, partnership, limited partnership, trust, association or other legal entity shall have acquired such right, title, interest or estate in the Subject Property or any portion thereof.

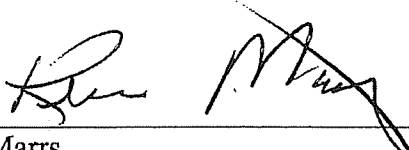
10.14 Assignment of Declarant's Rights and Interests. The rights and interests of the Declarant under this Declaration have been transferred and assigned by the Declarant to any successor or successors to all or part of the Declarant's interest in the Subject Property by an express transfer, conveyance or assignment incorporated into any recorded deed or other instrument, as the case may be, transferring, conveying or assigning such rights and interests to such successor.

The undersigned officers of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC. ("the Association"), which is the Association responsible for the management and operation of the SIX MILE CREEK SUBDIVISION HOMEOWNERS ASSOCIATION, INC., hereby certify that the foregoing Restatement was duly approved by the members of the Association at a duly-noticed meeting thereof, which was held on December 8, 2002.

SIX MILE CREEK SUBDIVISION HOMEOWNERS  
ASSOCIATION, INC., a Florida corporation

 President  
Donna L. Frankenfield  
1913 Jacques Drive  
Viera, Florida, 32940



  
\_\_\_\_\_, Secretary  
Kevin Marrs  
Space Coast Property Management of Brevard, Inc.  
1617 Cooling Avenue  
Melbourne, FL 32935

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of December, 2002,  
by Donna L. Frankenfield, as President of Six Mile Creek Subdivision Homeowners Association,  
Inc., on behalf of the corporation who produced F652 172 60 336 0  
as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of December, 2002,  
by Kevin Marrs, as Secretary of Six Mile Creek Subdivision Homeowners Association, Inc., on  
behalf of the corporation who produced MB20 507 67 184  
as identification and did not take an oath.



John L. Soileau  
MY COMMISSION # CC850426 EXPIRES  
October 29, 2003  
BONDED THRU TROY FAIN INSURANCE, INC.

  
\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires:



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PLAT BOOK	35
AND PAGE	100

## DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That the undersigned, being the owner, for the benefit of the lands described in

IN WITNESS WHEREOF, the undersigned  
has made at AND head and tail on July 15, 1955.

Witnessed and tested in the presence of  
*James Williams*  
*Wm. A. Williams*  
 295 BROADWAY, NEW YORK

STATE OF FLORIDA..... COUNTY OF DUNLAP.....  
 THIS IS TO CERTIFY, that on 14th day of Feb....., before  
 me, an officer duly authorized to take acknowledgments in the  
 State and County aforesaid, personally appeared

It is known to be the person described in and who executed the foregoing declaration and verbally acknowledged the same for the purpose herein set out and done for the reasons and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set  
my hand and seal on the above date.

*William C. Thompson*

SEAL.

NOTARY PUBLIC

My Commission Expires .....

**CERTIFICATE OF SURVEYOR**

SHOW ALL ADDY AT THESE PLACEMENTS, THAT THE UNDERSIGNED, BEING A

The \_\_\_\_\_ was completed the evening of \_\_\_\_\_. \_\_\_\_\_ at the \_\_\_\_\_ of the funds as shown in the foregoing plan that said plan is a correct representation of the facts therein described and plaintiff does submit herewith evidence to prove same.

No other relevant documents have been placed on above wherein as required by Chapter 177 and 472, Florida Statutes and that said land is located in Orange County, Florida.

S/1/89. ....

- Delet -

John L. Johnson, Englishman No. 5522

CERTIFICATE OF APPROVAL  
BY MUNICIPALITY

THIS IS TO CERTIFY, That any...

ATTEST:  
MAYOR.

CITY CLERK.

CERTIFICATE OF ACCEPTANCE OF DEDICATION  
BY BOARD OF COUNTY COMMISSIONERS  
THIS IS TO CERTIFY That the Board of County Commissioners

hardly begin to meet, save always through the public works  
damage accounts, only a small, but steady, upon which  
and what right of way, and more and more dedicated for public  
use on this side.

ATTEST: R. C. Winstead, Sec'y of Board  
Clk of the Board

CERTIFICATE OF APPROVAL BY  
BOARD OF COUNTY COMMISSIONERS

THIS IS TO CERTIFY, That on MAY 16, 1933, the foregoing was approved by the Board of County Commissioners of Barren County, Indiana.

Wm. W. Robinson  
Chairman of the Board.

Approved \_\_\_\_\_ County Engineer  
R.C. Wintered, Clerk for for Municipalities  
 Clerk of the Board

CERTIFICATE OF APPROVAL BY

**PLANNING AND ZONING COMMISSION**

THIS IS TO CERTIFY, That on February 2, 1966 the Planning and Zoning Commission of the City of Chicago approved the foregoing plan.

..... Planning and Zoning Director

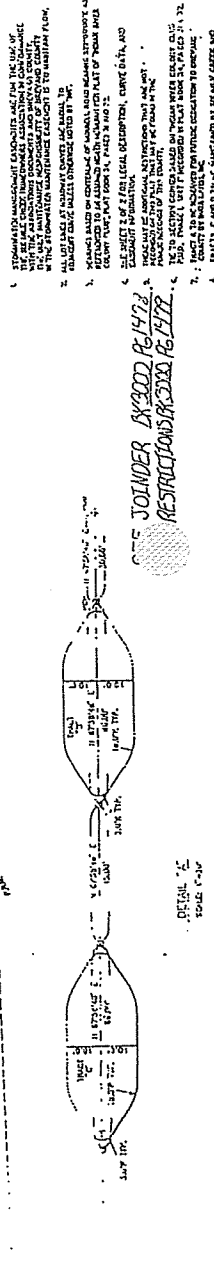
**CERTIFICATE OF CLERK**

I HEREBY CERTIFY, That I have examined the foregoing copy of the petition of the Florida State and find that it complies in form with all the proper provisions of the laws of the State, and was filed for record on 9-16-1917 File No. 6081191.

R. C. Whitstead, Clerk of the Court

and had  
all 177  
989.

Sept 11/1917



**WATER.**

1. The following information was obtained from the records of the FBI, New York City, dated 1/10/68, regarding the activities of the "Black Liberation Movement" (BLM) in New York City:
2. The BLM is a group of individuals who are active in the area of civil rights and who are active in the area of civil rights and who are active in the area of civil rights.
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10. The BLM is a group of individuals who are active in the area of civil rights and who are active in the area of civil rights and who are active in the area of civil rights.

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# RESISTANCE

17. निम्नलिखित

## Notes

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EXHIBIT A-1

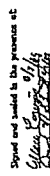






PLAT BOOK 37 PAGE 41  
SHEET 2 OF 2  
SECTION 224 TWP. 26 S. RANGE 35 E.

know ALL MY DEER PRESSIONS. That I understand, being  
the owner - in her sheep's of the lands described in  
SIX EARLY COUNTRY GUARDIANSHIP - PHASES II

[illegible]

to the names to the person described in and who executed the foregoing declaration and severally acknowledged the execution thereof to be all true and good for the uses and purposes therein expressed.

IN ADDRESS THEREOF, I HAVE HONORABLE INTENT

Patricia Anne Gullen  
NOTARY PUBLIC  
My Comm. Expires 7-27-73

[illegible][illegible]

**RUSSIAN ENGINEERING**  
**INC.**  
P.O. BOX EIGHT - 100 PARKHILL ST.  
NEWTON 101 AND WINTHROP 2914



OR Book/Page: 4759 / 1380

EXHIBIT A-5



# Six Mile Creek Subdivision Phase IV

A Subdivision lying within the Third Section of the Twenty-sixth Township South of the Thirty-sixth Range East of the County of Broward of the State of Florida.

SEE SHEETS 1 & 3 of 3 FOR  
ADDITIONAL DATA & GRAPHICS

**CURVE DATA**

CHURCH	MEMBERS	WOMEN	CHILDREN	ADULTS	YOUTH	SENIORS	DECEASED
1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8
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10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19
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57	57	57	57	57	57	57	57
58	58	58	58	58	58	58	58
59	59	59	59	59	59	59	59
60	60	60	60	60	60	60	60

**CURVE DATA**

[illegible]

PLAT BOOK 39 PAGE 47  
SHEET 2 of 3  
SECTION 3 TWP 26 S. RANGE 30 E.

REMARKS: 1. ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 08-01-2001 BY 60322 UCBAW/STP

SIX MILE CREEK SUBDIVISION-PLATE IV

212 answered only 19 people gave info

William Ferguson 4/1/69  
David J. McLeod 4/1/69

STATE OF ILLINOIS COUNTY OF CLAY  
 THIS IS TO CERTIFY, That on 21st day of March  
2007 A.D. 2007, before  
 me, an officer duly authorized to take acknowledgments in the

..... 0 0001 11 7410716

is not known to the person—described to and who executed the former. As a result, the person who executed the former is not known to the person who executed the latter.

IN WITNESS WHEREOF, I have hereunto set  
my hand and seal on this above date.

*Patterson*  
NOTARY PUBLIC

BUSSON ENGINEERING GROUP INC.

P.O. BOX 549123 • 190 PINKNEY

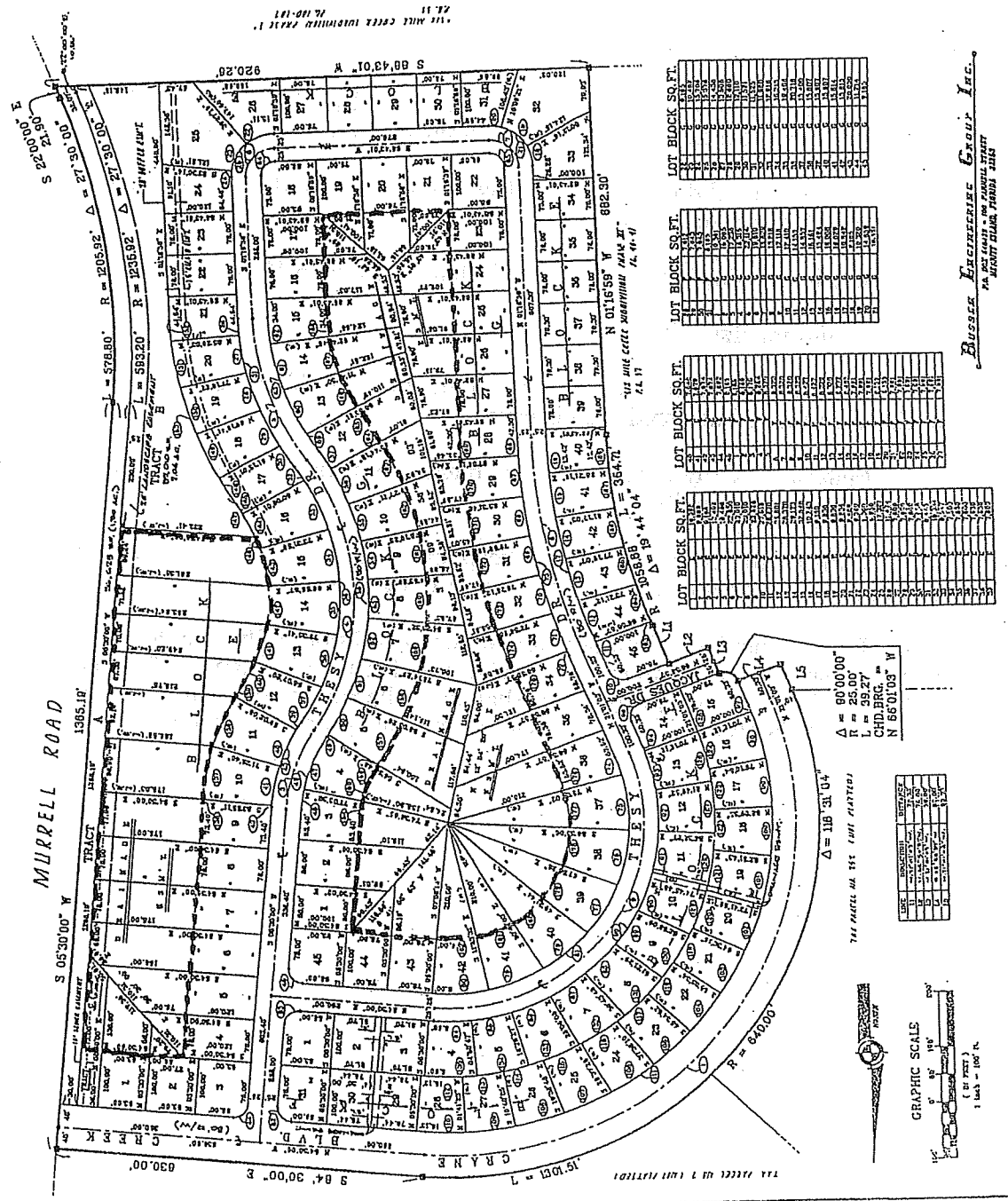
117001 10025

PLAT BOOK 29 PAGE 418  
SHEET 3 OF 3  
SECTION 3 TWP. 26 S. RANGE 36 E

Notes:  
1) See sheet 1 of 3 for Legal Description, Notes, and additional boundary information.  
2) See sheet 2 of 3 for Curve Tables.

# Six Mile Creek Subdivision Phase IV

A Subdivision lying within the Third Section of the Twentieth Township South of the Thirtieth Range East of the County of Brevard of the State of Florida.



BUSSER ENGINEERING GROUP, INC.  
1000 W. US HWY 1, SUITE 100  
MELBOURNE, FLORIDA 32901



CFN 2002312155  
OR Book/Page: 4759 / 1383

EXHIBIT A-8

SPECIFICATIONS FOR DOCKS  
SIX MILE CREEK HOA  
DECEMBER, 1992

1. All dock construction must be pre-approved by ARB. Submit drawing and site plan showing proposed location of dock. All dimensions must be clearly marked and scale indicated.
2. ARB approval does not affect Brevard County Building Dept. approval and Owner must comply with County regulations.
3. Maximum size - 10 ft. x 12 ft. With no more than 12 ft. extending out over the water.
4. Minimum size - 4 ft. x 6 ft.
5. Dock should be centered on the width of the lot; if not centered then a minimum of 20 ft. on each side for setback shall be observed.
6. Materials - Only pressure treated marine lumber, 2 x 2, 4 x 4, and 2 x 6 shall be used; galvanized screws or nails.
7. Owners that build docks must keep area under the dock clean and grasses trimmed; lake management shall not be responsible for spraying under dock area.
8. Docks must be maintained and in good condition; failure to do so could result in HOA claiming that the dock is an eyesore and demand removal of same. If Owner does not maintain dock and it becomes unsightly HOA shall have the right to demand removal and, after proper written notice is given, HOA may remove and lien property for the cost of removal and



CFN 2002312155

OR Book/Page: 4759 / 1384

EXHIBIT B