

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DEBARYWOODS

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AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DEBARY WOODS AS OF JUNE 16, 2004

The document that follows is an amended version of the DeBary Woods Covenants and incorporates changes to the covenants voted by the DeBary Woods Homeowners Association members at the 1997, 2002 and 2004 Annual meetings.

THIS DECLARATION, made and executed: as of the 16 day of June, 1992, by VOLUSIA 17-92, a Florida general partnership, hereinafter referred to as Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Volusia, State of Florida, which is more particularly described in the schedule attached hereto as Exhibit "A" and recorded in Volusia County Book 3943, pages 4223 and 4224.

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold, conveyed, leased, encumbered and otherwise dealt with subject to the easements, restrictions, covenants, and conditions, reservations, charges and lien rights hereinafter set forth, all of which are for the purpose of protecting the value, desirability and attractiveness of, and which shall run with, said real property and be binding upon, and inure to the benefit of, all parties having or acquiring any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

As of June 16, 2004, the Declarant had conveyed all ownership rights to individual owners and is no longer a party to the Covenants.

ARTICLE I - DEFINITIONS

Section 1.1. Defined Terms.

The following words and phrases, when used in this Declaration or any supplemental declaration hereto, shall have the following meanings:

- (a) "Additional Property" shall mean real property other than that described in the schedule attached hereto as Exhibit "A" which may in the future be brought within the jurisdiction of the Association and this Declaration by amendment or supplement to this Declaration.
- (b) "Architectural Review Committee" and "ARC" shall refer to the committee established and described in Article V hereto
- (c) "Articles" shall mean the Articles of Incorporation of the Association as they may exist from time to time.
- (d) "Association" shall mean DEBARY HOMEOWNERS ASSOCIATION, INC., a Florida not for profit corporation, its successors and assigns.
- (e) "Board" shall mean the Board of Directors of the Association.
- (f) "By-Laws" shall mean the By-Laws of the Association as they may exist from time to time.
- (g) "Common Expenses" shall mean expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to the Common Area, Surface Water Management System, Lakes or otherwise.
- (h) "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat of the Properties intended to be devoted to the common use and enjoyment of the owners, the Surface Water Management System, and the rights-of-way of all streets within the Properties.
- (i) "Conservation Easements" shall mean (I) the 25 foot' easement on Lots 1 and 41 through 50 on the Plat of DEBARY WOODS - UNIT 1 within which no construction, or removal of native vegetation shall occur without an approved permit from Volusia County; or, (ii) dedications granted by the Declarant pursuant to the provisions of Section 170 of the Internal Revenue Code of 1986, as amended, and/or pursuant to conservation ordinances, laws, rules and regulations of applicable governmental authorities.

- (j) "Declarant" shall mean VOLUSIA 17-92, a Florida general partnership. Wherever the term Declarant is used in this Declaration, the Articles or By-Laws, it shall be deemed to include the successors and assigns of the Declarant, but only to the extent specifically so identified by an instrument in writing executed and recorded by the Declarant and shall not include an Owner who has purchased a Lot from the Declarant.
- (k) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions as it may, from time to time, be amended or supplemented.
- (l) "Institutional Lender" shall mean the owner and holder of a mortgage encumbering a Lot when such owner and holder shall be a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, public or private pension fund, the Veteran's Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, a credit union, real estate or mortgage investment trust, or other lender generally recognized in the community as an institutional lender.
- (m) "Lot" shall mean any parcel of land shown on any recorded subdivision map or plat of the Property upon which shall be located a residential dwelling unit.
- (n) "Maintenance" shall mean, but not be limited to, cleanup, landscaping and grounds care, upkeep of recreational amenities, if any, the Conservation Easement, the Surface Water Management System and other facilities within the Common Area, and repair, maintenance and upkeep of the entry features, The term "maintenance", as applied to the Surface Water Management System, shall include the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District, including (I) checking the inlets for accumulation of debris and sedimentation; (ii) checking for pond side slope stability by replacing dead sod and, after mowing operations, checking for disturbed side banks; (iii) cleaning sediment out of mitered end section (inflow to pond); and, (iv) checking rear lot berms for blockage and destabilization. Any repair or reconstruction of the Surface Water Management System shall be as permitted, or if modified, as approved, by the St. Johns River Water Management District.
- (o) "Member" shall mean all Owners who are Members of the Association as provided in this Declaration.

- (p) "Notice" shall mean delivery to the person or entity who appears as Owner in the records of the Association of any document by mail with postage prepaid to the last known address reflected in the records of the Association. Notice to one of two or more co-owners of a Lot shall constitute notice to all Owners of such Lot.
- (q) "Owner" shall mean the owner as shown on the records of the Association (whether it be one or more persons, firms or legal entities) of fee simple title to any Lot located within the Property or any Additional Property. Owner shall not mean the holder of any mortgage or lien unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure nor shall the term include any lessee or tenant of any Owner.
- (r) "Debary Woods" shall mean the property described in the schedule attached hereto as Exhibit "A" which is to be platted as DEBARY WOODS - UNIT 1, according to the plat thereof which is to be recorded in the Public Records of Volusia County, Florida, together with any Additional Property which may be made subject to the terms of this Declaration in the future pursuant to the terms hereof.
- (s) "Plan" shall mean any recorded plat of any portion of the Property and Additional Property for the development of Debary Woods.
- (t) "Property" shall mean the real property described in Exhibit "A" attached hereto and, when added in accordance with the terms and conditions hereof, any Additional Property which may be made subject to this Declaration in the manner provided herein.
- (u) "Surface Water Management System" shall mean that portion of the Property consisting of swales, inlets, culverts, retention and detention ponds, outfalls, storm drains and similar structures, and all connecting pipes and easements, used in connection with the retention, drainage and control of surface water, all as approved by the St. Johns River Water Management District, the maintenance of which shall be the responsibility of the Association.

Section 1.2. Interpretation.

Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation". This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Properties by providing a common plan for the development and preservation thereof. The headings used herein are for indexing

purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

ARTICLE II - EASEMENTS AND PROPERTY RIGHTS IN THE COMMON AREA

Section 2.1. Utility Easements.

The Declarant reserves the right to grant easements to any public or private utility or governmental authority providing utility and other services within the Property and the Common Area over, under, upon and through the Property and Common Area. Any such easement granted by the Declarant pursuant hereto shall be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, lift stations, effluent disposal lines, pipes, wires, power lines, telephone service, gas lines, cable television service, alarm systems, and like machinery, equipment and apparatus appurtenant to all of the forgoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Property and the Common Area. All such easements shall be of such size, width and location as the Declarant, in its discretion, deems appropriate; provided, however, such discretion will be exercised in such a manner so as to not unreasonably interfere with the use of any improvements which are now, or may hereafter be, located upon the Property.

Section 2.2. Owners' Easement of Enjoyment.

Except as to the Surface Water Management System which shall be operated and maintained by the Association as required by the St. Johns Water Management District, every Owner shall have a right and easement of enjoyment in and to the Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot.

Surface Water Management System means those portions of the Property designated as Retention Areas or Drainage Easements (collectively "Drainage Areas") by Declarant for irrigation, drainage or beautification purposes in a manner consistent with the original design thereof by the Declarant and in accordance with the requirements of applicable governmental authorities. The Drainage Areas shown on any Plat or conveyance shall be used for the construction, repair and maintenance of drainage facilities including, but not limited to, canals, pumps, pipes, inlets and outfall structures and all necessary appurtenances thereto. The location of the drainage pattern may not be modified or relocated without the prior written consent of the Declarant or applicable governmental authority. In the event of a dissolution or termination of the Association, the administration and maintenance of the Drainage Areas shall be transferred only to another not-for-profit corporation or dedicated to an appropriate governmental agency agreeing to accept such conveyance or dedication.

Section 2.3 Special Use Restrictions.

Special use restrictions shall apply to DEBARY WOODS - UNIT 1, Lots, 1 and 41 through 50, as to the easterly fifty-one feet (51') of each such lot. Declarant has

caused the Plat to reflect three (3) generally adjacent easements. The easterly most easement of one foot (1') precludes vehicular access; the next adjacent easement of twenty-five feet (25') is designated as a "Utility Easement". The westerly most easement of twenty-five feet (25') is designated a "Conservation Easement". The owner of the foregoing Lots are expressly prohibited from destroying the natural tree growth that exists within said easements as of the date of this Declaration. Further, no fencing or walls are to be constructed within said easements.

ARTICLE III - RULES AND REGULATIONS

Section 3.1. Residential Use.

Each Lot shall be used for single-family residential purposes only, and no trade or business of any kind may be carried on therein; provided, however, the lease or rental of a residence shall not constitute a violation of this covenant.

The following paragraph was added by over 75% of the homeowners present in person or by proxy at the June 2005 Homeowners meeting.

Rental or lease of a Debary Woods residence by the Homeowner must be for a minimum period no less than six (6) months. Renter or lessee will be expected to care for the property according to the rules and regulations of the Debary Woods Homeowners Declaration of Covenants, Conditions, and Restrictions. However, the responsibility for condition and maintenance of the property remains with the Homeowner.

Section 3.2. Antennas.

Satellite dishes with a maximum 18 diameter or Cable TV connections may be used for TV and Internet connections with ARC approval.

Section 3.3. Clothes Drying Area.

No portion of any Lot shall be used as a drying or hanging area for laundry of any kind.

Section 3.4. Prohibition of Damage and Certain Activities.

Nothing shall be done or kept on any Lot or in the Common Area which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area shall be committed by any Owner or any Tenant or invitee of any

Owner; and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by him or his Tenants or invitees, to Association or other Owners. No noxious, destructive or offensive activity shall be permitted on any Lot or in the Common Area, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing on the Property.

Section 3.5. Signs Prohibited.

No sign shall be displayed to the public view on any Lot or the Common Area without the prior written consent of the Board of directors. Residential exceptions are customary name and address signs and no more than one (1) lawn sign of not more than four and one-half (4 1/2) square feet in size (or such lesser amount as may be required by applicable governmental regulations) advertising the property for sale or rent, providing the signs are also in compliance with rules and regulations adopted by the Association. Sign exceptions for the Common Area are those erected with Board Approval to advertise meetings or other matters important to the Association.

Section 3.6. Parking.

No truck or van with more than 3/4 ton capacity, boat, trailer, recreational vehicle or commercial vehicle shall be parked, stored or otherwise kept on any portion of the Property for more than twenty-four (24) hours, except that any of the foregoing vehicles may be stored in the garage on a Lot so long as the garage door is fully closed while such vehicle is located therein, The term "commercial vehicle" shall include, without limitation, all autos, trucks, vans and other vehicular equipment, which bear signs or shall have printed thereon any reference to a commercial undertaking or enterprise. Commercial vehicles in the process of loading or unloading shall not be considered to "parked" so long as such vehicles shall not be kept on the property overnight. Further, the Association may promulgate further rules and regulations affecting the parking of any vehicles on the Lot which appear in the best interests of all Owners.

After a reasonable attempt to notify the homeowner, any vehicle violating this rule will be towed, and the owner will bear all costs. If the owner refuses to pay, a lien will be placed on the property where the vehicle was parked, stored, or located.

Section 3.7. Animals.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or the Common Area, except that dogs, cats, and other customary household pets may be kept on Lots subject to the limitation, pursuant to the

Volusia County Uniform Zoning Ordinance, of no more than four (4) domestic cats or dogs maintained on any Lot and further subject to rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose. Each Owner shall be responsible at all times for the prompt collection and proper removal and disposal of all excrement from their pets. The Association may prohibit the keeping of any pet anywhere upon the Property which the Association reasonably determines may constitute a threat to the safety or health of persons lawfully upon the Property. All Owners at all times shall comply with all rules, regulations, ordinances, statutes, and laws adopted, promulgated, or enforced by any public agency having jurisdiction of the Property and relating to animals, and shall at no times allow such animals to constitute a nuisance within any portion of the Property.

Section 3.8. Trash and Garbage.

No trash, garbage, or other waste material shall be kept or permitted upon any Lot or the Common Area except inside the improvements on each Lot or in sanitary containers concealed from view, and in accordance with rules and regulations adopted by the Association.

Section 3.9. Provisions Are Inoperative As to Initial Construction.

This section was deleted by vote of the Association at the annual meeting held in June 2004.

Section 3.10. Recreational Equipment.

Subject to prior approval of the ARC as to specific location, all basketball backboards and any other fixed games and play structures shall be located at the side or rear of the dwelling, or in the case of corner Lots on the inside portion of the Lot within the setback lines. Tree houses or platforms of the like kind or nature shall not be constructed on any part of the Lot located in front of the rear line of the residence constructed thereon. Skateboard ramps or equivalent structures shall not be permitted on any Lot.

Section 3.11. Fences, Walls, Etc, Restrictions on Fences

1. The maximum height on any fence shall be six (6) feet
2. Exposed chain link fences, metal fences, barbed wire fences and similar fences are PROHIBITED.
3. All fences shall be constructed with the supporting posts facing the inside of the lot. Supporting posts shall not be visible from the street or from neighboring property.

Interior Lots

Any and all fences shall not be constructed closer than ten (10) feet behind the front plane of the house that is the greatest distance from the front property line of the lot. (The front plane of the house will be parallel to the front property line of the lot.)

Corner Lots

1. Any and all fences shall not be constructed closer than ten (10) feet behind the front plane of the house that is the greatest distance from the front property line of the lot. (The front plane of the house will be parallel to the front property line of the lot.)

Side Yards

2. Side yards shall be deemed the same as front yards. No fence shall be constructed closer than the plane of the house that is the same distance from the side property line. Except, fences may be constructed on the same plane as the house but may not extend beyond this plane closer to the property line.

Section 3.12. Municipal Service Taxing Units.

Volusia County may require or permit the Declarant to form one or more municipal service taxing units for maintenance and operation of street lights to be installed on the Properties or maintenance of stormwater drainage and retention systems on the Properties. All Lots shall be encompassed within any such taxing unit which may be established and shall be subject to the restrictions, limitations and assessments as may be imposed upon the property within any such taxing unit. All Owners shall be bound by any agreement or resolution creating a taxing unit and all Owners shall join in and execute any instrument which may be required in connection with the establishment of such taxing unit.

Section 3.13. Swimming Pools.

Any swimming pool, tennis court and screening or fencing of either to be constructed on any lot shall be subject to the approval of and the requirements of the ARC, which shall include, but which shall not be limited to the following:

- (a) above-ground swimming pools shall not be allowed;
- (b) lighted tennis courts shall not be allowed;
- (c) materials, design and construction to meet standards. Generally accepted by the industry and shall comply with applicable governmental regulations; and
- (d) the location shall be approved by the ARC.

Section 3.14. Air Conditioning Equipment.

Heating and cooling of residences with systems of active or passive solar, wind, and other forms of energy other than gas or electric may be approved by the ARC. Components of such systems that are affixed to the exterior of a residence shall not be permitted unless the design thereof shall have first been approved by the ARC. Exterior components of any cooling or heating system (or a combination thereof) shall be substantially screened from view from the street fronting the residence.

Section 3.15. Transmission Facilities.

No radio or television signals nor any other form of electromagnetic radiation shall be permitted to originate from any Lot which interferes with the reception of television or radio received upon any other Lot.

Section 3.16. Maintenance of Lots.

No Lot shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All trash, garbage, and other waste shall be kept in sanitary containers except during pickup, if required to be placed on the curb. All containers shall be kept within an enclosure or underground receptacle which the ARC shall require to be constructed with each home, which enclosures shall be located out of sight from the front or side streets. There shall be no burning of trash or any other waste material, except within the confines of an incinerator, the design and location of which shall be approved by the ARC.

Section 3.17. Fuel Tanks.

No fuel tanks or similar storage receptacles may be exposed to view from front or side streets or adjacent properties, but may be installed within the main dwelling house, within a walled in or screened area, or buried underground, and shall be approved by the ARC prior to construction.

Section 3.18. Mailboxes.

All mailboxes shall meet the requirements of the United States Postal Service for multiple mailboxes and shall otherwise conform with the criteria of the Volusia County Traffic Engineer as to type of mailboxes allowed and the specific distance needed in the recovery area of the street system. No mailbox shall be permitted within any dedicated public right of way.

Section 3.19. Inoperative Vehicles and Repair.

No inoperative cars, trucks, trailers or other types of vehicles shall be allowed to remain on the Property for a period in excess of two (2) days. There shall be no major maintenance repair or restoration performed on any motor vehicle on or adjacent to any Lot in the Property; provided, however, such maintenance, repair or restoration may be done if solely within an enclosed garage. All vehicles shall have current license plates. Moreover, no stripped, unsightly, offensive, wrecked, junked, or dismantled vehicles or portions thereof, shall be parked, stored or located upon any Lot at any time.

After reasonable notice, any vehicle violating this rule will be towed, and the owner will bear all costs. If the owner refuses to pay, a lien will be placed on the property where the vehicle was parked, stored, or located.

Section 3.20. Rules and Regulations.

No Owner shall violate the rules and regulations for the use of the Lots and the Common Area, as the same are from time to time adopted by the Association. The prohibitions and restrictions contained in this Article shall be self-executing without implementation by further rules and regulations; provided, however, the foregoing shall not be construed as an implied prohibition preventing the Association from extending the scope of such prohibitions and restrictions from time to time by adopting further rules and regulations consistent with this Declaration.

Section 3.21 Sheds

A homeowner shall be permitted to have a yard shed that meets city, county and state building codes as long as it has been approved by the ARC. It may not be of steel construction and shall not be visible from the street.

ARTICLE IV - MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership.

Every Owner of a Lot shall be Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights.

The Association shall have one class of voting membership:

Members shall be all Owners, each of whom shall be entitled to one vote for each Lot owned. When more than one (1) 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 (1) vote be cast with respect to any Lot.

ARTICLE V - COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual, special and other assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date when the assessment became due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by such successor; provided, however, in no event shall assumption by a successor relieve the former Owner of any personal liability arising hereunder. In the case of co-

ownership of a Lot, all such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 5.2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of the Lots, their guests, lessees and business invitees; for the improvement, repair, replacement and maintenance of the Common Area and the improvements located thereon; for payment of all taxes assessed to the Association, if any, in respect to the Common Area, or the improvements or personal property thereon, or both; and, for the general purpose of enabling the Association to perform and fulfill its authorized or required rights, powers, duties and obligations.

Section 5.3. Annual Assessments.

The Association shall have the power to levy annual assessments against the Lots and the Owners thereof in the manner and for the purposes provided herein. The Association shall have the further right to require the payment of annual assessments in monthly, quarterly or semi-annual installments as the Association may deem necessary and appropriate.

Section 5.4. Maximum Annual Assessment.

The maximum annual assessment shall be \$240.00 per Lot, plus any amounts that may be assessed under Sections 5.5 or 5.6 of this Article V. The actual amount of the annual assessment shall be determined by the Board on an annual basis subject to the following:

- (a) The maximum annual assessment may be increased each year without a vote of the Members by an amount not more than fifteen percent (15%) over the maximum assessment for the preceding year.
- (b) The maximum annual assessment may be increased by more than the amount permitted pursuant to Subparagraph (a), above, by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.
- (c) The Board or Directors may fix the annual assessment at an amount not in excess of the amount set forth herein.

Section 5.5. Individual Assessments.

The Association may impose an individual assessment upon any Owner whose use or treatment of the Common Area, any lot or the improvements on any lot is not in conformity with the standards adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with such use restrictions imposed by this Declaration. The maximum amount of such assessment shall be equal to such cost incurred plus ten percent (10%) to cover the cost of administration and may be enforced in the manner provided for other assessments.

Section 5.6. 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, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.7. Notice and Quorum for Any Action Authorized Under Sects 5.4 and 5.6.

Written notice of any meeting called for the purpose of taking any action authorized under Section 5.4 or 5.6 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 first such meeting called, the presence of Members or of proxies entitled to cast majority of all the votes shall constitute a quorum.

Section 5.8. Uniform Rate of Assessment.

Both annual and special assessments shall be fixed at a uniform rate for all improved lots. For unimproved lots the rate of the annual or any special assessments shall be one half that of the rate for an improved lot.

Section 5.9. Initiation Assessment.

In addition to the annual, special and individual assessments provided for hereunder, the Association shall have the right to collect a one-time initiation assessment equal to the then applicable annual assessment rate. The initiation assessment shall be due from each Owner at such time as said Owner, other than the Declarant, shall purchase a Lot. The initiation assessment shall be due and payable only at the time of the conveyance of the Lot by the Declarant and shall not apply to subsequent conveyances of said Lot to subsequent Owners. At the time

of payment of the initiation assessment provided herein, the Owner shall likewise pay to the Association that portion of the Annual Assessment provided in Section 5.3 prorated from the date of purchase through the end of the then current calendar year.

Section 5.10. Date of Commencement of Assessments;

Due Dates. The annual assessments provided for herein shall commence as to all Lots on such date as shall be determined by the Board in conformity with the provisions of this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board 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 due dates of periodic installments shall be established by the Board. The Association shall, upon request, 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.

Section 5.11. Determination of Allocation of Assessments.

The number of Lots used for the calculation of the annual assessments shall be determined as of the ownership of record thirty (30) days prior to the commencement of the fiscal year of the Association and when so determined shall be controlling for the entire fiscal year.

Section 5.12. Effect on Nonpayment of Assessments: Remedies of the Association.

If any assessment is not paid on the date due as determined in the manner provided in this Article V then such assessment shall become delinquent and shall, together with accrued and accruing interest and costs of collection as herein provided, become due and payable and be a continuing lien on such Lot which shall bind such Lot and the then Owner. The Association may record a notice of lien for delinquent assessments in the Public Records of Volusia County, Florida, and foreclose the lien in the same manner as a mortgage. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments, interest and costs of collection accruing thereafter until satisfied of record. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, there being added to the amount of such assessment interest at the aforesaid rate and all costs of collection, including reasonable attorneys' fees incurred in connection therewith at trial and all appellate levels.

After a reasonable attempt to notify the homeowner, any homeowner more than 60 days past due in assessments shall not be permitted to cast any votes relative to association business or elections.

Section 5.13. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an Institutional Lender encumbering a Lot; provided, however, such subordination shall apply only to the assessments with respect to such Lot to the extent they have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure judgment or in any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from the liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. An Institutional Lender shall, upon request, be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days. Furthermore, the Association may provide such notice without receiving a request from an Institutional Lender.

Section 5.14. Reserves.

The Association shall include within the annual assessment amount (but not be limited by the matters for which reserves may be collected as hereafter stated), sums to be collected as reserves for replacement, repair and/or maintenance of the Surface Water Management System and other improvements situate upon or within the Common Area. Such reserve amounts will be based on a schedule approved and prepared by the Board on an annual basis and shall be based on the cost of the improvements and their estimated life, This section shall not abrogate, modify, amend or supersede the provisions of any other section of this Article.

ARTICLE VI - ARCHITECTURAL CONTROL

Section 6.1. Establishment of Architectural Review Committee.

There is hereby established an Architectural Review Committee the "ARC") which shall consist of three (3) or more persons appointed from time to time by the Board of Directors. Members of the ARC must be Members of the Association.

Section 6.2. ARC Authority.

The ARC shall have full authority to regulate the use and appearance the Property and all improvements constructed thereon to assure harmony of external design and location in relation to surrounding improvements and topography and to protect and preserve the value and desirability of the Property as a residential community. The power to regulate shall include the power to prohibit those exterior uses or activities deemed inconsistent with the provisions of this Declaration, or

contrary to the best interests or the Association in maintaining the value and desirability of the Property as a residential community, or both. The ARC shall have authority to adopt, promulgate, rescind, amend and revise rules and regulations in connection with the foregoing; provided, however, such rules and regulations shall be consistent with the provisions of this Declaration and, in the event the Board has not constituted itself as the ARC, such rules and regulations shall be approved by the Board prior to the same taking effect. Violations of the rules and regulations of the ARC shall be enforced by the Board, unless such enforcement authority is delegated to the ARC by resolution of the Board.

Section 6.3. ARC Approval.

No building, fence, wall, walk, dock, pool, sign, or enclosure or addition to any improvement located upon a Lot shall be constructed, erected, removed, or maintained nor shall any addition to, or any alteration thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of same shall have been submitted to, and approved in writing by the ARC. Any change in the exterior appearance of any improvement, including, without limitation, repainting in a different color, exterior refinishing, re-roofing, or addition of architectural details, decorative sculptures or wrought iron grills, construction of fences or other enclosures, shall likewise require written approval of the ARC before any such work is commenced. The ARC shall have the right to refuse approval of plans, specifications or locations upon any grounds, including purely aesthetic considerations, which the ARC, in its sole and absolute discretion, deems appropriate.

Section 6.4. Submissions of Plans and Specifications.

As part of the application process to the ARC, two (2) complete sets of plans and specifications prepared by an architect or other person found to be qualified by the ARC and two (2) site plans shall be submitted for approval by written application on such form as may be provided, required or approved by the ARC. In addition, the anticipated commencement date and estimated time for completion shall be included in the application to the ARC. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

Section 6.5. Standards.

No approval shall be given by the ARC pursuant to the provisions of this Article unless the ARC determines that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding improvements and topography within the Property; (ii) shall protect and conserve the value and desirability of the Property as a residential community; (iii) shall be consistent with the provisions of this Declaration; and, (iv) shall be in the best interests of the

Association in maintaining the value and desirability of the Property as a residential community. The ARC may deny any application upon the ground that the proposed alteration will create an undue burden of maintenance upon the Association. In the event, additional maintenance may be required, then the ARC shall require an agreed method of payment for such maintenance cost and require security for the payment of same. The ARC may condition the approval of any application upon the Owner providing reasonable security that the contemplated work will be completed substantially in accordance with the plans and specifications therefor submitted to the ARC.

Section 6.6. Drainage.

All plans submitted to the ARC shall contain a drainage plan which shall be consistent with the master drainage plan for the Property or, in the alternative, contain an affirmative statement that none of the work contemplated by the plans will have any effect on the drainage of the Lot. In all events, each Owner shall be and remain fully liable for any and all damage caused directly or indirectly by any change in the design or function of drainage on or from any Lot, or the grade of any Lot, in connection with the construction, installation or maintenance of any approved changes by the Owner. In the event of any change to the drainage design, function or grade, the Association may, but shall not be required to, restore the drainage design, function or grade and may charge the Owner for all reasonable costs incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of such Owner. In connection with any such restoration, the Association may exercise powers granted to it under Section 5.5 of Article V.

Section 6.7. Tree Planting.

All plans submitted to the ARC for approval of initial construction of improvements on a Lot shall include, in addition to the regular landscape plans, a plan for planting of at least two (2) additional trees on such Lot. The size of each such tree shall be not less than 30 gallon containerized stock at least two inches (2") DBH and shall be of such species as may be approved by the Volusia County Forester. The additional two (2) trees will be required notwithstanding the extent of existing vegetation on the Lot and shall be planted prior to issuance of the Certificate of Occupancy. The additional trees shall be planted and maintained in accordance with sound industry practices, including watering, and shall be replaced with equivalent stock if such trees expire within six (6) months from the date of planting. If the Owner fails or refuses to install or replace any such additional trees, the Association, upon thirty (30) days written notice and under general authority granted to it under Section 5.5 of Article V, shall have the right to replace such trees at the cost of the Owner of the Lot and shall be further entitled to charge such Owner an additional fee of \$500.00 to cover the administrative expense of such replacement.

Section 6.8. Completion.

All improvements for which approval of the ARC is required and has been obtained pursuant to the terms and provisions of this Declaration shall be completed within the time period specified in such approval. In the event the improvements are not completed within the required time, the Association may, thirty (30) days following written notice from the ARC to the Owner, complete such improvements at the sole expense of the Owner in accordance with the plans and specifications previously approved by the ARC and may charge the Owner for the expenses incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of the Owner. In connection with any such restoration, the Association may exercise powers granted to it of Section 5.5 of Article V.

Section 6.9. Right of Entry.

There is specifically reserved to the Association and the ARC, the right of entry and inspection upon any Lot for the purpose of determining and/or correcting the existence of any activity or condition which violates the terms of any approval given by the ARC or the terms of this Declaration. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to enforce the terms of this Declaration, or to remove any improvements which have not been approved by the ARC or have not been constructed in conformity with approval granted by the ARC, the prevailing party shall be entitled to recover all costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold the ARC and its members harmless from any and all costs, expenses and liabilities, including reasonable attorneys' fees, incurred by virtue of service as a member of the ARC.

Section 6.10. _____ Violations.

In each instance where improvements have been constructed, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration, including, activities carried out which are not consistent with plans and specifications approved by the ARC, the ARC (if it has knowledge of such violation) shall notify the Board in writing and the Board may thereafter direct the violating Owner to immediately remove any/or cure such violation. For purposes hereof, all Owners specifically consent and agree to comply with the provisions of this Section as of the time such Owner shall become vested with title to any portion of the Property.

Section 6.11. _____ Waivers.

The ARC shall have the right, but not the obligation, to grant waivers for minor deviations and infractions of the covenants, conditions and restrictions contained herein. The granting of any waiver may be given or withheld in the sole discretion of the ARC and any prior grant of a similar waiver shall not impose upon the ARC the duty to grant new or additional waivers for like or similar conditions.

Section 6.12. Disclaimer of Liability.

The Association, the ARC and all officers, employees, directors or members thereof shall in no way be liable to any person or persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of, or in connection with, the approval, disapproval or failure to approve any such plans and specifications. Each person who submits plans and specifications for approval agrees, by submission thereof, that it will not bring any action or suit whatsoever against the Association, the ARC, or any officer, employee, director or member thereof.

ARTICLE VII - ANNEXATION OF ADDITIONAL PROPERTY

Section 7.1. Annexation without Association Approval.

Section removed by vote of Association members at the June 2004 General meeting.

Section 7.2. When Association Approval Required.

Section removed by vote of Association members at the June 2004 General meeting.

ARTICLE VIII - RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 8.1. Maintenance.

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible of the exclusive management, control and maintenance of the Surface Water Management System, the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, substantial, attractive, and sanitary condition, order, and repair.

Section 8.2. Right of Entry.

The Association, through its employees, contractors and agents, is hereby granted a right of entry into and upon each Lot to the extent reasonably necessary to discharge the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration, including, the discharge of any duty of maintenance or replacement, or both, imposed upon any Owner. Such right to entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever the circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of the Owner or occupant thereof except when such entry is reasonably necessary for the immediate preservation or protection of the health or safety of any person lawfully upon the Property or of any such person's property. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by the foregoing Sections of this Article, provided such entry is upon reasonable notice at reasonable time, and in a peaceful and reasonable manner.

Section 8.3. Services of Association.

The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems appropriate and advisable, together with such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it may contract. The Association may obtain and pay for legal and accounting services' necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may obtain and pay for legal and accounting services' necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration within the budgetary constraints as outlined in the association by-laws.

Section 8.4. Services for Owners.

The Association may contract, or otherwise arrange, with any person or entity to furnish water, trash collection, sewer services, maintenance, replacement, and other common services to all Lots. Any Owner additionally may voluntarily contract with the Association for the Association to perform, or cause performance of, any services benefiting such Owner's Lot at the cost and expense of such Owner. All sums due the Association pursuant to such contact shall be added to and become a part of the assessment against such Owner's Lot. Notwithstanding the foregoing, the Association may not contract with any Owner to provide any service at such Owner's expense which it is the duty of the Association to provide at its own expense under any provision of this Declaration.

Section 8.5. Personal Property for Common Use.

The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

Section 8.6. Rules and Regulations.

The Association may from time to time adopt, alter, amend, and rescind rules and regulations further governing the use of the Lots and of the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

Section 8.7. Implied Rights.

The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles, or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege granted herein or reasonably necessary to effectuate the exercise of any right or privilege granted herein.

Section 8.8. Restriction on Capital Improvements.

Capital improvements to the Common Area shall require approval of the Board.

ARTICLE IX - RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 9.1. Damage to Common Area.

In the event that any portion of the Common Area is damaged or destroyed by casualty, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction. Repair or reconstruction of the Common Area shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds are insufficient, the deficit shall be assessed against all Owners as a special assessment.

If there is a surplus of insurance proceeds, it shall become the property of the Association.

Section 9.2. Damage to the Lots.

In the event of damage or destruction to any portion of the improvements on a Lot, the improvements shall be repaired or restored in accordance with the provisions of the applicable insurance requirements. In the event the Owner is unable to rebuild the improvements on the Lot, such Owner shall clear the debris and have the Lot leveled and restored within sixty (60) days from the date of destruction or damages.

ARTICLE X - GENERAL PROVISIONS

Section 10.1. Enforcement.

The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by, or pursuant to, the provisions of

this Declaration; and the party enforcing the same shall have the right to recover all costs and expenses incurred, including reasonable attorneys' fees. In the event the Association enforces the provisions hereof against any Owner, the costs and expenses of such enforcement, including reasonable attorneys' fees, may be assessed against such Owner's Lot as a special assessment pursuant to the provisions hereof. Failure by the association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so at any time. If these restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the costs and expenses incurred, including reasonable attorneys' fees, in the discretion of the Board.

In addition to the foregoing, the St. Johns River Water Management District shall have the right to enforce, by proceedings at law or in equity, the provisions contained in the Declaration as they may relate to the maintenance, operation and repair of the Surface Water Management System.

Section 10.2. Severability.

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

Section 10.3. Duration and Term.

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended and renewed for successive ten (10) year periods.

Section 10.4. Amendment.

This Declaration may be amended by the affirmative vote of seventy-five percent (75%) of the Members present at any meeting at which a quorum is present as provided the By-Laws when written notice of such meeting specifies the proposed amendment and amendments to be considered at such meeting. If an amendment is approved by the Members in the foregoing manner, the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date thereof, the date of the meeting of the Association at which such amendment was adopted, the date upon which notice of such meeting was given, the number of votes required to constitute a quorum at such meeting, the number of votes necessary to adopt the

amendment, the total number of votes cast in favor of the amendment, and the total numbers of votes cast against the amendment.

Anything contained herein to the contrary notwithstanding, any amendment to this Declaration, which would tend to alter or affect the Surface Water Management System shall require prior written approval of the St. Johns River Water Management District.

All amendments to this Declaration shall be recorded in the Public Records of Volusia County, Florida.

Section 10.5. FHA/VA Approval.

Section removed by vote of Association members at the June 2004 General meeting.

Section 10.6. Effect of Recording.

Any Lot situated within the Property shall be deemed to be "subject to assessment", as such term is used in this Declaration, the Articles or the By-Laws, upon recording of this Declaration; and, any Additional Property annexed pursuant to the provisions hereof shall be deemed "subject to assessment" upon recording of the appropriate supplement or amendment to this Declaration annexing the same.

CERTIFICATION

The undersigned, the duly elected President and Secretary of DEBARY WOODS HOMEOWNERS ASSOCIATION, INC., do hereby certify that the foregoing Covenants constitute the Amended Covenants of said Association, as duly adopted at the general meeting of the Association, held on June 16, 2004.

Section 4 of the By-Laws requires a quorum of at least 10% of 95 eligible homeowners (10). Thirty-two members were represented (Twenty-five (25) in person, seven (7) by proxy). For director election purposes or by-laws amendment changes, 50% of those present in person or by proxy must vote in favor. For Covenants changes, 75% must vote in favor.

To pass a by-laws change or elect a director at this meeting, sixteen (16) members must vote in favor. To amend a covenant, twenty-five (25) must vote in favor. Blank ballots are NO votes.

All Covenants and by-laws amendments passed with a minimum of 27 favorable votes.

Wayne Steele
President DeBary Woods Homeowners Association

Allan J. Trucano
Secretary DeBary Woods Homeowners Association