

to the person. This provision is self-executing, and the Association may also take any action desired to carry out its purposes.

ARTICLE VIII ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Submitted Property, hereby covenants, and 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: (i) annual assessments or charges, hereinafter referred to as "Annual Assessments", (ii) special assessments for capital improvements, hereinafter referred to as "Special Assessments", (iii) specific assessment for accrued liquidated indebtedness to the Association hereinafter referred to as "Specific Assessments," and (iv) assessments for property taxes on the Common Area, which assessments are established and shall be collected as hereinafter provided. The Annual, Special and Specific Assessments, hereinafter collectively referred to as "Assessments", together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made. The Assessments, together with interest, costs, and reasonable attorney's fees and paralegal fees together with any sales or use tax thereon, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessments became due. However, the personal obligation of an Owner for delinquent Assessments shall not pass to said Owner's successors in title unless expressly assumed in writing by such successor.

Section 3. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of carrying out the rights and obligations of the Association as defined in this Declaration, including but not limited to Lot maintenance, acquisition, management, insurance, improvement, restoration, renovation, reconstruction, replacement, and maintenance of the Common Area; the maintenance of a reserve fund for the replacement of roads, sidewalks, shingles, painting, parking areas, mail kiosk(s), a tot lot, a pool and cabana and any other recreation area improvements to any property which is the Association's obligation to repair, maintain, or replace as set forth in this Declaration; the enforcement of the Declaration and Association Documents; the enforcement of design standards of the Architectural Control Committee; the payment of operating costs and expenses of the Association; the operation of the entry gate; and the payment of all principal and interest when due and all debts owed by the Association.

Section 4. Annual Assessment. The Annual Assessment shall be used to promote the recreation, health, safety and welfare of the residents within the Property,

including (i) the operation, management, maintenance, repair, servicing, security, renewal, replacement and improvements of the Common Area and water management system, operating the entry gate, exterior maintenance of Lots referred to in Article II, Section 11 hereof, and those other responsibilities of the Association as outlined herein, and (ii) all other general activities and expenses of the Association, including the enforcement of this Declaration.

Section 5. Maximum Annual Assessment. The initial Annual Assessment shall be fixed by the Board of Directors. Thereafter, at least thirty (30) days before the expiration of each calendar year, the Board will adopt a budget for the next year. The adopted budget will be mailed to any Owner within ten (10) days after written request for a copy. If such budget requires an Annual Assessment of not more than one hundred fifteen percent (115%) of the Annual Assessment then in effect, the Annual Assessments in accordance with the approved budget will take effect on January 1 of the year immediately following the conveyance of the first Lot to an Owner without further notice to any Owner. If such budget requires an Annual Assessment that is more than one hundred fifteen percent (115%) of the Annual Assessment then in effect however, the Board shall call a membership meeting for approval of the budget. In computing the applicable percentage of the new Annual Assessment for the above determination, any increase due to an increase in utility charges for the Common Areas, insurance premiums, or cable television charges, if any, shall not be included, but shall be automatically passed on as part of the Annual Assessment. Two thirds (2/3) of each class of those Members voting in person or by proxy and authorized to vote and voting at a meeting at which a quorum is present is sufficient for such approval, and the Annual Assessment approved will take effect at the commencement of the next ensuing fiscal year without notice to any Owner. If the proposed Annual Assessment is disapproved, two thirds (2/3) of each class of the Members present who are authorized to vote and voting will determine the Annual Assessment for the next fiscal year, which may be any amount not exceeding that stated in the meeting notice. Each Annual Assessment may be payable in such number of installments, with or without interest, as the Board determines. In the absence of any valid action by the Board or the membership to the contrary prior to the commencement of any fiscal year, the Annual Assessment then in effect will automatically continue for the ensuing fiscal year, increased only by any increase in utility charges, insurance premiums and cable fees. The Board may increase the Annual Assessment at any time during the year to provide for an increase in utility charges, insurance premiums or cable fees (if any) for the Common Area.

Section 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, as limited by the provisions of Section 6 of Article VIII. Any such Special Assessment may be payable in one or more installments, with or without interest, as determined at the meeting.

Section 7. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration, or by contract, express or implied, or because of any act or omission of any Owner or person for whose conduct such Owner is legally responsible, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay such indebtedness within thirty (30) days after written demand. This shall include fines levied pursuant to Chapter 720, Florida Statutes, for the actions of any Owner, or guest, invitee, or family member of such Owner. This shall also include charges for maintenance and replacement of any additional landscaping installed by or at the direction of such Owner on such Owner's Lot.

Section 8. Property Taxes. Because the interest of each Owner in the Common Area is an interest in real property appurtenant to each Lot, and because no person other than an Owner has the right to the beneficial use and enjoyment of the Common Area, Declarant intends that the value of the interest of each Owner in the Common Area entitled to its use be included in the assessment of each Lot for local property tax purposes. Declarant further intends that any assessment for such purposes against the Common Area shall be for a nominal amount only, reflecting that the full value thereof is included in the several assessments of the various Lots. If the local taxing authorities refuse to so assess the Common Area with the result that local real property taxes in any given year are assessed to the Association with respect to the Common Area in excess of Five Hundred and No/100 Dollars (\$500.00), and in the event the Annual Assessment does not include any such excess property taxes on the Common Area, then the amount of such excess may be specially assessed by the Board of Directors in its discretion in the following manner: the amount of such excess with respect to the Common Area shall be divided by the number of Lots within the Submitted Property and the quotient shall be the amount of such special assessment which may be payable in a lump sum within thirty (30) days after notice or may be amortized without interest over such number of months as the Board deems advisable. Each year the Board shall determine whether such assessment shall be levied, and its amount, within forty-five (45) days after receiving notice of the amount of taxes due.

Section 9. Notice for Any Action Authorized Under Article VIII. Written notice of any meeting called for the purpose of taking action authorized to increase the Annual Assessment shall be sent to all Members authorized to vote, not less than 10 days nor more than 30 days, in advance of the meeting; and for all other Assessments

notice shall be sent to all Members authorized to vote, not less than 5 days nor more than 10 days in advance of the meeting.

Section 10. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots. Westfield Homes of Florida, so long as it is a Class B Member, shall be excused from the payment of Annual Assessments during such period of time as it contributes to the Association such amounts as are necessary to fund any difference between the Association's operating expenses (exclusive of reserves) and the Annual Assessments collected from Owners other than Declarant. The share of each Lot in payment of the assessments for common expenses shall be a fraction the numerator of which is one and the denominator is the total number of Lots subject to assessment under this Declaration. This fraction will change if additional land is added to the Submitted Property.

Section 11. Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all sums collected in such year by way of Annual Assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

Section 12. Date of Commencement. The Annual Assessments provided for herein shall commence as to all Lots as of the first day of the month following the recording of this Declaration.

Section 13. Certificate as to Status of Payment. Upon written request of an Owner, the Association shall, within a reasonable period of time, issue a certificate to that Owner giving the status of all Assessments, including penalties, interest and costs, if any, which have accrued to the date of the certificate. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided shall be conclusive and binding with regard to any matter therein stated. Notwithstanding any other provision of this Section, a bona fide purchaser of a Lot from an Owner to whom such a certificate has been issued shall not be liable for any Assessments that became due before the date of the certificate which Assessments have not been reflected in the certificate, and the Lot acquired by such a purchaser shall be free of the lien created by this Article to the extent any such Assessment is not so reflected.

Section 14. Assessment Lien. All sums assessed to any Lot, together with interest and all costs and expenses of collection (including reasonable attorneys, fees and

paralegal fees, including those for trial and all appellate proceedings, plus any applicable sales or use tax thereon), are secured by a continuing lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any first mortgage encumbering such Lot, as provided herein; but all other persons acquiring liens on any Lot, after this Declaration is recorded, are deemed to consent that such liens are inferior to the lien established by this Declaration whether or not such consent is set forth in the instrument creating such lien. The recording of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority. The Association from time to time may, but is not required to, record a notice of lien against any Lot to further evidence the lien established by this Declaration.

Section 15. Effect of Nonpayment of Assessments: Any Assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum or at such rate as the Board may from time to time establish provided, however, that in no event shall the Association have the power to establish a rate of interest in violation of the law of the State of Florida. Any delinquent payment shall also be subject to a late fee of Twenty-Five Dollars (\$25.00). The Board may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Submitted Property involved. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the Association's lien or its priority. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 16. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect an Assessment lien, except the sale or transfer of any Lot pursuant to the foreclosure of a first mortgage or any proceeding or conveyance in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer, without prejudice however, to the Association's right to collect such amounts from the Owner personally liable for their payment. No sale or transfer upon foreclosure shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. Any lien holder on a Lot may pay, but is not required to pay, any amount secured by the lien created by this Article; and such encumbrancer then will subrogate to all rights of the Association with respect to such lien, including priority, to the extent of such payment.

Section 17. Initial Assessment for Capital Contribution. At the first closing of a completed dwelling unit subject to this Declaration (and only at such first closing) the Declarant may collect, on behalf of the Association, a one-time contribution to the

working capital of the Association. The amount of the contribution shall be as determined by the Declarant from time to time. This contribution shall be considered a Specific Assessment as described in Section 6 of this Article.

Section 18. Homesteads. By acceptance of a conveyance of title to any Lot, each Owner is deemed to acknowledge conclusively that (i) the assessments established by this Article are for the improvement and maintenance of any homestead thereon; (ii) the Association's lien for such assessments has priority over any such homestead; and (iii) such Owners irrevocably waive the benefit of any homestead exemption otherwise available with respect to all amounts validly secured by such lien.

Section 19. Exemption of McInturf from Assessments. Notwithstanding anything herein to the contrary, McInturf shall be exempt from paying any and all Assessments established by this Article during the period of time that McInturf owns any of the Lots subject to this Declaration unless and until such time that all of the rights, powers and privileges of Declarant as the "Declarant" under this Declaration are assigned to McInturf by the recording of an Assignment of Declarant's Rights in the public records of Hillsborough County, Florida.

ARTICLE IX

PARTY WALLS, ROOFS, AND UTILITY CONNECTIONS

Section 1. General Rules of Law to Apply. Each wall built as a part of any residential structure within the Submitted Property and placed on the dividing line between Lots and the roofs between Lots for attached units are considered to be a party wall or roof as the case may be. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage caused by negligence or willful acts or commissions apply to the ownership, maintenance and use of such walls and roofs.

Section 2. Use of Party Walls. Each Owner shall maintain his or her own Lot, including all boundary walls and fences (if any), walkways and balconies, in good repair. Those walls, structures, or fences, which may be constructed between two adjoining Lots and are to be shared by the Owners of said adjoining Lots are to be known as and are hereby declared to be "Party Walls". The centerline of a Party Wall is the common boundary of the adjoining Lot. The cost of maintaining each side of a Party Wall shall be borne by the Lot Owner using said side, except as otherwise provided herein. Each adjoining owner of a Party Wall, his heirs, successors, and assigns shall have the right to use same jointly with the other party to said Wall as herein set forth. The term "use" shall and does include normal interior usage such as paneling, plastering, decoration, erection of tangent walls and shelving but prohibits any form of alteration which would