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4212274 OR: 4394 PG: 2097  
RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
09/18/2008 at 08:17AM DWIGHT E. BROCK, CLERK  
RBC FEB 817.50  
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**AMENDED AND RESTATED DECLARATION  
OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BRIARWOOD**

On May 5, 1983, the original Declaration of Master Covenants, Conditions and Restrictions of Briarwood, was recorded in Official Record Book 1593, at Page 2360 *et seq.*, of the Official Records of Collier County, Florida. That Declaration is hereby amended in part and is restated in its entirety.

**1. SUBMISSION STATEMENT.** This Amended and Restated Master Declaration of Covenants, Conditions and Restrictions is made by Briarwood Property Association, Inc., a Florida corporation not for profit. The real property subject to this Declaration is legally described in Exhibit "A" to the original Declaration, as amended to include additional lands. That Exhibit and the Exhibits to all subsequent submissions are hereby incorporated by reference.

The covenants and restrictions contained in this Declaration run with the land and are binding upon, and inure to the benefit of, all present and future Owners of Lots. The acquisition of any ownership interest in the real property, or the lease, occupancy, or use of any portion of a Lot or Living Unit, constitutes an acceptance and ratification by the Owner of all provisions of this Declaration, as it may be amended from time to time, and an agreement to bound by its terms.

**2. DEFINITIONS.** Certain words and phrases, as used in this Declaration and its recorded exhibits, are intended to have the meanings stated in this Section, unless the context clearly requires another interpretation.

**2.1 "Bella Lago"** means Lots 2 through 35, Block A, as shown on the Plat of Briarwood Unit Eleven, as recorded in Plat Book 43, Page 1, of the Public Records of Collier County, Florida.

**2.2 "Bella Lago Association"** means Bella Lago and Sereno at Briarwood Homeowners' Association, Inc., a Florida corporation not for profit.

**2.3 "Board"** means the Board of Directors of the Master Association.

**2.4 “Builder”** means a builder, contractor or other party who from time to time, purchases real property from Declarant to construct improvements thereon for resale.

**2.5 “Building Envelope”** means the area of a Lot that is within the building set back as established by Collier County, Florida.

**2.6 “Common Areas”** means any and all parts of the Properties legally described in Exhibit “A” to the Declaration and contained in the Plat attached as Exhibit “B” that are not included in a Lot, including any improvements thereon, if any; any real property acquired by the Master Association and committed to this Declaration; and any personal property acquired by the Master Association.

**2.7 “Condominium Association”** means the association responsible for the maintenance and operation of a Condominium Property within Briarwood.

**2.8 “Condominium Property”** means any Lot that has been submitted to the condominium form of ownership. More specifically Dover Parc and Dover Place as of the time of this restatement.

**2.9 “Declarant” or “Developer”** means the Developer, which is Briarwood Development Corporation, a Florida Corporation, and its successors and/or assigns.

**2.10 “Dover Parc”** means Dover Parc, a Condominium, according to the Declaration of Condominium thereof recorded at O.R. Book 1941, Page 0149, in the Public Records of Collier County, Florida.

**2.11 “Dover Place”** means Dover Place, a Condominium, according to the Declaration of Condominium thereof recorded at O.R. Book 2495, Page 2880, in the Public Records of Collier County, Florida.

**2.12 “Family” or “Single Family”** shall refer to any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

**2.13 “Guest”** is a person who is physically present in a Lot on a temporary basis at the invitation of the Owner, or tenant, or other legally permitted occupant, without paying anything of value for the privilege.

**2.14 “Improvement”** means all structures of any kind, including, without limitation, any building, wall, paving, grading, parking and building addition, site or other structure alteration, screen enclosure, water distribution lines, decorative enhancements, recreation facility, landscaping, exterior lighting, berming, mounding, or landscape device or object.

**2.15** "**Lease**" means the grant by an Owner to another person of a right to use the Owner's Lot as a temporary residence for valuable consideration.

**2.16** "**Lot**" means and refer to any single family lot or multi-family parcel on the plats of the Properties as the same exist from time to time including any and all improvements thereon.

**2.17** "**Maintenance**" means the exercise of reasonable care to keep buildings, driveways, landscaping, lighting, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a healthy, weed free environment or optimum plant growth, and retaining such landscaping in an orderly aesthetic manner.

**2.18** "**Master Association**" means Briarwood Property Owner's Association, Inc., a Florida corporation not for profit.

**2.19** "**Master Common Areas**" means the common areas in Briarwood as set forth in the Master Covenants.

**2.20** "**Master Declaration**" or "**Master Declaration of Covenants**" means this Amended and Restated Master Declaration of Covenants, Conditions and Restrictions of Briarwood, as amended from time to time.

**2.21** "**Master Governing Documents**" or "**Governing Documents**" means the Master Declaration, Articles of Incorporation, Bylaws Architectural/Aesthetic Guidelines and Standards and Rules and Regulations, all as may be amended from time to time. If there is an irreconcilable conflict between provisions in any two or more of these documents, the first document to appear in the foregoing list shall prevail over all others.

**2.22** "**Neighborhood Association**" means any condominium or homeowners association that manages or operates a property within Briarwood that is subject to a subordinate Declaration.

**2.23** "**Neighborhood Property**" means any portion of the Property that is subject to further regulation by a subordinate Declaration. Neighborhood Property shall include, but not be limited to Dover Parc, Dover Place, Belle Lago and Sereno at Briarwood and any other property that may subsequently be subjected to a subordinate Declaration.

**2.24** "**Occupy**" when used in connection with a Residence, means the act of residing in the unit on two (2) or more consecutive days and the intervening night. An "**Occupant**" is one who occupies a unit. "**Occupy**" means the act of being an occupant.

**2.25** "**Owner**" or "**Member**" means a record Owner of legal title to a Unit.

**2.26** "**Plat or Plats**" means the various Plats for the lands within Briarwood which are listed below and a copy of which is attached hereto as Composite Exhibit "B".

**2.27** "**Primary Occupant**" means one natural person approved for occupancy of a Lot, when record legal title to the Lot is held in the name of more than two persons, or in trust, or by a partnership, corporation or other entity which is not a natural person, as provided in Section 14.1(D) below.

**2.28 “Property” or “Properties”** means all the real property which is subject to this Declaration, including Common Areas and Lots.

**2.29 “PUD” or “Briarwood PUD”** means Collier County Ordinance No. 89-36 establishing a Planned Unit Development zoning classification, duly adopted by the Board of County Commissioners of Collier County, Florida, as amended from time to time.

**2.30 “Residence”** means the residential structures constructed on the Lots, each intended for use and occupancy as a residence for a single family.

**2.31 “Rules and Regulations”** means the administrative rules and regulations governing the use of the Common Areas and procedures for administering the Master Association, as adopted or amended by resolution of the Board of Directors.

**2.32 “Sereno Neighborhood”** means Lots 2 through 39, Block B, as shown on the Plat of Briarwood Unit Eleven, as recorded in Plat Book 43, Page 1, of the Public Records of Collier County, Florida.

**2.33 “Service Charge”** means a charge levied against one or more Lots or Units for any service, material or combination thereof which may be provided by the Master Association for the benefit of the Lot Owners, such as contracting for repairs, services or materials. Amounts paid or debt incurred by the Master Association on behalf of the Lot Owners receiving the repairs, services, materials or maintenance shall be passed on in the form of a service charge against the Lots so benefitted. The Owner(s) are deemed to have agreed to pay the charge by subscribing, requesting, or accepting the benefits of the materials or service.

**2.34 “Turnover”** means the time at which Owners, other than the Declarant, assume control of the Master Association.

**2.35 “Unit”** shall mean the following:

**(A) “Single-Family Unit”** means collectively a Lot and any dwelling, structure or other improvement thereon, and in the event that the Lot is subjected to the condominium form of ownership, then it shall mean the condominium unit. Each Lot and building which is intended for use as a residence shall be considered a separate unit. (For example, if a residence is constructed on two adjoining Lots, then the combined shall still be considered two Units.)

**(B) “Multi-Family Unit”** means collectively the condominium unit and the undivided share of the common elements and common surplus appurtenant thereto. Each condominium unit shall be considered a separate unit.

**2.35 “Voting Interests”** refers to the arrangement for voting by the members established in the Articles of Incorporation and the Bylaws, provided that each Owner has one (1) indivisible vote, which may be cast as provided in the Bylaws when a vote of the members on Master Association matters is required or permitted. The total number of voting interests shall equal the total number of Units in Briarwood plus the total number of votes that may be cast by the Declarant until Turnover.

**2.36 "Water Management System"** shall mean and refer to lakes, ditches, culverts, lines, and constructed surface and/or underground systems and facilities for the drainage and/or storage of surface water. Said Water Management System may be entirely located upon the Property, but may also be comprised of public and private easements located outside of the Property, if those facilities service all or some portion of the Property on an exclusive or non-exclusive basis.

### **3. APPURTENANCES; GENERAL PROPERTY RIGHTS; DURATION OF COVENANTS.**

**3.1 Appurtenances To The Lots.** The Owner of each Unit has certain rights and obligations that are appurtenant to the Unit, and cannot be changed or taken away from the Owner of the Unit without his consent and that of any person holding a lien on the Unit, including without limitation the following:

(A) Membership in the Master Association and the right to cast one (1) indivisible vote in Master Association affairs (except that Declarant has one (1) vote for each Unit subject to the Declaration, plus one (1) vote, as set forth in Section 5.7(C) herein), which rights shall be acquired and exercised as provided herein, and in the Articles of Incorporation and the Bylaws of the Master Association.

(B) The exclusive right to use the Unit or Lot, subject to the restrictions imposed herein.

(C) The non-exclusive right to use the Common Areas for the purposes for which they are intended and reasonably suited, subject to the rules of the Master Association, and to all restrictions and limitations imposed in the Master Governing Documents, as amended from time to time.

(D) Beneficial ownership of an undivided share of the assets and common surplus of the Master Association equal to the Owner's proportional share of liability for the assessments for common expenses levied by the Master Association. The ownership of an undivided share of the assets and common surplus does not entitle any Owner to a distribution.

(E) Membership in the Master Association together with the rights and obligations pertaining to such membership, such as the non-exclusive use of the Master Common Areas.

(F) Other appurtenances expressly created in the Master Governing Documents.

The appurtenances to a Lot automatically pass with the title to the Unit, whether separately described or not, and cannot be separated from the title to the Unit, or assigned, pledged or transferred, except with legal title to the Unit.

**3.2 Use And Enjoyment Of Lots And Common Areas.** An Owner is entitled to exclusive use and possession of his Lot subject to the Governing Documents and Master Governing Documents. He is entitled to non-exclusive use of the Common Areas for their intended purposes, but no use of any Unit or Common Area may unreasonably interfere with the property rights of other Owners or residents. The Owners rights under this Section are subject to:

(A) The right and duty of the Master Association to levy assessments for common expenses against the Units for the upkeep, maintenance, repair or betterment of the Common Areas and improvements thereon, and for the costs of operating the Master Association.

(B) The right of the Master Association, by resolution of the Board of Directors, to dedicate or transfer or grant easements on, over, under, across or through any part of the Common Areas to any public agency, authority, or utility, for such purposes, and subject to such conditions, as may be determined by the Board. No such easement or the permitted uses of the easement shall materially interfere with the rights of the Owners to use the Common Areas.

(C) Reasonable rules and regulations by the Master Association, which rules and regulations may limit the number, frequency and duration of uses by all persons who are not the Owner, the Owner's lawful spouse, or the child of the Owner still residing with the Owner.

**3.3 Common Areas.** The Common Areas shall be those areas specifically designated by Declarant as exclusively or primarily for use by Owners. Additional residential property and Common Areas may be annexed to the Property by amending Exhibit "A" and the relevant provisions of this Declaration, by the Declarant alone prior to Turnover and with the consent of at least a majority of the voting interests subsequent to Turnover. No more than ninety (90) days following Turnover the Declarant shall convey and transfer (or cause to be conveyed or transferred) to the Master Association, and the Master Association shall accept, all of the Common Areas, if any.

THE MASTER ASSOCIATION SHALL ACCEPT "WHERE IS, AS IS" THE CONVEYANCE OF SUCH COMMON AREAS WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OR MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATIONS TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH COMMON AREAS, EXCEPT AS SET FORTH HEREIN, BY ACCEPTANCE OF AN INTEREST IN ANY COMMON AREAS OR THE DEED TO ANY LOT OR PORTION OF A LOT, THE MASTER ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANT THAT ANY CLAIM SHALL BE MADE BY THE MASTER ASSOCIATION OR ANY OWNER RELATING TO THE CONDITION, OR COMPLETENESS OF COMMON AREAS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM. ALL COSTS AND EXPENSES OF ANY CONVEYANCE OF ANY PROPERTY BY DECLARANT TO THE MASTER ASSOCIATION SHALL BE PAID FOR BY THE MASTER ASSOCIATION.

**3.4 Partition, Separation Of Interests.** There shall be no judicial partition of the Common Areas, except as expressly provided elsewhere herein, nor shall any Owner or any other person acquiring any interest in the Master Association, or any part thereof, seek judicial partition thereof. Nothing herein is intended to prevent judicial partition of any Lot or Unit owned in contingency. The ownership of a Lot, and ownership of the Residence or Condominium Unit constructed thereon, may not, however, be separated or separately conveyed, nor may any person who is not an Owner of at least one Unit hold membership in the Master Association.

**3.5 Water Management System.** The Water Management System shall be for the use and benefit of all lands that are now or hereafter a part of the Property. The Water Management System may, if Declarant so elects, service other lands that do not form a part of the Property; or, at Declarant's election, may need the service of other lands outside of the Property, for which the Master Association may pay a fee. Each Owner, the Master Association and Declarant shall have a perpetual, non-exclusive easement, right, license and servitude to use the Water Management System. Declarant, (with the consent of the owner of the fee underlying any part of the Water Management System), or Master Association may reconfigure such parts of the Water Management System with the consent of the Declarant, provided same is then in accordance with sound engineering practices and governmental approvals. In such event, the perpetual non-exclusive drainage easement rights of Declarant, Master Association and all Owners shall, without necessity of additional written documentation, be transferred from the previously existing Water Management System to the revised system. Declarant may dedicate to any applicable governmental agency or authority, all or any part of the drainage lines, structures and facilities which are part of the Water Management System. Declarant, or others with consent of Declarant, may execute such instruments as may be necessary or desirable to effect such dedication without the joinder or consent of the Master Association, any Owner, or the holder of any mortgage or other lien on any Parcel. The South Florida Water Management District has the right to take enforcement action, including a civil action for an injunction and penalties against the Master Association to compel it to correct any outstanding problems with the Water Management System or in any mitigation or conservation areas under the responsibility or control of the Master Association. All costs associated with the operation, maintenance, repair, replacement and monitoring of the Water Management System, including all monitoring, administrative, and implementation expense required and resulting from a condition of any and all development permits including, but not limited to, maintenance of all conservation and preserve tracts and easements, compliance with all development permit conditions, compliance with all animal and vegetation management plans approved pursuant to development permit approvals, and compliance with all South Florida Water Management District and United States Army Corps of Engineers, or County requirements, or those of any successor agencies, shall be an expense to be allocated among all Units.

**3.6 Duration of Covenants.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Master Association, the Declarant and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period to expire on the 30th anniversary of the date of recordation of this Declaration (as amended to that date by the Declarant or the Members as provided elsewhere herein). Upon the expiration of the initial period, this Declaration shall be automatically renewed and extended for successive 10-year periods. The number of 10-year renewal periods hereunder shall be unlimited, with this Declaration being renewed and extended upon the expiration of each 10-year renewal period for an additional 10-year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent 10-year renewal period, 90% of the entire membership, at a duly held meeting of the Members, vote in favor of terminating this Declaration at the end of its then current term (provided that no such termination shall be effective without Declarant's prior written consent, which consent may be denied in Declarant's discretion). It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least 45 days in advance of said meeting. If the members vote to terminate this Declaration, the President and Secretary of the Master Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Master Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the

facts contained therein as they relate to the termination of this Declaration. In the event of termination of this Declaration or the dissolution of the Master Association, the responsibility for the operation and maintenance of the Property, including the Common Area and any property or easements and related improvements that are dedicated to the Master Association by plat or other instrument, shall be transferred to and accepted by a not-for-profit corporation that is acceptable to any applicable governmental authorities, prior to such termination or dissolution. Nothing contained in this Section 3.5 shall be construed to restrict the right of the Declarant or the Members to amend this Declaration pursuant to Section 15 herein. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association and by any Owner, their respective legal representatives, heirs, successors and assigns in perpetuity.

**3.7 Neighborhood Associations.** So long as Declarant owns land in Briarwood for development, or for sale in the ordinary course of business, Declarant has the right and the power to amend the specific provisions of this Declaration insofar as they apply to one or more Neighborhoods without amending those provisions with respect to all Neighborhoods and to supplement this Declaration by recording separate covenants, conditions, restrictions, and other provisions applying to any specific Neighborhood. Such amendments or separate instruments may or may not create homeowners or condominium associations or other entities other than the Master Association.

**4. EASEMENTS.** Together with any easements appearing on the Plat and in the Public Records of Collier County, each of the following easements and easement rights is a covenant running with the land, and notwithstanding any other provision of this Declaration, may not be revoked and shall survive the exclusion of any land from the Master Association. Any lien encumbering these easements is automatically subordinate to the rights of the Owners with respect to such easements. Each Lot is subject to an easement in favor of all other parts of the Master Association for the location of utilities, for surface water drainage, for lateral and adjacent support, and for the use, maintenance, repair and replacement of party walls, and shared structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving the Master Association. The parts of the Common Areas not used for walkways, private streets, sidewalks or driveways shall be for the common use and enjoyment of the Owners, and each Owner has a permanent and perpetual easement for the use and enjoyment of such lands as common open space, subject to recorded restrictions and rules of the Master Association.

**4.1 Utility And Other Easements.** The Master Association has the power, without the joinder of any Owner, to grant, modify or move easements such as water, sewer, electric, gas, cable television, waste pickup and hauling, and/or other utility, service or access easements, and to relocated any existing easements in any portion of the Master Association, as the Master Association shall deem necessary or desirable for the proper operation and maintenance of the Master Association. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots. The Master Association may also transfer title to utility-related equipment or installations, and take any other action reasonably necessary to satisfy the requirements of any utility company service provider, or governmental agency to which any such utility-related equipment or installations are to be so transferred.

**4.2 Ingress and Egress.** A non-exclusive easement exists in favor of each Owner and occupant, and their respective guests, tenants, contractors, licensees and invitees for pedestrian traffic over, through, and across the sidewalks, streets, paths, walks, and other portions of the Common Areas intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across any parts of the Common Areas that are or may be paved or intended for such purposes, to provide ingress from and egress to the public ways. There shall also exist easements of access to all private streets within the Properties to Collier County for the use of the county personnel and equipment on county business.

**4.3 Drainage.** A perpetual, non-exclusive easement exists in favor of the Master Association and its employees, agents, contractors or other designees for the use of drainage areas established throughout the Properties, and an easement for ingress, egress, and access to enter any portion of the Properties in order to construct, maintain or repair, as necessary, any drainage areas and improvements thereon specifically including, without limitation, access over and across portions of the Common Areas by utility companies. No structure, landscaping, or other material shall be placed or permitted to remain which may damage or interfere with or the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage areas or otherwise interfere with the Water Management System, any easement provided for in this Section or the use rights set forth elsewhere in the Governing Documents.

**4.4 Encroachment.** There shall exist a reciprocal appurtenant easements between adjacent Lots and between each Lot and any portion or portions of the Common Areas adjacent thereto for any encroachment due to the unwillful placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon, provided such construction, reconstruction, or alteration was completed in accordance with this Declaration. Such easement shall exist to a distance of not more than one (1) foot as measured from any point on the relevant common boundary, along a line perpendicular to such boundary at such point. No easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of an Owner.

**4.5 Other Easements or Use Rights.** It is declared that all owners of property within the Briarwood PUD, whether or not such property is subjected to this Declaration, shall have the right to use the road right of ways, drainage easements, utility easements, and recreation areas dedicated to the Master Association, in accordance with that certain Cross Easement Agreement dated February 15, 1991 and recorded in O. R. Book 1593, Page 2350, in the Public Records of Collier County, Florida. Additionally the owners of that certain property known as the "Maplewood project", (which consists of the property immediately South and East of the Briarwood PUD), shall be entitled to use the road right of ways created within the Briarwood PUD (whether or not such roads are dedicated to the Master Association) for ingress and egress to the Maplewood Project without any charge or fee.

**4.6 Construction.** The Declarant and Builders (including their designees, and contractors, subcontractors and suppliers) shall have the right to enter the Properties and take any action reasonable necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use or enjoyment of the Properties by the owners.

**4.7 Sales and Leasing Activity.** For as long as it is offering any Lot or Unit for sale in the ordinary course of business, the Declarant and its designees shall have the right to use, without charge, any Lots or Units owned by it, and the common areas in order to establish, modify, maintain and utilize, as it and they deem appropriate, model homes, sales offices and other offices. Without limiting the generality of the foregoing, the Declarant and its designees may show model Residences or the common areas to prospective purchasers or tenants, erect on the Property signs and other promotional material to advertise Lot or Unit for sale or lease, and take all other action helpful for sales, leases and promotion of the Residence. A Builder shall have the right to use its Lots or Units as model homes and sales offices, and to erect on its Lots signs and other promotional materials.

**4.8 Right of Entry.** The Master Association shall have the right, but not the obligation, to enter any Unit for emergency, security and safety, which right may be exercised by the Board, officers, agents, employees, managers and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Master Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event of an Owner fails to cure the condition upon request by the Board. Failure to maintain the landscaping and improvements located on the Unit shall be deemed a condition that increases the possibility of a hazard to the Properties.

**4.9 Termination of Certain Easements.** The easements and rights described in 4.6 and 4.7 above shall, with respect to the Declarant, terminate upon the sale of all Lots and Units to purchasers other than the Declarant and with respect to a Builder, shall terminate upon the sale of all Lots and Units to purchasers other than that Builder.

**5. MASTER ASSOCIATION; PURPOSES; POWERS.** The administration and management of the Briarwood Property Owners Association, Inc., a Florida corporation not for profit, shall perform its functions pursuant to the following:

**5.1 Powers And Duties.** The powers and duties of the Master Association include those set forth in this Declaration, the Articles of Incorporation and the Bylaws, and those provided in Chapters 617 and 720, Florida Statutes, as they may be amended from time to time. Chapter 720, Florida Statutes shall be referred to herein as the "Act". The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. The Master Association has the power to enter into agreements and to acquire leaseholds, memberships and ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the Master Association. If the Association has the authority to maintain a class action suit as plaintiff, the Master Association may also be joined as a defendant in an action as the representative of that class with reference to litigation and disputes involving the matters for which the Master Association could bring a class action. Nothing herein limits any statutory or common law right of an individual Owner or class of Owners to bring any action which may otherwise be available.

**5.2 Board of Directors.** Except as otherwise expressly provided by law or by the Governing Documents the Master Association acts through its Board of Directors and its officers, and no vote of the members shall be required. The officers and Directors of the Master Association have a fiduciary relationship to the members.

**5.3 Articles Of Incorporation.** A copy of the Articles of Incorporation of the Master Association is attached as Exhibit "C".

**5.4 Bylaws.** The Bylaws of the Master Association are attached as Exhibit "D" to this Declaration, and may be amended from time to time.

**5.5. Rules and Regulations.** The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the common areas and the operation of the Master Association and the Properties. Copies of such rules and regulations shall be furnished to each unit owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the unit owners and uniformly applied and enforced.

**5.6 Determination Of Management.** The Master Association may contract with a manager or management agent to assist the Master Association in carrying out its powers and duties by performing such functions as submission of proposals, collection of assessments, keeping of records, and enforcement of covenants and rules, with funds made available by the Master Association for such purposes. The Master Association and its officers however, retain at all times the powers, duties, and non-delegable responsibilities imposed by the Act, Florida Statutes, as amended from time to time, and by the Governing Documents.

**5.7 Membership and Voting Rights.** Every person or entity who is a record Owner of a fee simple interest in any Unit shall be a member of the Master Association, as further provided in the Bylaws. Membership is appurtenant to, runs with, and cannot be separated from, the real property ownership interest upon which it is based. The burden of notifying the Master Association of a change of membership shall be borne by the new member; and the Master Association shall not be required to recognize a change of membership until the new member has fully complied with Section 14 hereof and furnishes satisfactory proof of ownership. The Master Association shall have two classes of membership: (A) Class "A" Members, and (B) Class "B" Members, and the respective voting rights of each are as follows:

**(A) Class "A".** Class "A" Members shall be all owners of Units within the Properties.

**(B) Class "B".** The Class "B" Member shall be the Declarant. Unless the Declarant earlier terminates this membership, the Class "B" Membership shall terminate upon Turnover of the Master Association.

**(C) Voting.** The voting rights of the two classes of membership are as follows:

**(1) Class "A" Voting.** Class "A" Members shall be entitled to one (1) vote for each Unit owned by such Member.

**(2) Class "B" Voting.** The Class "B" Member has one vote for each unit subject to the Declaration plus one (1).

**(D) Termination of the Class "B" Member.** The Class "B" Membership shall cease to exist and convert to Class "A" membership upon the happening of the earlier of either of the following events:

**(1)** When the Class "B" Member no longer owns any land in Briarwood for development or for sale in the ordinary course of business, or

(2) On such earlier date as the Declarant in its sole discretion establishes by recorded instrument executed by the Declarant.

**(E) Transfer of Control of the Master Association; Turnover.** Upon the happening of either Subsections D (1) or (2) above, the Declarant shall relinquish control of the Master Association and the owners of units other than the Declarant shall accept control.

**5.8 Termination Of Membership.** Termination of membership in the Master Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Master Association during the period of his membership, nor does it impair any rights or remedies which the Master Association may have against any former Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

**5.9 Master Association As Owner of Units.** The Master Association has the power to purchase Units and to acquire and hold, lease, mortgage and convey them. The Master Association has the right to purchase a Unit at a foreclosure sale resulting from the Master Association's foreclosure of its lien for unpaid assessments or charges (including fines), or to take title by deed in lieu of foreclosure. However, the acquisition of any Units not resulting from the Master Association's foreclosure action, must have the prior approval of a majority of the voting interests of the Master Association.

**5.10 Section 5 Amendment.** This Section 5 may not be amended without the express written consent of the Declarant, as long as the Declarant is a Member of the Master Association.

**6. ASSESSMENT FOR COMMON EXPENSES.** The Master Association has authority to levy assessments against the Units to pay common expenses. Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the Common Areas and all improvements thereon, the costs of providing insurance for the benefit of the Master Association, its Directors and officers, and its members; the expenses of carrying out the powers and duties of the Master Association, and any other expense, whether included in the foregoing or not, that is expressly designated as a common expense in this Declaration or in the Bylaws.

**6.1 Covenants.** Except as provided in Section 6.3 below, each Owner of a Unit and each subsequent Owner of any Unit (including a purchaser at a judicial sale), by acceptance of a deed or other instrument of conveyance, whether it is so expressed in the deed or instrument of conveyance or not, is deemed to covenant and agree to pay to the Master Association:

**(A)** The Unit's pro rata share of quarterly assessments based on an annual budget of common expenses adopted by the Board of Directors;

**(B)** The Unit's pro rata share of special assessments levied for capital improvements or other expenses that cannot be paid from the regular assessments;

**(C)** Service Charges and other user fees, or charges imposed against, or payable by, less than all of the Units, as authorized elsewhere in this Declaration, in the Bylaws of the Master Association, or the Rules and Regulations of the Association; and

(D) Fines levied by the Master Association for violations of the Master Governing Documents.

Assessments are established and collected as provided herein and in the Bylaws, and are due and payable the first day of each calendar quarter. The obligation to pay the assessments and other charges described above, together with late payment fees, interest, costs, and reasonable attorney's fees incurred in the collection process, shall bind each Unit in the hands of its Owner, and his heirs, devisees, personal representatives, successors and assigns. Except as otherwise provided, whether title to a Unit is transferred for any reason, the new Owner is jointly and severally liable with the previous Owner for all assessments and other charges that are unpaid at the time of the transfer, regardless of when the obligation was incurred, without prejudice to any right the new Owner may have to recover from the previous Owner any such amounts the new Owner is required to make. No Owner may avoid personal liability for assessments and charges, or release any Unit from the liens and charges hereof, by waiving use rights, or by abandoning the Unit.

**6.2 Shares Of Assessments.** Except as provided in Section 6.3 below, the Owner of each Unit shall be liable for an equal share of annual and special assessments, such share being a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of Units.

**6.3 Declarant's Obligation for Assessments.** Except as provided below, assessments do not begin to accrue on a Unit until the Unit has been transferred from the Declarant to a non-Declarant Owner. In lieu of paying assessments, the Declarant shall pay an Assessment for all Units it owns in an amount equal to the budget deficit, if any, of the Master Association. Such deficit is the difference between the amount collectable from other assessable Units and the budgeted operating assessments, with the exception of reserves, of the Master Association.

**6.4 Capital Contribution.** At the time of the initial sale of each Unit or any resale of a Unit is closed, the purchaser of the Unit shall pay to the Master Association an amount set by the Board of Directors, however such amount shall not exceed \$1,000. This payment shall not be refundable or be applied as a credit against the Unit owner's monthly assessments.

**6.5 Establishment Of Liens To Secure Payment.** All assessments, charges and other sums due the Master Association in accordance with the foregoing, together with any late payment fees, interest at the highest rate allowed by law, and costs of collection (including, but not limited to costs and reasonable attorney's fees) create a continuing lien upon the Unit against which each such assessment or charge is made, and they are also the personal obligation of the Owner of each Unit at the time they came due. This lien relates back to the date this Declaration was originally recorded, and is superior to any Homestead rights the Owner may have. The lien is activated by recording a Claim of Lien in the public records of the County, setting forth the amounts then past due and the due dates, as of the date the Claim of Lien was recorded. The recorded Claim of Lien secures payment of all unpaid assessments and charges due at the time of recording (including late payment fees, interest, costs and attorney's fees as provided above), as well as all assessments and charges that subsequently come due, until the lien is satisfied or a final judgment of foreclosure is obtained. Upon full payment of all sums secured by a Claim of Lien, the party making payment is entitled to a satisfaction in recordable form.

**6.6 Priority Of Liens.** Except as otherwise provided by law, the Master Association's lien for unpaid assessments and other charges is subordinate and inferior to that of any recorded First Mortgage, unless the Master Association's Claim of Lien was recorded before the mortgage. The Master Association's lien is superior to, and takes priority over, any other mortgage regardless of when recorded, as well as all other recorded liens except federal tax liens and liens for unpaid property taxes. A lease of a Unit is subordinate and inferior to any Claim of Lien of the Master Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure and all persons claiming by, through or under any of them, shall hold title subject to the liability and lien of any assessment or other charge coming due after taking title. Any unpaid assessment or other charge which cannot be collected by reason of this Section shall be treated as a common expense, collectable from all Units, including the Unit as to which the foreclosure (or deed in lieu of foreclosure) occurred.

**6.7 Collection Of Assessments and Fines.** If any Owner fails to pay any assessments, fines or other charge, or installment thereof, within ten (10) days after the due date, the Master Association shall have any or all of the following remedies, to the fullest extent permitted by law, which remedies are cumulative, so they are not in lieu of, but are in addition to, all other remedies available.

**(A)** Assessments, fines and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Master Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments, fines and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments and fines, if allowed by law, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. Any payment received and accepted shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment, notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to the provisions of chapter 687, Florida Statutes, nor is it a fine. No payment by check is deemed received until the check has cleared.

**(B)** To file a Claim of Lien after providing a written notice or demand to the owner for past due assessments or fines, as well as any other amounts owed to the association pursuant to its governing documents, in the manner provided for in Section 720.3085 of the Act, Florida Statutes, as may be amended.

**(C)** To file an action in equity to foreclose the lien. The Master Association may bring an action in its name to foreclose a lien for unpaid assessments or fines (but not fines unless permitted by the Act) secured by a lien in the same manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. Such action may not be brought until forty-five (45) days after the parcel owner has been provided notice of the Master Association's intent to foreclose and collect the unpaid amount.

**(D)** To the extent lawful, to suspend the right to use the recreational facilities and the voting rights of the Owner in Master Association matters until the Owner's account is current.

(E) To accelerate the due date for the entire remaining unpaid amount of the annual assessment against the Owner's Unit for the remainder of the fiscal year, notwithstanding any provision of the Governing Documents calling for installment payments of annual assessments.

**6.8 Estoppel Certificate.** The Master Association shall, within fifteen (15) business days after receiving a written request for same, furnish to any Owner, purchaser or mortgage lender a certificate in writing signed by an officer of the Master Association, setting forth whether all assessments and charges against the Owner's Unit have been paid, and itemizing any that have not been paid. Any person, except the Owner, who relies on the certificate shall be protected thereby. The Master Association or its designated agent may charge a reasonable fee for that service.

**7. ARCHITECTURAL AND AESTHETIC CONTROL** No building, structure, pool or other improvement shall be erected or altered on any Unit, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Residence, Unit or Common Area be performed by anyone, except at the direction of the Declarant, without the prior written approval of the Board of Directors of the Master Association. In obtaining said written approval, Owner, or any other person applying, shall comply with all applicable requirements and procedures of the Governing Documents. **Refusal of approval for plans and specifications shall be in the sole discretion of the Board and may be based on any reason including purely aesthetic reasons.** Declarant, its contractors and subcontractors, and Builders shall not be subject to this Section 7.

**7.1 Powers and Duties.** The architectural and aesthetic review and control functions of the Master Association shall be administered and performed by the Board of Directors. The Board shall have the power and duty to:

(A) Propose the adoption, modification or amendment of written Architectural/Aesthetic Guidelines and Standards, which shall set forth such things as building material types, colors and contractor specifications which the Board finds acceptable. After Turnover, notice of any adoption, modification or amendment to the Architectural/Aesthetic Guidelines and Standards, including a verbatim copy of such adoption modification or amendment, shall be mailed to each member of the Master Association at least fourteen (14) days prior to the meeting at which such adoption, modification or amendment is acted upon;

(B) Require submission to the Board of three (3) complete sets of all plans and specifications for any building, structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which in any way alters the exterior appearance of any structure, Residence, Unit or Common Area. The Board may also require submission of samples of building materials or colors proposed for use on any Unit, and may require such additional information as may reasonably be necessary for the Board to fully evaluate the proposed work;

(C) Approve or disapprove the erection or alteration of any building, structure or other improvement; or any grading, excavation, alters the exterior appearance of any structure, Residence, Unit or Common Area;

(D) Adopt a schedule of fees for processing requests for Board review of proposed changes. Such fees, if any, shall be payable to the Master Association, in cash or check, at the time the request is submitted to the Board;

(E) Adopt a procedure for inspecting approved changes during and after construction to insure conformity with approved plans;

(F) Adopt a schedule requiring a deposit for damage to common areas that may occur incident to the improvement of any Unit.

(G) Set a time limit during which the approved changes must be completed; and

(H) Enact regulations regarding the appearance of Units and adjacent common areas during the construction or renovation period, which regulations may include but are not limited to the placement of dumpsters and building materials.

**7.2 Delegation of Powers to a Committee.** The Board may delegate its architectural and aesthetic review and control functions as set forth above to a committee. If it chooses to do so, then that committee must hold its meeting with the same formalities as that of a Board meeting. An owner aggrieved by the decision of the committee may appeal to the Board for reconsideration. Any decision made by the Board shall be final.

## **8. MAINTENANCE; IMPROVEMENTS**

**8.1 Maintenance Of Common Areas.** The Master Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements constructed on the Common Areas, including, but not limited to all landscaping (except as provided in 8.2 below), sprinkler pipes and systems, paving drainage structures, walkways, recreation facilities, private streets, street lighting fixtures and appurtenances, entrance features and other structures, except public utilities, all such work to be done as ordered by the Board of Directors or its designee. The Master Association, its successors and assigns, shall have a perpetual, non-exclusive easement for ingress and egress over, upon and across all portions of the Properties and to excavate thereon in connection with the maintenance of sprinkler pipes and systems to the extent necessary for the performance of the work to be performed pursuant to this Section; provided, however, that the party causing any such excavations restores disturbed areas as nearly as practicable to the condition thereof immediately prior to such excavations.

**8.2 Maintenance of Residences and Units.** The owner of each Residence shall maintain, repair and replace, at his own expense, all portions of his Unit and Residence. The Unit owners shall also be responsible for the maintenance, repair and replacement of the grass or lawn area located between their Unit and the road, and, if applicable, between the Unit and the lake.

**8.3 Alteration of Units or Residences by Unit Owners.** No owner shall make changes to the landscaping on his Unit, make or permit the making of any material alterations or substantial additions to his Unit or Residence, or in any manner materially change the exterior appearance of any portion of the Property, without first obtaining the written approval of the Association. All improvements to Units shall be made in compliance with the Briarwood PUD. The Board of Directors may revoke or rescind the approval of an alteration or modification previously given, if it appears that the installation has had unanticipated material adverse effects

on the Property or other Residences. If a unit owner makes any modifications, installations or additions to the landscaping, his Residence or the common areas, the unit owner, and his successors in title, shall be financially responsible for the following which shall be a Service Charge against the Unit as set forth in Section 6.1 above:

(A) The costs to insure, maintain, repair and replace the modifications, installations or additions;

(B) The costs of repairing any damage to the common areas or other Units or Residences resulting from the existence of such modifications, installations or additions; and

(C) The costs of removing and replacing or reinstalling such modifications if their removal by the Master Association becomes necessary in order to maintain, repair, replace or protect other parts of the Residence for which the Master Association is responsible.

This Section 8.3 shall not apply to Declarant, its contractors and subcontractors, and Builders.

**8.4 Enforcement Of Maintenance.** If the Owner fails to maintain his Unit as required herein or the Residence or Unit is not cared for and/or maintained in a manner acceptable to the Board of Directors and in general conformity with the standards of the community, the Master Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Unit, with or without consent of the Owner. The Master Association may repair, replace or maintain any item which constitutes a hazard to other property or residents, or which has a materially adverse affect on the appearance of the Property. Such action shall not be taken without advance written notice to the Owner. Any expenses so incurred by the Master Association shall be assessed as a Special Charge against the Owner, together with reasonable attorney's fees and other expenses of enforcement. Such assessments shall become a lien on the Unit which may be foreclosed or otherwise collected pursuant to this Declaration, the Master Association Bylaws and Florida Law.

**8.5 Negligence; Damage Caused By Condition In Residence Or Unit.** The Owner of each Unit shall be liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents or lessees; but, unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the Owner shall be liable only to the extent that such expense is not met by the proceeds of insurance. If any condition, defect or malfunction existing within a Unit, whether caused by the Owner's negligence or otherwise, shall cause damage to the Common Areas or to other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not met by insurance. If one or more of the damaged Unit is not occupied at the time the damage is discovered, the Master Association may enter without prior notice to the Owner and take reasonable actions to prevent the spread of damage. Any expenses so incurred by the Master Association shall be assessed against the Owner, together with reasonable attorney's fees and other expenses of enforcement.

**8.6 Alterations and Additions to Common Areas and Master Association Property.** The protection, maintenance, repair, insurance and replacement of the common areas and Master Association property is the responsibility of the Master Association and the cost is a common expense. Beyond this function, subsequent to Turnover, neither the Master Association nor any owner shall make any material alterations of, or substantial additions to, the common areas or the real property owned by the Master Association costing more than ten

percent (10%) of the annual budget including reserves, without prior approval of at least two-thirds (2/3) of the Unit owners who are present, in person or by proxy, and voting at any meeting called for conducting such a vote. If work reasonably necessary to protect, maintain, repair, replace or insure the common areas or Master Association property also constitutes a material alteration or substantial addition to the common areas, no prior unit owner approval is required. Nothing in this Section 8.6 shall be construed to limit the Declarant's right to make improvements, additions or alterations to the Properties.

**8.7 Capital Improvements.** Funds necessary for substantial capital improvements to the Common Areas in excess of ten percent (10%) of the total annual budget may be levied as special assessments by the Master Association only upon approval by at least a majority of the voting interests who are present and voting on the matter after a quorum has been attained. Special assessments less than that amount may be levied by a majority of the Board alone. The Declarant shall not be required to pay any special assessments for capital improvements for any Units that it owns.

**8.8 Limitation of Master Association's Liability.** Notwithstanding its duty to maintain and repair portions of Units and Common Areas, the Master Association shall not be liable to individual owners for personal injury or property damage caused by any condition of the property to be maintained and repaired by the Master Association, or caused by the elements or unit owners or other persons. The Master Association shall not be liable to any owner for repairing or replacing decorative surfaces, personal property or fixtures within the Residence, including but not limited to wallpaper, floor coverings furniture and artwork.

**9. INSURANCE OF RESIDENCES; RECONSTRUCTION AFTER CASUALTY.** In order to protect values and maintain the Property's appearance by minimizing the existence of partially or completely demolished Residences for unreasonably long periods of time, and in order to protect all other Owners from the adverse effects of the negligence or imprudence of a few, the following provisions shall apply:

**9.1 Duty To Insure And To Reconstruct.** Each Owner of a Single-family Unit shall at all times maintain property insurance on his Residence and all other insurable improvements on his Unit and the condominium association shall maintain insurance on the Multi-family units and the common elements for its condominium property in an amount equal to the replacement cost thereof taking into account local construction costs and property values as they may from time to time exist. If the Residence or other improvements located on any Unit are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner shall cause repair or replacement to be commenced within six (6) months after the date that such damage or destruction occurred, and shall complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and appearance, and shall utilize and conform with the original foundation and appearance of the original improvements.

**9.2 Failure To Insure.** The Master Association has the right to require each Owner to produce proof of insurance. If an Owner fails or refuses to maintain such insurance coverage deemed reasonably necessary by the Master Association, or if the Owner allows the required insurance coverage to lapse, or for some other reason causes the same to become ineffective, the Master Association may, but is not obligated to, purchase whatever coverage it deems reasonably necessary for the Master Association's benefit. The costs incurred by the Master Association in procuring insurance shall become due and payable by the Owner in all respects, together with interest, reasonable attorney's fees and costs of collection, immediately upon the

Master Association notifying the Owner, in writing, that it has procured such insurance, and the costs thereof. Should the owner fail to carry the required insurance, the owner shall be liable for all damages that would have been covered by the policy had it been in place at the time of a loss, including any item for which the Master Association has maintenance responsibilities as provided in this Declaration.

**9.3 Failure To Reconstruct.** If the Owner of any Unit fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 9.1 above, the Master Association shall give written notice to the Owner of his default. If the Owner has not notified the Master Association of satisfactory arrangements to meet his obligations within thirty (30) days after the Master Association mailed such notice, the Master Association shall be deemed to have been granted the right by the Owner, as such Owner's attorney-in-fact, to remove all debris and damaged improvements, or to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Master Association exercises the rights afforded to it by this Section, which shall be at the sole discretion of the Board of Directors, the Owner of the Unit shall be deemed to have assigned to the Master Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Master Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Unit and Residence to secure payment.

**9.4 Master Association's Right Of Entry.** For the purpose of performing the duties imposed by this Section 9, the Master Association, through its duly authorized agents and employees, has the right, after written notice to the Owner, to enter upon the Unit at reasonable hours and perform such duties.

**9.5 Deductible.** The party responsible for procuring insurance on an item must pay the deductible in the event of a loss involving that item, regardless of who may be responsible to maintain, repair or replace that item as provided in this Declaration.

## **10. MASTER ASSOCIATION INSURANCE.**

**10.1 Duty And Authority To Obtain.** The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it may deem necessary. The premiums shall be a common expense. The name of the insured shall be the Master Association as agent for the Owners without naming them, and their mortgagees.

**10.2 Required Coverage.** The Master Association shall maintain adequate liability insurance and casualty insurance covering buildings and other insurable improvements (if any) within the Common Areas, with coverage in amounts as determined annually by the Board of Directors; such insurance to afford the following protection:

**(A) Property.** Loss or damage by fire, extended coverage (including windstorm), vandalism, and malicious mischief, and other hazards.

**(B) Liability.** Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to any single Owner.

**10.3 Optional Coverage.** The Master Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Master Association and Owners. Some common examples are: Flood insurance, Broad Form Comprehensive General Liability Endorsement, Directors and Officers Liability, Fidelity Bonding, and Medical Payments.

**10.4 Descriptions Of Coverage.** All Master Association insurance policies shall be available for inspection by Owners upon request.

**10.5 Waiver Of Subrogation.** If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogate as to any claim against Owners, the Master Association, or their respective servants, agents or guests, except for any claim based primarily upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

**10.6 Insurance Proceeds.** All insurance policies purchased by the Master Association shall be for the benefit of the Master Association, and all proceeds shall be payable to the Master Association.

**10.7 Distribution Of Proceeds.** Proceeds of insurance policies received by the Master Association shall be used to defray the cost of repair or reconstruction. Any proceeds remaining after defraying costs shall become part of the Master Association's common surplus.

**10.8 Master Association As Agent.** The Master Association is hereby irrevocably appointed as the agent for each Owner, to adjust all claims arising under insurance policies purchased by the Master Association for damage or loss to the Residences.

## **11. GENERAL COVENANTS AND USE RESTRICTIONS.**

**11.1 Residential Use.** All Units are restricted to the use of a single family. Except for Lots submitted to the condominium form of ownership, no Lot shall have no more than one (1) Dwelling Unit thereon. Improvements accessory to the use of one (1) family may be erected on a Lot, such as a attached guest suite, provided they do not furnish accommodations for an additional family.

**11.2 No Trade, Business, Profession, Etc.** The Units in the Master Association shall be used for single family residences and for no other purposes. No business buildings may be erected on a Unit and no Unit and no business may be conducted on any part thereof, nor shall any building or portion thereof be used or maintained as a professional office. No person may publicly advertise the address of a Unit as the address of any business. This Section shall not be construed to prohibit any Residence occupant from maintaining a personal or professional library, from keeping his personal, business or professional records in his Residence, or from handling his personal, business or professional telephone calls, written correspondence, or other communications in and from his Residence. Such uses are expressly declared customarily incident to residential use. Such personal business use must, nonetheless, comply with any applicable governmental regulation. This Section is, however, intended to prohibit commercial or business activity by an Owner or occupant of a Residence which would noticeably change the residential ambiance of the Property, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Property by persons making deliveries, pick-ups, employees or other business associates, or customers and clients. Notwithstanding the foregoing, Declarant shall have the right to carry on

construction activity and to transact within the Subject Property any business necessary to consummate the sale, lease or encumbrance of Lots, Dwelling Units, or other real property in Briarwood or other real property owned by Declarant or an affiliate of Declarant, including, but not limited to, the right to maintain models, storage areas, and sales/construction offices, including, but not limited to, sales or administrative offices maintained in a temporary structure(s) or building(s) such as a trailer or mobile home, or in a permanent structure or building, and have signs and employees in the offices. Declarant may, from time to time, assign this commercial usage right (including the right to carry on construction activity) to such other persons or entities as Declarant may choose while at the same time retaining such right for itself. Notwithstanding anything to the contrary herein contained, the provisions of this subparagraph may not be amended without Declarant's prior written consent for so long as Declarant owns any portion of the Property or any property within Briarwood.

**11.3 Nuisance.** No obnoxious or offensive activity shall be carried on upon any Common Area, Unit or in any Residence, nor shall anything be done that is or may become a reasonable source of annoyance or nuisance to other residents. The Board of Directors shall have the right and the power in the exercise of its reasonable discretion to determine what activities or uses constitute nuisances or obnoxious or offensive activity.

**11.4 Signs.** In order to maintain an attractive appearance, no sign, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted, or affixed in, on or upon any part of the Properties, by an Owner or occupant other than the Declarant, its contractors and subcontractors, and Builders. This restriction includes, without limitation, signs of Realtors, politicians, contractors or subcontractors. Signs may not be placed in or on windows of the home, on vehicles parked on the unit or its driveway, in "take-one" type receptacles or anywhere else visible from the exterior of the unit. Notwithstanding the foregoing, the owner of a Unit may display a sign provided by a contractor for security services within ten feet (10') of any entrance to the home, which security sign shall not exceed one square foot in size.

**11.5 Pets.** The Owner of each Unit may keep reasonable numbers of commonly accepted and domesticated household pets (such as cats, dogs, tropical fish or caged birds) in the Residence, except that no owner may keep a Akita, Doberman, German Shepard, Pit Bull, Rottweiler; Pit Bull mix or Rottweiler mix/breed of dog. The pet must be carried under the Owner's arm or leashed at all times while outside of the Residence. The ability to keep such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Properties. Owners are responsible for the conduct of and the clean-up after their pet(s). No reptiles, amphibians, poultry or livestock may be kept on the Properties. Pets shall not be left unattended in a garage or outside the interior portions of a Residence. The Board of Directors may adopt further regulations regarding keeping or house of pet(s) upon the Properties.

**11.6 Appearance.** Each Owner shall keep his Unit free and clear of weeds, underbrush, unsightly growths, trash and debris and shall reasonably maintain his Residence. No Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. Sanitary containers shall not be placed outside the Residence, except for a reasonable period of time for refuse pickup to be accomplished. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage incinerators shall be permitted.

