COVENANTS AND RESTRICTIONS FOR
PLAT OF JOHN'S ISLAND PLAT NO. 39

LOST TREE VILLAGE CORPORATION, a Florida corporation, hereinafter referred to as the "Developer", hereby declares that the following described real property owned by the Developer shall be held, sold, conveyed and used subject to the restrictions, covenants, easements, assessments, charges, liens and conditions set forth herein, all of which shall run with the real property as hereinafter described, and shall be binding upon all parties having any right, title or interest in that real property or any part thereof, and shall be binding upon all grantees, their heirs, successors and assigns, and shall inure to the benefit of the Developer and any person owning any right, title or interest therein.

The real property (the "property") which is hereby and herewith made subject to these covenants and restrictions is more particularly described as:

> Plat of John's Island Plat No. 39, according to the Plat thereof recorded in Plat Book ____, Page ____, Public Records of Indian River County, Florida.

ARTICLE I

DEFINITIONS

The following terms, as used herein or in any amendments hereto shall have the following meanings (unless the context clearly requires otherwise):

Section 1. "Association" shall mean and refer to Oceanside Village Homes Association IV, Inc., a Florida corporation not for profit, its successors and assigns, and shall include the survivor of the Association as a result of any merger or consolidation.

Section 2. "Plat" shall mean the recorded plat of John's Island Plat No. 39, according to the plat thereof recorded in Plat Book ____, Page ____, Public Records of Indian River County, Florida and any subsequent amendments thereto.

Section 3. "Property" shall mean all property included in the Plat.

Section 4. "Common Property" shall mean and refer to Tracts A, B, C, D and E shown on the Plat, together with such additional property as the Developer may designate as being included therein.

Section 5. "Developer" shall mean and refer to Lost Tree Village Corporation, a Florida corporation, its successors or assigns.

Section 6. "Declaration" shall mean these covenants and restrictions.

Section 7. "Additional Property" shall mean any additional land hereafter included in this Declaration as provided in Article II, Section 1 of this Declaration.

Section 8. "Supplemental Declaration" shall mean any recorded supplemental declaration of these covenants and restrictions as provided in Article II, Section 2 of this Declaration.

Section 9. "Lot" shall mean and refer to each numerically designated parcel of land shown upon the Plat or any Additional Property, but shall not include any parcel within the Common Property, if any.

Section 10. "Owner" shall mean the record title owner of the fee simple ownership interest in any Lot. If two or more persons are joint owners of any Lot, they shall be considered a single owner for purposes of these covenants and restrictions and for membership in the Association.

Section 11. "Member" shall mean and refer to every Owner of a Lot within the Property.

Section 12. "Board" shall mean the Board of Governors of the Association.

Section 13. "Zero Lot Line" shall mean that side yard lot line of any Lot which a single family dwelling may be constructed on or within three (3) feet of in accordance with this Declaration and the zoning regulations of the Town of Indian River Shores.

ARTICLE II

ADDITIONS TO PROPERTY

Section 1. The Developer, its successors and assigns, expressly reserves the right to cause such additional property (here-

inafter the "Additional Property") to become subject to these covenants and restrictions as the Developer, in its sole discretion, may from time to time elect; provided, however, such Additional Property shall be compatible with and consistent with the Property and the development of the Property.

Section 2. The additions authorized under this Article II shall be made by filing of record a Supplemental Declaration of Covenants, Conditions and Restrictions with respect to the Additional Property, executed by the Developer, which shall extend the scheme of the covenants and restrictions of this Declaration to such Additional Property. Such Supplemental Declaration may, notwithstanding the provisions of Articles XI and XII hereof, amend, revoke, modify or add to the covenants and restrictions established by this Declaration; provided, however, no Supplemental Declaration shall revoke or diminish the rights of the Owners to the utilization of the Common Property as established hereunder except to the extent that an owner of the Additional Property may share in the use and enjoyment of the Common Property.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. Every Owner shall have a right and easement of enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to establish reasonable rules and regulations regarding the use of any of the Common Property;

(b) The right of the Association to suspend the voting rights and right to use the Common Property (except roads) by an Owner for any period during which any assessment against an Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Association rules and regulations;

(c) The right of the Association to borrow money for the purpose of improving the Common Property and in aid thereof, to mortgage the Common Property.

Section 2. Ownership of Common Property. When the Developer no longer is the record Owner of a Lot (or at any earlier date, at the Developer's sole discretion) the Developer shall convey title to the Common Property to the Association.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of any obligation shall not be a member.

Section 2. The Association shall have two classes of voting membership, as follows:

(a) Class A. Class A Members shall be all those Owners as defined in Article I with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article I. When more than one person holds such interest in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. No splitting of the vote of any single Lot shall be permitted.

(b) Class B. The Class B Member shall be the Developer. So long as the Developer is the Owner of a Lot, the Class B Member shall be entitled to the total number of votes of Class A Members plus one additional vote.

ARTICLE V

COVENANTS FOR ASSESSMENTS

Section 1. Except for the Developer, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees to pay to the Association: (1) an original assessment, (2) annual assessments or charges, and (3) special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments shall be a lien upon the Lot(s) owned by an Owner until paid, and the Owner of any Lot(s)

upon the effective date of any such assessment shall be personally liable for the payment of such assessment together with any interest, costs and attorney's fees as provided herein. The Developer shall not be obligated to pay any assessments with respect to Lots owned by the Developer.

Section 2. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of the Common Property including, but not limited to:

(a) Payment of operating expenses of the Association, including those maintenance expenses set forth in Article VI hereof and in Article VIII, Section 4 hereof;

(b) Lighting, maintenance, improvement, taxes and beautification of the Common Property; the acquisition, maintenance, repair and replacement of directional markers and signs and traffic control devices; and costs of controlling and regulating traffic on the Common Property;

(c) Maintenance, improvement, and operation of drainage swales, easement areas and similar areas within the Common Property;

(d) Control, management, maintenance, improvement and beautification of parks, buffer strips, conservation areas and recreation areas and facilities within the Common Property;

(e) Collection, removal and disposal of trash and rubbish from the Property, but only when and to the extent specifically authorized by the Association;

(f) Providing security, night watchmen, guard and gate services, when and to the extent specifically authorized by the Association;

(g) Doing any other thing necessary or desirable, in the judgment of said Association, to keep the Property and the Common Property neat and attractive; to preserve and enhance the value of the properties therein; to eliminate fire, health, or safety hazards; and such other matters that in the judgment of said Association may be of general benefit to the Owners or occupants of

the Lots or the Property; and

(h) Repayment of funds, and interest thereon, borrowed by the Association.

Section 3. Original, Annual and Special Assessments.

(a) The original assessment shall be as determined from time to time by the Board, which sum shall be paid to the Association upon the conveyance of any Lot by the Developer to a purchaser of such Lot. Developer reserves the right to change the amount of the original assessment with respect to any Lots which the Developer may own at the time of such change or with respect to any Additional Property which may be made subject to these covenants and restrictions pursuant to Article II; provided, however, with respect to the Lots within the Property this original assessment may not be reduced.

(b) There shall be an annual assessment on all Lots as set annually by the Board not later than November 30 of each year for the following calendar year. Notice of the annual assessment shall be mailed to each Owner not less than fifteen (15) days following such action by the Board. The failure of the Board to mail or the failure of any Owner to receive such notice shall not release, extinguish, delay or defer the obligation of any Owner to pay such assessment as herein provided. This annual assessment shall be payable annually, in advance, on January 1 of each year and shall become delinquent if not paid within thirty (30) days thereafter. The annual assessment shall be in addition to the above-mentioned original assessment and shall be prorated for the year 1987 as of the date of recording of this Declaration.

(c) In addition to the annual assessments authorized by Section 3(b) hereof, the Board may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, any cost set forth in Section 2 hereof. Any such special assessment authorized or approved by the Board shall be due and payable thirty (30) days following the date upon which written notice of such special assessment is delivered to the Owner or deposited in the United States mail and addressed to

the Owner at the address then shown on the records of the Association, whichever occurs first.

Section 4. Except as may be expressly provided herein, the quorum required for any action or approvals of the Board authorized under these covenants and restrictions shall be as provided in the Articles of Incorporation or the By-Laws of the Association.

Section 5. If any assessment is not paid within thirty (30) days after the date such assessment becomes due and payable, the assessment shall bear interest thereafter at the highest rate allowed by law in the State of Florida. Such assessment, together with interest thereon and costs of collection thereof, including attorneys' fees, whether or not judicial proceedings are commenced and including attorneys' fees incurred in trial or appellate proceedings, shall be a continuing lien on the Lot until paid. The Association may bring an action at law against the Owner personally obligated to pay the same or may foreclose the lien against the Lot and any one owning or claiming any interest therein, or both. The personal obligation of an Owner to pay such assessment together with interest and such costs of collection shall remain the personal obligation of such Owner for the applicable statutory period of limitation under the laws of the State of Florida. No notice of record of any assessment shall be necessary to establish the priority or enforceability of a lien arising hereunder, and it shall be no defense to the enforcement of any such lien that the Owner has no actual knowledge thereof at the time an ownership interest in any Lot is acquired.

Section 6. The lien of an assessment provided for herein shall be subordinate to the lien of any bona fide mortgage now or hereafter placed upon any Lot; provided, however, such subordination shall apply only to the lien of those assessments which become due and payable prior to a judicial sale or transfer of title to any Lot pursuant to a final judgment of foreclosure in favor of the holder of any such mortgage. This subordination shall not relieve any Lot or Owner from liability for any assessments now or hereafter becoming due and payable.

Section 7. Each Owner shall become a member of the John's Island Property Owners' Association, Inc. ("JIPOA") upon acquiring title to a Lot. Upon acquisition of title to a Lot, each Owner will be responsible for payment to JIPOA of (1) a one-time original assessment to be fixed from time to time by JIPOA, and (2) any annual or special assessments levied by JIPOA.

In enforcing its rights to collect the assessments provided for herein, JIPOA shall have all of the rights granted to the Association under Section 4 and Section 6 of this Article.

ARTICLE VI

MAINTENANCE

Section 1. In addition to maintenance upon the Common Property, the Association shall have the right to require proper maintenance and cleaning upon any Lot, or upon the exterior of any structure on any Lot; provided, however, prior to the Association performing any maintenance, cleaning or repair on a Lot or any improvements thereon, the Association shall determine that the Lot or improvement is in need of repair, cleaning or maintenance and/or that the Lot or improvement is detracting from the overall appearance of the Property. Prior to the commencement by the Association of any maintenance, cleaning or repair on any Lot or improvement, the Association must give written notice to the Owner not less than twenty (20) days prior to the commencement of such maintenance, cleaning or repair by the Association, notifying the Owner that unless the specified maintenance, cleaning or repairs are made within ten (10) days from the date of such notice, the Association shall cause such maintenance, cleaning or repairs to be done at the Owner's expense. Upon the failure of the Owner to commence such maintenance, cleaning or repairs within the required period of time, the Association shall have the right to enter in or upon any such Lot or to hire necessary personnel to enter in or upon any such Lot for the purpose of undertaking the maintenance, cleaning or repairs specified in the written notice to the Owner. An easement for ingress and egress for the purposes hereof is created upon, over and across each Lot in favor of the Association and such persons acting

on behalf of the Association.

Section 2. The cost of any maintenance, cleaning or repair work undertaken by the Association on any Lot as provided in Section 1 of this Article VI shall be assessed against and become a lien upon the Lot upon which such maintenance, cleaning or repair work is performed, which lien may be enforced in the same manner as provided in Article V hereof for the enforcement of assessment liens.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 1. It is the intent of the Developer that the property be developed as single family courtyard homes compatible with the homes that have been built in Phases I, II and III of Oceanside Village Homes. The appearance of each completed residence when viewed from Sundial Court shall be similar to every other residence in this Phase IV of Oceanside Village Homes. It is the further intent of the Developer that upon the initial completion of construction of the improvements on any Lot no subsequent exterior alterations, additions or changes which are visible from the street or an adjacent lot shall be permitted without the prior written approval of the Architectural Review Board, except for normal maintenance required of the exterior of such improvements and the replacement of any improvements damaged or destroyed by fire, windstorm, flood or other casualty, all according to the subsequent provisions of this Article. However, weather protective devices of such a style, size and color as previously approved by the Architectural Review Committee shall be considered on a case by case basis. Subject to the rights of the Developer to modify, amend, revoke or waive the provisions of this Section 1, any repair, replacement or reconstruction of the improvements on any Lot shall be in substantial compliance with and conform to the original design and construction of the improvements being repaired, replaced or reconstructed.

Section 2. The Developer shall appoint a committee known as the "Architectural Review Board", hereinafter referred to as the

"ARB". The ARB shall function according to the following general guidelines:

(a) The composition of the ARB shall consist of not less than three (3) nor more than five (5) persons who shall be appointed by the Developer and shall serve at the pleasure of the Developer. A majority of the members appointed to the ARB shall constitute a quorum. The rights, duties and authority of the ARB shall be in addition to and not in lieu of the same or similar rights, duties or authorities reserved by the Developer.

(b) The Property and each Lot shall be held, transferred, sold, conveyed and occupied subject to the following:

1) No exterior painting of any residence, and no improvements, buildings, fences, walls, or other structures, including, but not limited to, pools, pool houses, driveways, all landscaping visible from Sundial Court, mail boxes or any alteration or addition to or removal, reconstruction or replacement of any repair or improvements may be constructed, erected, placed, maintained or undertaken upon any Lot unless and until final plans, drawings and specifications for such improvements (including plans for the landscaping) have been submitted to and approved in writing by both the ARB and the Developer, or the successors or assigns of the Developer.

2) All plans, drawings and specifications submitted to the ARB and the Developer shall be in sufficient detail to show the nature, kind, shape, height, materials and location of any improvements to be constructed on any Lot.

3) All plans, drawings and specifications for any buildings, or any alterations or additions thereto shall be prepared by and bear the seal of an architect properly registered and licensed by the State of Florida.

4) The design and construction of all improvements shall comply with these covenants and restrictions and shall be compatible and harmonious with the development of the Property and any other improvements upon any Lot within the Property and the adjacent properties previously developed by the Developer. The approval or

disapproval of any plans, drawings or specifications shall be in the absolute discretion of the ARB and the Developer.

5) The ARB and the Developer will use their best efforts to respond, in writing, to any submission of plans, drawings or specifications within thirty (30) days of the delivery of such plans, drawings or specifications to the ARB and the Developer, advising the Owner of the approval or disapproval thereof by the ARB or the Developer or setting forth any conditions upon which any approval might be given. The failure of the ARB or the Developer to respond within such thirty (30) day period shall be deemed to constitute the disapproval of ARB or the Developer unless and until the Owner receives written notification from the ARB and the Developer to the contrary.

6) Preliminary plans and drawings may be submitted to the ARB and the Developer at any time during the design process for the purpose of obtaining preliminary comments or advice from the ARB and the Developer prior to the completion of final plans, drawings and specifications; provided, however, no preliminary response by the ARB or the Developer shall be binding until final plans, drawings and specifications have been submitted and approved as provided herein.

6(a) If the Owner is building on a Lot which is adjacent to a vacant lot and if the Owner chooses to build a temporary fence or wall (or plant a hedge), the Owner shall first submit plans and specifications for the construction of the temporary fence, wall or hedge to be located three (3) feet inside of and parallel to the non-Zero Lot Line side of the Owner's Lot. The temporary fence shall be constructed of wood, finished and painted on both sides the same color as the existing walls, and shall be of sufficient size and stability so as to serve as the courtyard fence or wall until such time as the adjacent Lot Owner commences construction of his residence and other improvements. In each instance where an Owner is building on a Lot adjacent to a vacant lot, the cost of building the temporary fence along the non-Zero Lot Line

shall be borne exclusively by the first Owner to commence construction of a residence.

Each temporary fence or hedge on Lots 37 through 43 shall run along the entire length of the non-Zero Lot Line from the Owner's residence to the rear Lot line. Each temporary fence or hedge on Lots 44 through 49 shall run along the non-Zero Lot Line from the Owner's residence to the point of intersection with the rear, courtyard wall of the Lot. The wall along the rear of Lots 44 through 49 shall be located North of the twenty-foot landscape easement line shown on the plat of John's Island Plat 39. The courtyard wall along the rear of Lot 50 shall be located so that it does not encroach upon the ten-foot landscape easement which runs along the rear of Lot 50.

When construction subsequently begins on the adjacent Lot, the permanent courtyard home wall shall be built on the side lot line separating the two Lots. The cost of building the final courtyard home-type wall shall be borne by the Lot Owner whose Zero Lot Line is immediately adjacent to the temporary fence. If there is no permanent courtyard wall along the rear of the Owner's Lot at the time the Owner commences construction of his residence, the Owner shall build such wall during the course of construction of his residence. The construction of all exterior walls, both temporary and permanent, shall not begin until construction plans and specifications have been submitted to and approved by the Developer or the ARB.

7) No site clearing, excavation, grading, filling, cutting of trees or removal of other local vegetation growing on any Lot shall be undertaken without prior written approval of the ARB or the Developer, as well as the securing of any permits required by the Town of Indian River Shores or any other governmental authority having jurisdiction.

8) The ARB or the Developer may require samples of building materials to be used in the construction of any improvements on any Lot to be submitted to the ARB or the Developer for review and approval prior to the use of such materials in the con-

struction of improvements on any Lot, including, but not necessarily limited to, bricks, stone, roofing materials, color samples of paints, stains or other exterior building materials, windows, doors (including garage doors), and such other exterior building components which the ARB or the Developer may reasonably request samples of for review and approval. The same roof color and roof material shall be used on each residence.

9) No action by or approval of the ARB shall be binding upon the Developer in respect of the Developer's approval rights pursuant to this Article VII.

10) The Developer shall be exempt from the provisions of this Article VII with respect to any Lot(s) owned by the Developer; provided, however, this exemption shall not apply to a successor in interest of the Developer unless such successor in interest is owned or controlled by the Developer.

11) The ARB shall establish such criteria, restrictions or regulations as it may deem reasonable and appropriate regarding the design, development, construction and maintenance of the Lots or any improvements on the Lots. Any such restrictions, regulations or criteria so established by the ARB shall be given the same force and effect as these covenants and restrictions to the same extent as if they were fully set out herein. The ARB shall retain the right to modify or amend any such restrictions, regulations or criteria as the ARB in its sole and absolute discretion may from time to time determine to be appropriate. Any Owner of any Lot within the Property or any Additional Property is hereby put upon notice of such restrictions, regulations or criteria, including any amendments or modifications to the same, and has the express duty to inquire regarding such matters.

12) NOTWITHSTANDING ANY TERM, CONDITION OR PROVISION CONTAINED IN THIS DECLARATION, OR ANY INFERENCE HEREIN TO THE CONTRARY, NEITHER THE BOARD, THE ARB NOR THE ASSOCIATION SHALL HAVE THE RIGHT OR THE POWER TO ALTER, AMEND, REVOKE, SUPERCEDE, LIMIT, DIMINISH OR INFRINGE THE SOLE AND EXCLUSIVE RIGHTS OF THE DEVELOPER AS CONTAINED AND SET FORTH IN SECTION 1 OF THIS ARTICLE VII AND ARTICLE

sions of this Article VII with respect to any Lot(s) owned by the Developer; provided, however, this exemption shall not apply to a successor in interest of the Developer unless such successor in interest is owned or controlled by the Developer.

11) The ARB shall establish such criteria, restrictions or regulations as it may deem reasonable and appropriate regarding the design, development, construction and maintenance of the Lots or any improvements on the Lots. Any such restrictions, regulations or criteria so established by the ARB shall be given the same force and effect as these covenants and restrictions to the same extent as if they were fully set out herein. The ARB shall retain the right to modify or amend any such restrictions, regulations or criteria as the ARB in its sole and absolute discretion may from time to time determine to be appropriate. Any Owner of any Lot within the Property or any Additional Property is hereby put upon notice of such restrictions, regulations or criteria, including any amendments or modifications to the same, and has the express duty to inquire regarding such matters.

12) NOTWITHSTANDING ANY TERM, CONDITION OR PROVISION CONTAINED IN THIS DECLARATION, OR ANY INFERENCE HEREIN TO THE CONTRARY, NEITHER THE BOARD, THE ARB NOR THE ASSOCIATION SHALL HAVE THE RIGHT OR THE POWER TO ALTER, AMEND, REVOKE, SUPERCEDE, LIMIT, DIMINISH OR INFRINGE THE SOLE AND EXCLUSIVE RIGHTS OF THE DEVELOPER AS CONTAINED AND SET FORTH IN SECTION 1 OF THIS ARTICLE VII AND ARTICLE XII. THE RIGHTS OF THE BOARD, THE ARB AND THE ASSOCIATION AS SET FORTH AND CONTAINED IN THIS SECTION 2 SHALL BE AND ARE EXPRESSLY SUBORDINATE AND INFERIOR TO SUCH RIGHTS AND INTENT OF THE DEVELOPER.

Section 3. The Association shall indemnify all members of the ARB against any liability, loss, cost, expense or judgment which may be incurred by any member of the ARB in defense of any action, suit or proceeding, or any threat of such action, suit or proceeding, arising out of the performance by such member of the duties and responsibilities imposed by this Article VII; provided, however, such indemnification shall not apply to any malfeasance, misfeasance or willful misconduct of any member of the ARB in the performance of

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such indemnification shall not apply to any malfeasance, misfeasance or willful misconduct of any member of the ARB in the performance of those obligations or responsibilities. Notwithstanding any provision herein to the contrary, the Association shall not be obligated to indemnify any member of the ARB for the payment of any sums made in settlement of any action, suit, proceeding or threat of same unless such settlement sum shall be approved in writing by the Board in advance of payment of such settlement sum. The Association shall maintain appropriate liability insurance in an amount to be determined from time to time by the Board for the benefit and protection of the members of the ARB in the performance of their duties and responsibilities pursuant to this Article VII.

Section 4. It is the Developer's intent that the functions of the ARB shall be taken over by JIPOA's Architectural Review Committee (hereinafter the "ARC") at such time as the Developer is no longer the record owner of any Lot or at such earlier date as Developer may desire.

Accordingly, at such time as the Developer is no longer the record owner of any Lot,

(a) the first paragraph, and paragraph (a), of Section 2 of this Article VII shall no longer be applicable, and the ARB shall cease to exist;

(b) all references to the "ARB" in paragraph (b) of Section 2 of this Article VII shall be deemed to mean the ARC;

(c) the procedural requirements of the ARC, such as (but not limited to) timing of applications, materials to be sub-

mitted with applications, and appeals, shall supersede the procedural requirements set forth in Section 2 above; and

(d) all references to ARB throughout other Articles of this Declaration shall mean the ARC.

ARTICLE VIII

GENERAL RESTRICTIONS

Section 1. No Lot shall be used except for single family residential purposes. Not more than one (1) single family dwelling shall be constructed on any single Lot, and no single family dwelling may be constructed on more than one Lot.

Section 2. No single family dwelling having less than 2200 square feet of living area, exclusive of garage, porches, decks, pool area, detached buildings or the like, may be constructed on any Lot. No building or other improvement shall be constructed on any Lot having a height in excess of twenty (20) feet as measured vertically above the finished elevation of the Lot and a point which is vertically half-way between the bottom elevation of the eaves and peak of the roof. Windows may be built on the second story of the main dwelling, but only if such windows do not have a view into the enclosed, courtyard area of any adjacent Lot or residence. The roof of the main dwelling and the garage shall have a pitch of not less than eight to twelve.

Section 3. No single family dwelling shall be constructed, placed or erected nearer than thirty (30) feet to the front or rear Lot line. A single family dwelling may be constructed on the Zero Lot Line so long as such single family dwelling is set back not less than fifteen (15) feet from the opposite side yard Lot line and so long as not less than fifteen (15) feet separate any two adjacent single family dwellings.

Section 4. The Association shall have the sole and exclusive responsibility to provide for the mowing, pruning, edging, clipping, fertilization, spraying and other maintenance and upkeep required for the landscaping and yard area of (a) the Common Property, (b) the landscape easement running along the rear of Lots 44 through 50, and (c) the front yard of each residence on each improved Lot, which

is that portion of each Lot located between the front building line of each Lot and the right-of-way boundary immediately in front of each Lot. The area within the landscape easement shall be left in its natural state as much as is practical. On unimproved Lots, the Association shall have the sole and exclusive responsibility for mowing and underbrushing.

The cost incurred by the Association pursuant to the provisions of Section 4 above shall be assessed equally among all Lot Owners and shall be in addition to all other assessments provided for in this Declaration.

Notwithstanding the foregoing, the Association shall not be responsible for any irrigation equipment or sprinkler system required by Section 24 of this Article VIII. It shall be the sole responsibility of each Owner to replace within a reasonable period of time any grass, plants, shrubs, bushes, hedges, trees or other vegetation which may periodically perish, be damaged or destroyed.

The area of each Lot (situated outside of each residence constructed thereon) located between the front building line and the rear courtyard wall, including the pool, shall be maintained by the Lot Owner. If the Lot Owner wishes to have any part or all of such maintenance handled by a third party, the Lot Owner must contract for such third party maintenance through the Association, or must obtain the Association's written consent thereto.

Section 5. Neither the Owner, nor the Association, shall change the exterior appearance of any building, including the color, without the written consent of the Developer and the ARB, which consent may be unreasonably withheld. It shall be the responsibility of each Owner to maintain and keep in good repair and maintenance his Lot and any improvements thereon.

Section 6. Each single family dwelling shall include an attached garage of sufficient size to house two standard sized American automobiles. Garage door openings may not face any street adjacent to the Lot. All main garage doors shall be equipped with an automatic garage door opening and closing device. All main garage doors shall be opaque and no garage door may be fabricated

from metal, glass, plastic or similar material. In addition to the required garage area, each improved Lot shall provide not less than two on-site paved parking spaces.

Section 7. No structure or improvement, other than the main single family dwelling, on any Lot shall be used as a temporary or permanent residence unless expressly approved in writing by the ARB and the Board, which approval may be withheld in the sole discretion of the ARB or the Board.

Section 8. No livestock, fowl or other animals may be kept or maintained on any Lot except domestic cats, dogs and pet birds (except parrots) which may be kept in reasonable numbers as pets for the pleasure and use of the occupants, but not for any commercial use or purpose. No animal shall be allowed to run loose upon the Property or any Lot.

Section 9. All Lots shall be kept reasonably clean and free of rubbish, trash, weeds, underbrush or unsightly growth before, during and after construction of any improvements on any Lot.

Section 10. The maximum height of hedges, shrubs and plants (excluding trees) in the area from the rear of any single family dwelling to the rear lot line must be at least one foot below the maximum height of the walls surrounding each Lot. No trees may be planted or replaced without ARB written approval.

Section 11. No noxious or offensive activity shall be carried on upon any Lot nor shall the Owner of any Lot permit any action or condition upon his Lot which is or may become a nuisance or an annoyance to any other Owner.

Section 12. No sign of any kind or character shall be displayed or placed upon any Lot or any other part of the Property except one (1) professionally prepared sign bearing the name of the Owner of a size not larger than five inches by twenty inches and having a black background with gold lettering.

Section 13. All trash and garbage shall be kept in sanitary containers and shielded so as not to be visible from any adjacent lot, street, lake, river, canal or other body of water, and shall comply with all applicable sanitary regulations.

Section 14. All exterior pumps, motors, air-conditioning compressors, storage tanks or other similar mechanical devices shall be properly screened from view by such means as shall be approved by the ARB.

Section 15. Clotheslines or drying yards shall not be permitted.

Section 16. No passenger automobiles, trucks, boats, trailers, recreational vehicles, motor homes, motor bikes or other vehicles shall be placed, parked or stored on any street, right-of-way or Common Property within the Property. Except for temporary loading and unloading purposes, there shall be no parking of commercial vehicles, trucks, recreational vehicles or trailers, self-propelled motor homes, boats or boat trailers on any Lot except within an enclosed garage. There shall be no major repair performed on any motor vehicle on or adjacent to any Lot. Except for vehicles used for the maintenance and upkeep of the Property, any Additional Property and any contiguous property previously developed by the Developer, no motorcycles, mopeds, motorized bicycles or tricycles, go-carts, miniature cars or similar motorized vehicles shall be operated upon any street, right-of-way or Common Property.

Section 17. Tree houses or platforms of like kind or nature and similar play structures shall not be placed, constructed or erected on any Lot.

Section 18. No permanently mounted wall air-conditioning units nor any window air-conditioning unit shall be permitted within any improvement constructed on any Lot unless expressly approved in writing by the ARB.

Section 19. No exterior audio or broadcasting systems may be erected, placed or maintained on any Lot unless expressly approved in writing by the ARB, which approval may be withheld unreasonably.

Section 20. No exterior radio, television, electronic antenna or aerial or dish antenna may be erected, placed or maintained on any Lot without the express prior written approval of the ARB, which approval may be withheld unreasonably.

Section 21. No exterior lighting fixtures shall be installed

on any Lot or any improvement on any Lot without adequate and proper shielding of the light source. No lighting fixture or light shall be installed in such a manner as to become an annoyance or a nuisance to the Owner of any other Lot.

Section 22. No statuary or art work of any kind or character shall be displayed to the public view from any Lot without written permission of the ARB.

Section 23. Lot Owners must use the central sewage collection system and treatment plant of Westport Utility Corporation as the sole means of sewage disposal and shall pay such fees or charges for such services as may be in effect from time to time, including such fees or charges as may be imposed for the initial connection to the central sewage collection system and treatment plant facility.

Section 24. All improved Lots shall have an adequate underground sprinkler system for the watering of lawns, plants and other landscaping materials located on each Lot. It shall be the responsibility of each Lot Owner to maintain the underground sprinkler system in good operational condition and repair.

Section 25. No Owner shall alter or change the topography of any Lot nor obstruct or divert the drainage flow of any Lot without the express prior written approval of the ARB, which approval may be withheld unreasonably.

Section 26. The heating or cooling of any single family dwelling, pool or other facility by means of active or passive solar, wind or other energy related systems other than gas or electric shall be subject to the express prior written approval of the ARB. The components of any such heating or cooling system as may be approved by the ARB shall be substantially screened from view from the street fronting any Lot on which such systems may be placed.

Section 27. No individual water supply system or well for any single Lot shall be permitted.

Section 28. No private golf carts shall be operated or maintained on any Lot or within the Property.

Section 29. No time sharing, interval ownership or other similar division of the fee simple ownership interest of any Lot or

any single family dwelling on any Lot shall be permitted; provided, however, this provision shall not prevent the leasing of any single family dwelling on a Lot to a tenant for normal single family residential purposes. No Lot may be owned by a corporation (except a corporate lending institution, as mortgagee, which acquires title pursuant to a foreclosure action or by accepting a deed in lieu of foreclosure from its mortgagor or except as permitted by JIPOA) other than the Developer or a successor in interest so designated by the Developer.

Section 30. Any construction or reconstruction commenced upon a Lot must be diligently prosecuted to completion within a reasonable time and substantially in accordance with the plans, drawings and specifications approved by the Developer and the ARB, including plans for site clearing, lot grading, landscape plans, pool plans and plans for construction of any other improvements on any Lot. No single family dwelling may be constructed upon any Lot by or on behalf of an Owner except for the primary purpose of providing a single family dwelling for the primary use and occupancy of the Owner causing such construction to be undertaken. No construction of a single family dwelling shall be commenced upon any Lot unless and until the contractor(s) primarily responsible for the supervision and performance of that construction has been approved by the ARB; provided, however, each Owner shall have the sole and exclusive responsibility for the financial responsibility of and for payment of any contractor approved by the Developer or the ARB, and neither the Developer nor the ARB shall incur any direct or indirect liability or obligation of any kind on account of the recommendation or approval of any contractor.

Section 31. No tennis courts shall be constructed on any Lot.

Section 32. No helicopter or any other aircraft shall be permitted to land upon or take off from the Property.

Section 33. Each Owner shall comply with all zoning laws, ordinances, regulations and other governmental restrictions affecting any Lot or single family dwelling thereon. No variance or

special exception from any zoning laws, ordinances, regulations or other governmental restrictions shall be permitted except with the prior written approval of the Developer and the Association, which approval may be withheld by either the Developer or the Association.

ARTICLE IX

EASEMENTS

Section 1. There is hereby reserved to the Developer, its successors or assigns (either in whole or in part), including any authorized agent or representative of the Developer, a perpetual easement and right of access over and across the Common Property for such purposes as the Developer may require.

Section 2. Wherever electrical, gas, water, sewer, telephone lines or other utilities are or may be installed within the Property, the Owner of any Lot served by any such utility lines shall have the right to enter upon any Lot within the Property to repair, replace or maintain such utility lines as and when the same may be reasonably necessary.

Section 3. Easements for the installation and maintenance of electric, gas, water, sewer, telephone lines and other utilities as shown on the Plat are hereby reserved to the Developer, its successors and assigns.

Section 4. Due to the nature of a Zero Lot Line development, a portion of the roof of a single family dwelling along the Zero Lot Line unit may overhang above the Lot of an adjacent owner. An easement to the extent of such roof overhang shall exist in favor of the Owner of the single family dwelling over and across that portion of the Lot of the adjacent Owner as may be reasonably necessary to the repair, maintenance, construction or reconstruction of the roof. An easement for the reasonable discharge of water from the roof of any single family dwelling located on, adjacent to or within three (3) feet of the Zero Lot Line shall also exist in favor of the Owner of any such single family dwelling to the extent of any roof overhang permitted herein. The easement for roof overhang shall be appurtenant to the Lot on which the dwelling unit is constructed and shall inure to the benefit of all record owners or mortgagees thereof.

Section 5. An easement five feet in width and contiguous and adjacent to the Zero Lot Line of an Owner shall exist in favor of such Owner to provide access for repairs and maintenance over that portion of the Lot of an adjacent Owner which abuts or is within five (5) feet of such Owner's Zero Lot Line. A landscape easement twenty (20) feet in width shall run along and contiguous to the rear Lot line of Lots 44 through 49. A landscape easement ten (10) feet in width shall run along and contiguous to the rear Lot line of Lot 50. Each Owner shall promptly repair, at his own expense, any damage done to the adjacent Lot by reason of such maintenance and repairs. This easement shall be appurtenant to the Lot on which a single family dwelling is constructed and shall inure to the benefit of all record Owners or mortgagees thereof.

Section 6. There is hereby granted to the Association and to each lawn maintenance, landscaping or similar company or individual providing services to or on behalf of the Association, together with their employees, an easement over that part of each Lot between the front building line and the right-of-way for purposes of providing and performing those services more specifically provided for in Section 4, Article VIII of this Declaration.

ARTICLE X

INSURANCE

Section 1. Each Owner shall be required to maintain fire and extended coverage insurance on their dwelling unit for its highest insurable value with an insurance company authorized to do business in the State of Florida. Proof of such insurance shall be given to the Association annually or as often as the Association may reasonably request. Should any Owner fail or refuse to obtain the insurance required hereby, the Association may (but shall not be required to do so) obtain such insurance and shall have an assessment lien for the cost thereof upon the Lot so insured, including the improvements thereon, which lien may be enforced as provided in Section 5, Article V of this Declaration.

Section 2. In the event that a single family dwelling or other improvements on any Lot shall be damaged or destroyed by fire,

windstorm or other casualty, the Owner of such improvements shall cause the repair or replacement of such improvements to be commenced within thirty (30) days from the date that such damage or destruction occurred, and to complete the repair or replacement within six (6) months thereafter. All such repairs or replacements must restore the improvements in strict accordance and conformity with the original plans, specifications and design. In the event that the Owner of any Lot fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for herein, the Association may enforce this provision in a court of competent jurisdiction and shall be entitled to recover its costs, damages and attorneys' fees in connection therewith. The Association shall also be deemed to have been granted the right by the Owner 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. In the event that the Association exercises the rights afforded to it in the preceding sentence, the Owner of the subject Lot shall be deemed to have assigned to the Association any right the Owner may have to insurance proceeds that may be available to the Owner arising from the damage or destruction of the improvements.

ARTICLE XI

AMENDMENTS BY ASSOCIATION

Except as may be otherwise specifically provided in this Declaration, the Owners of Lots holding not less than two-thirds (2/3) of the votes of all members (including both Class A and the Class B members) of the Association present in person or by proxy at a meeting of the Association noticed expressly for such purpose may alter, modify, change or amend the provisions of this Declaration by executing in the name of the Association a duly recordable written document setting forth any such amendment and recording the same in the Public Records of Indian River County, provided, however, the Association may not alter, modify, change or amend any right or privilege granted or reserved herein to the Developer, JIPOA and the

ARB, their successors and assigns. Any such amendments shall be effective upon the recording of such instrument.

ARTICLE XII

AMENDMENTS BY DEVELOPER

So long as the Developer is the Owner of any Lot, the Developer specifically reserves the right, but not the obligation, to amend this Declaration in whole or in part by recording an amendment, executed solely by the Developer, in the Public Records of Indian River County, Florida.

ARTICLE XIII

ENFORCEMENT OF COVENANTS AND RESTRICTIONS

The Developer, JIPOA, the Association and any Owner shall have the right to seek enforcement of these covenants and restrictions by appropriate proceedings at law or in equity. In the event of any violation or threat of any violation of these covenants and restrictions, the Developer shall have the right (in addition to and not in limitation of any other available rights or remedies), as an admitted equity and as a matter of absolute right, to the issuance by a court of competent jurisdiction of an injunction (including temporary restraining orders, preliminary injunctions, mandatory injunctions, permanent injunctions) prohibiting any such violation or requiring any such violation to be cured or terminated. If any Article, Section, subsection, sentence, clause, phrase or other portion of this Declaration is, for any reason, held invalid or unenforceable byany court of competent jurisdiction such invalidity or unenforceability shall not affect the remaining portion of this Declaration.

ARTICLE XIV

USE, OCCUPANCY AND SALE OF PROPERTY

Section 1. No Owner (other than the Developer) shall enter into any written or oral lease of all or any part of any Lot or single family dwelling thereon without having first obtained the prior written approval of the Board and JIPOA. Application for approval of any such written or oral lease shall be submitted to the Board and JIPOA not less than twenty (20) days in advance of the

date upon which the Owner expects to allow occupancy of the Lot by the tenant. The Board and JIPOA shall have ten (10) days from the date of receipt of any such request within which to deliver to the Owner the written approval or disapproval by the Board.

Section 2. The Association and JIPOA shall have the option or right of first refusal to purchase any Lot from an Owner (other than the Developer) having a bona fide offer to purchase such Lot. Prior to the conveyance of any Lot by an Owner (other than the Developer), the Owner shall submit to JIPOA and the Board, a written request for approval by the Association (and JIPOA) of such conveyance. The written request by the Owner shall be accompanied by a legible copy of an executed contract between the Owner and the prospective purchaser of the Lot which contract shall set forth the financial terms and conditions of the proposed sale in sufficient detail to permit the Association (and JIPOA) to determine whether or not to exercise the option granted herein. The Association (and JIPOA) shall have thirty (30) days following receipt of a written request by an Owner for approval of the conveyance of a Lot within which to notify the Owner in writing that 1) the Association (or JIPOA) has approved the proposed conveyance, or 2) the Association (or JIPOA) will exercise its option to purchase the Lot at the price and on the financial terms contained in the contract attached to the Owner's request. If the Association (or JIPOA) elects to exercise the option to purchase the lot as provided herein, the Association (or JIPOA) shall have forty-five (45) days from the date of its written notice to the Owner electing such option within which to consummate the purchase of the Lot. The failure of the Association (or JIPOA) to exercise its option to purchase any Lot shall not constitute a waiver or release of the option rights granted herein with respect to any further conveyance of any Lot or any conveyance upon terms other than those submitted to the Association or JIPOA for specific review and approval.

Section 3. Any person who acquires any interest in any Lot from an Owner who fails to comply with the provisions of this Article XIV shall acquire such interest expressly subject to the

rights of the Association and JIPOA granted herein. Any purchaser acquiring an interest in any Lot from an Owner in compliance with the provisions of this Article XIV shall acquire such interest subject to a like obligation in favor of the Association and JIPOA. The provisions of this Article shall not, however, apply to sales or leases of Lots by the Developer.

ARTICLE XV

LIABILITY OF ASSOCIATION OR DEVELOPER

The Association and the Developer, including the Board of Governors, their officers and directors, including former officers and directors, and members or former members of any committees appointed by the Association, the Board or the Developer, shall not be liable in damages in any action undertaken pursuant to or in furtherance of these covenants and restrictions except for intentional and willful misconduct. No Member or Owner shall be entitled to any recovery against the Association, the Developer, the Board or any officer, director, committee member or authorized agent or representative of the Association, the Developer or the Board unless and until such person or party shall be adjudged to have engaged in acts constituting intentional and willful misconduct. No punitive damages against the Association, the Developer, the Board or any other person or party acting by or on behalf of any of them shall be awarded or recovered in any action or proceeding.

ARTICLE XVI

DURATION OF COVENANTS AND RESTRICTIONS

All of the covenants, restrictions and conditions set forth herein shall constitute and be covenants running with the land which shall be binding upon any Owner or the heirs, successors, assigns or legal representatives of any Owner. Each and every covenant, condition and restriction contained herein shall be considered to be an independent and separate covenant, and in the event any one or more of said covenants, conditions or restrictions shall, for any reason, be held to be invalid or unenforceable, all other covenants, conditions and restrictions shall nevertheless remain in full force and effect. Unless sooner released, altered, amended or terminated as

provided herein, these covenants and restrictions shall be in full force and effect until 2033 A.D.

LOST TREE VILLAGE CORPORATION

(CORPORATE
SEAL)

Attest: Linda L. Calmes
Linda L. Calmes
Assistant Secretary

By: James A. Anthony, Jr.
James A. Anthony, Jr.
Vice President

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 19th day of February, 1987, by James A. Anthony, Jr. and Linda L. Calmes, as the Vice President and Assistant Secretary of LOST TREE VILLAGE CORPORATION, a Florida corporation, on behalf of the corporation.

(Notary
Seal)

Notary Public

My commission expires:
Notary Public, State of Florida
My Commission Expires Oct. 5, 1990
Bonded American Fire & Casualty Company

OCEANSIDE VILLAGE HOMES
ASSOCIATION IV, INC.

(CORPORATE
SEAL)

Attest:
Michael L. Rose
Secretary

By: James A. Anthony, Jr.
James A. Anthony, Jr.
Vice President

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 20th day of February, 1987, by James A. Anthony, Jr. and Michael L. Rose, as the Vice President and Secretary of OCEANSIDE VILLAGE HOMES ASSOCIATION IV, INC., a Florida corporation not for profit, on behalf of the corporation.

(Notary
Seal)

Notary Public

My commission expires:
Notary Public, State of Florida
My Commission Expires Jan. 27, 1989
Bonded By American Fire & Casualty Company

This instrument prepared by:

Sherman N. Smith, III, Esquire
886 Dahlia Lane
Vero Beach, Florida 32963