

## DECLARATIONS OF COVENANTS AND RESTRICTIONS

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS** made and entered into this 17<sup>th</sup> day of October, 1991, by SOUTH ISLAND PROPERTIES, INC., a Florida corporation, having its principal office in Brevard County, Florida, and hereinafter referred to as the "Developer."

### W I T N E S S E T H

**WHEREAS**, the Developer holds fee simple title to all of the lots shown on the Plat of The Woods at Crooked Mile Subdivision according to the plat thereof as recorded in **Plat Book 37, Page 91-93** Public Records of Brevard County, Florida, hereinafter referred to in the aggregate as the "Subdivision" and in its several parts as "Lot" or "Lots;" and

**WHEREAS**, the Developer will convey, or otherwise utilize the Subdivision subject to certain protective covenants, conditions, easements, restrictions, reservations, liens and charges as hereinafter set forth or in the plat provided; and

**WHEREAS**, it is the intention of the Developer that the Subdivision and the Lots therein contained, except as specifically provided to the contrary hereinafter, be subject to these covenants and restrictions, hereinafter referred to as "Declaration," for the mutual benefit and protection of the Developer and persons, both natural and corporate, who may hereafter purchase or acquire any interest in the Subdivision.

**NOW, THEREFORE**, the Developer hereby declares that all of the Subdivision, or any part thereof, and any Lot or Lots, shall be held, sold and conveyed subject to the following Declaration, the covenants, conditions, easements, restrictions, reservations, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision. This Declaration shall run with the Subdivision and the Lots therein contained, and shall be binding upon all parties having or acquiring any right, title or interest in the Subdivision or any part thereof and shall inure to the benefit of the Developer and to each owner of any Lot or Lots or of any portion or portions of the Subdivision regardless of when or how acquired.

#### 1. **Duration**

Except as the same may be waived, abandoned and terminated, modified, altered or changed, as otherwise provided for hereinafter, this Declaration is to run with the Subdivision and shall be binding on all owners of the Subdivision or any Lot or Lots therein and all persons claiming under them until January 1, 2000, at which time this Declaration shall be automatically extended for successive periods of ten (10) years, unless by vote of majority of the then owners of the Lots it is agreed to amend or rescind this Declaration in whole or in part.

2. **Use and Indivisibility**

No Lot covered by this Declaration shall be used except for single-family residential purposes and no Lot shall be reduced in size by any method whatsoever, but Lots may be enlarged by consolidation with one or more adjoining Lots or portions thereof, under one ownership, in which event the combined Lots shall be treated as a single Lot for purposes of compliance with the setback lines required by the provisions of Paragraph 12 herein-after. However, Lots, once combined, may not subsequently be separated unless each of the separated Lots will conform to the Plat of the Subdivision and satisfy the requirements of Paragraph 12 of this Declaration.

3. **Landscaping, Maintenance and Enforcement**

The lot owners or the owner of any portion of the subdivision acquired from or through the Developer agrees to maintain said property in a clean and sanitary condition and with an aesthetically attractive appearance. Lots, whether improved or vacant, will be mowed no less than monthly and there shall be removed therefrom all debris, dead growth and fallen vegetation. Natural vegetation such as rosemary, palmetto and scrub oak shall not be removed from any Lot if the retention of such vegetation shall promote the attractive appearance of the Subdivision, unless such removal is necessary for and done in conjunction with construction of a home and related improvements. The Review Committee hereinafter referred to can in the Review Committee's absolute discretion require the expenditure by the Lot owner at the time of construction or of reconstruction of the dwelling of an amount equivalent to 5% of the cost of construction of the dwelling and appurtenant buildings, for irrigating, landscaping and sodding of the Lot. In any event, the Lot where cleared is to be fully sodded or mulched, irrigated, and additionally the sodding will include all easement areas and swales located within the Lot line. The irrigation system must be connected to the City of Cocoa water system or a reuse system if provided by the City of Cocoa. The obligation to mow no less than monthly being imposed herein upon the Lot owner will also include the swale, if any, all easements, and the right-of-way located between the front Lot line and the pavement line. If after thirty (30) days written notice given by the Developer or the Review Committee, as hereinafter constituted, the Lot owner has not complied with the foregoing requirements regarding maintenance of the Lot and adjacent areas, any other Lot owner, the Developer, the Review Committee, or any one or more of them, hereby reserve and are granted the right to enter upon the Lot requiring maintenance and do all things necessary to comply with the foregoing maintenance requirements. Upon the performance of such maintenance by any other Lot owner, the Review Committee or Developer, after reasonable written notice of intention to perform such maintenance is given to the Lot owner, such person or entity shall be entitled to recover the costs of such maintenance, together with interest at the highest legal rate from the date said cost is incurred, from the owner of said Lot, together with cost of collection and reasonable attorneys fees, which cost, interest, collection cost and attorneys fees shall

be secured by a lien upon the Lot which received the benefit of such maintenance. Said lien may be perfected by the recording of same among the Public Records of Brevard County, Florida and may be foreclosed in the same manner as a mortgage, at the option of the holder thereof. However, any such lien shall be and is hereby declared to be subordinate to any then existing mortgage or mortgages encumbering the Lot against which the lien is asserted.

4. **Review and Maintenance Committee**

There shall exist a Review and Maintenance Committee, hereinafter referred to as the "Committee," which membership shall consist of individuals designated by Developer, all being of Brevard County, Florida. Upon turnover of control by Developer, the members of the Committee shall be appointed on an annual basis by the members of the Association. For purposes of Deed Restrictions, the term "Turn Over" shall mean the sooner of (i) such time as the Developer assigns its rights and responsibilities under these Deeds Restrictions to the Association or (ii) creation of an Association and when the Developer no longer owns any property in The Woods at Crooked Mile, the members of the committee shall be appointed on an annual basis by the members of the Association. Any committee member may be removed, with or without cause, by the Developer, and after Turn Over, by the Association. In the event of a vacancy in office of the committee member occurs for any reason, the Developer, and after the Turn Over, the Association, may appoint a successor who shall serve as such for the remaining term of office. None of the members shall be entitled to any compensation for service rendered pursuant to this Declaration. Notwithstanding anything herein to the contrary, no member of the Committee shall be held responsible or liable for any act or omission of that member. The Committee may designate a representative to act for it, which representative need not be a member of the Committee or a Lot owner and may be natural or artificial. The designation of said representative shall be in writing and signed on behalf of the Committee by all of its members.

No Association will be created at the time of the recording of this Declaration. An Association may be formed at any time in the future by the filing of Articles of Incorporation and Bylaws, in substantially the same form as attached hereto in Exhibit A & B, upon either of the following taking such action:

- (a) Developer, so long as Developer is the Owner of any property within The Woods at Crooked Mile, or
- (b) When Developer no longer owns any property in The Woods at Crooked Mile by a majority of the Owners of Lots within the Subdivision. Upon creation, the Association shall be responsible for maintenance of surface water or storm water management system, including retention areas, drainage structure and drainage easements, the landscaping and irrigation located in Common Areas (defined as common areas on the plat), brick pavers in entrance way, decorative lights and the other lights in Common Areas, gazebo, bridges, waterfalls,

subdivision signs at entrance and exit, and other Common Area structures (hereinafter referred to as "Maintenance Areas"). The Association shall also be responsible for the exercise of any rights granted to it by this Declaration or Developer. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

5. **Construction Review**

No dwelling, building or structure of any kind on any Lot or in any part of the Subdivision shall be commenced, erected or altered until the plans, specifications and location therefore and thereof shall have been first submitted to and approved by the Committee. The plans, specifications and location of all contemplated construction and every alteration of any dwelling, building or structure shall be in accordance with all applicable Codes and Ordinances of Brevard County, Florida, in effect at the time of such proposed construction or alteration. However, the approval or disapproval of plans, specifications and location by the Committee shall be based on any reasonable grounds, including purely aesthetic reasons, which, in the discretion of the Committee, shall be deemed sufficient.

Detailed and scale sketches, including location sketches, shall be submitted by the Lot owner to the Committee for any construction, improvements, additions or alterations which may be sought to be erected or placed on any Lot at least fifteen (15) days prior to the date that approval thereof is required.

Date of submittals to the Committee of required material for review must be evidenced by a written instrument signed by a member of the Committee or its duly designated representative acknowledging receipt of such submittals, and noting the date and time of such receipt. All approvals by the Committee intended to be relied upon by a Lot owner, his agents or servants, and whether relating to the provisions of this Paragraph or any other covenant contained in this Declaration, must be in writing or initialed by a member of the Committee or its duly designated representative.

6. **Building Design and Specifications**

- (a) Single-family residences, garages and utility buildings shall have roofs of dimensional asbestos shingle or dimensional asphalt shingle (with a grade weight of no less than 240 pounds), wood shingle, tile, or clay tile, or other material approved for architectural reasons; provided, however, that roofs on outdoor patios and pools may be of other materials if permitted by the Committee. No three-in-one tab shingles are permitted.
- (b) Single-family residences, garages and utility buildings shall have exterior walls of masonry, real brick, real stone or approved wood siding and shall be painted or stained. Vinyl siding may be used if approved by the Committee, however, approval by the Committee will be discretionary and the Committee may consider matters relating solely to aesthetic or architectural appeal in deciding

whether to grant this approval. All colors shall be subject to approval of the Committee. Roofs shall be of “hip” or “gable” design, with a minimum pitch of 5/12, unless specifically otherwise approved for architectural reasons. Lower pitches for porches or decks will be considered. Variations of this requirement may be permitted in the discretion of the Committee if a Lot owner desires to architecturally conform the garage or utility building to the design of the single-family residence to which the intended construction is appurtenant; provided, however, that in every event of residential construction there shall be constructed concurrently therewith an enclosed garage with a capacity for no less than two automobiles. All garage doors shall be either wood or approved steel and shall have electronic openers.

- (c) The use of aluminum, tin or iron shall be specifically prohibited for fascia or siding on any structure. However, architectural metals or other materials, when specifically approved by the Committee, shall be permitted.
- (d) No dwelling or improvements erected in the Subdivision shall exceed two stories in height. No exposed concrete block shall be visible above grade. All exterior brick or stone facings shall be to grade. All driveways must be constructed of concrete.
- (e) Mailboxes must either conform to the exterior style and finish of the single-family residence and be approved by the Committee, or be of a standard design approved by the Committee.
- (f) No dwelling being constructed or reconstructed on any Lot may contain floor living area of less than 2,000 square feet and in the event of a two-story construction, the living area of the ground floor shall contain no less than 1,000 square feet. This reference to square footage shall be exclusive of garages, unglazed porches, unroofed screen patios, loggias or similar spaces.
- (g) No construction of a single-family residence, garage or utility building shall be commenced without a landscape plan approved by the Committee. Landscape and associated plans shall include irrigation of sodded and planted areas and use of Floratam sod or its successors where sod is used. Any cleared area shall be either planted and mulched or sodded. No tree outside of 5 feet of the footprint of the building may be removed without approval. Preservation of natural plantings is encouraged. Landscaping shall include at least eight trees of eight-foot height each, distributed upon the entire lot. A maximum of four palm trees and four pine trees may be used to satisfy the eight-tree requirement. Building elevations visible from the street shall be complemented by acceptable planting of shrubbery. Air conditioners shall be screened by approved fences or shrubbery.

## 7. **Fences**

No wall (other than dwelling walls) or fence shall be constructed to a height of more than six (6) feet above ground level of adjoining Lots. No wall or fence or any height shall be constructed on any Lot until the height, type, design, construction material and approximate location thereof shall have been approved in writing by the Committee. Chain link fencing is not permitted except where lake view of adjoining Lot owners may be adversely affected by the erection of a solid wall or fence. Should the adjoining Lot owners fail to agree on the use of a chain link or solid wall or fence, the Committee shall have final say. No wall or fence shall be erected or placed within the front setback areas of any Lot unless the wall or fence is ornamental and a desirable feature and in no manner will impair the general scheme or theme of the Subdivision. The Committee, in its discretion, may approve minor projections above the restricted heights for architectural features and may also authorize the erection of a fence, construction of a wall, or maintenance of a hedge having a height in excess of six (6) feet on the condition that the Committee determines, in its discretion, that such additional height shall not serve to unreasonably restrict or block the view of adjoining or adjacent Lot owners or otherwise materially impair the landscaping theme of the subdivision or the property rights of other owners.

8. **Completion of Dwelling Construction**

Any dwelling for which approval has been obtained from the Committee and the construction thereof commenced must be completed no later than six (6) months from and after date of commencement of construction. In the absence of agreement between the Lot owner and the Committee as to the date commencement of construction, the date of the issuance of the building permit or the date of the filing of the Notice of Commencement, if filed, whichever occurs later, shall be deemed the date of commencement of construction. In the event that the Lot owner is unable to complete construction to the extent that the dwelling will be eligible for the issuance of a Certificate of Occupancy or its equivalent by the Brevard County Building Department, the Lot owner must obtain written consent from the Committee for good cause shown by the Lot owner for an extension of time for complying with the requirements of this Paragraph. Failing such grant of extension by the Committee, the Lot owner must complete construction within thirty (30) days after written notification by the Committee that no further extension will be granted to the Lot owner or within the initial six month construction period, whichever concludes last, and failing such completion, the construction will be deemed abandoned and the Committee is granted the right and authority to enter upon the Lot or authorize the entry thereon by such agents, servants, independent contractors and employees as, in the discretion of the Committee, are necessary to accomplish the completion of construction or the removal of the partial construction and in the performance of such responsibility and upon completion thereof, the Committee shall be entitled to recover the costs and expenses incurred by it, including attorney's fees, and other incidental costs and may collect the same from the Lot owners or enforce its rights to impose a lien in the same manner and

as otherwise provided and granted to the Review Committee in Paragraph 3 of this Declaration.

In the performance of the foregoing and the going upon the property of the Lot owner whether under this Paragraph or under the provisions of Paragraph 4 or any other provision of this Declaration, the Committee will be deemed to be acting on behalf of the Lot owner and as the Lot owner's agent and so long as the Committee acts in good faith and without malice, the actions of the Committee will be deemed to be privileged, authorized and taken on behalf of the Lot owner. The Lot owner will indemnify and save harmless the Committee, the individual members thereof, the Developer and such other agents, servants, employees, independent contractors as may be utilized by the Developer or Committee in fulfilling its obligations under this Declaration, from any claims or causes of action, suits or allegations, including any attorney's fees incurred as a result of thereof, brought by the Lot owner or any third party on behalf of the Lot owner or claiming by, through or under the Lot owner or in any way resulting from the work undertaken pursuant to the terms of this Declaration.

9. **Maintenance Assessment**

- (a) Purpose for Assessment. The Plat of the Woods at Crooked Mile Subdivision contains as part thereof the Maintenance Areas (as defined in Paragraph 4 hereof). Lot owners shall be responsible for maintaining such areas and their facilities for the benefit of each and every Lot in the Subdivision.
- (b) Creation of the Lien and Personal Obligation of Assessments. An annual assessment charge of \$300.00 will be imposed against each Lot other than Lots owned by the Developer, payment of which shall be due upon closing on the purchase of a Lot from the Developer and thereafter on a like day of each succeeding year and shall be paid to the Committee. For purposes of convenience in collecting such assessments, the Committee may adjust by proration such annual payments so that all such payments will be due and payable on a like day of each year.
- (c) Maximum Annual Assessment. Until three (3) years from and after the date of conveyance of the first Lot in the Subdivision to an owner other than the Developer, the maximum annual assessment shall be \$375.00. Thereafter the annual assessment in the discretion of the Committee shall be increased or decreased to reasonable meet the financial obligation necessary to comply with the requirements of the following paragraph.
- (d) Purpose of Assessment. The assessment contemplated by this paragraph shall be used exclusively to maintain in good condition the Maintenance Areas (as defined in Paragraph 4 hereof). Any funds expended for such purposes shall be evidenced by paid bills and invoices specifying the work done and the unit cost for such work and such bills and invoices shall be available for such work and

such bills and invoices shall be available for examination by any Lot owner who is current in the payment of the obligation provided for hereunder.

- (e) Lien. The annual assessment shall accrue interest at the highest legal rate from and after fifteen (15) days of its respective payment due date and together with such interest, cost and reasonable attorney's fees, shall be a charge on the Lot and a continuing lien upon such Lot against which such assessment is made. A notice of Lien may be placed on the Public Records of Brevard County, Florida, at any time after thirty (30) days has elapsed from the payment due date. The aggregate of any delinquent assessment or assessments, together with interest, shall also be the personal obligation of the person or other entity who was the owner of such Lot at the time the assessment or assessments fell due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by such successor and the lien contemplated by this subparagraph shall be subordinate to any mortgage or mortgages that may encumber the Lot at the time of recording the Notice of Lien.
- (f) Uniform Assessment. The assessment provided for herein or any increase or decrease thereof shall be fixed at a uniform rate for all Lots affected thereby and will be collected on an annual basis as above provided.
- (g) Effect of Non-Payment. The Committee may engage counsel to either bring an action at law against the Lot owner personally obligated to pay the annual assessment or foreclose the lien against the Lot which is the subject matter of the assessment or pursue both remedies. No Lot owner may waive or otherwise avoid liability for the assessment provided herein.
- (h) The rights and responsibilities of the Committee under this paragraph may be transferred to the Association upon its formation or at any time thereafter.

10. **Nuisances, Waste and Miscellaneous Provisions**

- (a) Clothes lines shall not be permitted between the principal residence and the front Lot line and no outdoor clothes drying areas shall be allowed on a Lot unless they are enclosed to minimize their visibility from other Lots and from street right-of-ways. No roof-mounted solar heaters shall be permitted on that portion of the roof facing the front Lot line unless approved by the Committee, however, nothing hereinabove shall be interpreted so as to prohibit the installation of energy devices utilizing renewable resources.
- (b) No Lot shall be used as a junkyard or "auto graveyard." No party of any Lot shall be used for major automotive motor or engine repairs except that tune-ups and minor repairs may be performed within the garage located on a Lot by the Lot owner on his own automobile, motor or engine.
- (c) No sewer overflow from septic tanks, waste water, garbage, trash or other refuse shall be placed or emptied upon the surface of any part of the subdivision. All residence and appurtenant structures shall connect to central



sewer utilities within thirty (30) days after the owner thereof is informed of the availability of such utility. No well for the production of water shall be installed or permitted to be installed or used on the Lot.

- (d) Garbage or rubbish shall not be dumped or allowed to remain on any Lot except that garbage, rubbish or other debris, properly contained in a metal or plastic receptacle, may be placed outside the residence for collection on the day of and immediately prior to the time of scheduled collection in accordance with the regulations of the collecting agency. At all other time, such receptacles shall be placed on the Lot so as not to be visible from the street right-of-way or from the property adjoining Lot owners.
- (e) Trees shall not be destroyed to promote the growth of lawns.
- (f) In-ground swimming pools may be constructed or erected on any Lot provided they are situated in the rear yard only and, provided further, that no portion of any such pool or its appurtenances, including its fence, shall be closer to the rear or side lot lines than the minimum distance respectively permitted by law, and as otherwise provided in Paragraph 12.
- (g) No business or trade of any kind or noxious or offensive activity shall be carried on upon any Lot within or without the dwelling thereon, nor shall anything be done thereon or therein which may be or become an annoyance or nuisance to the neighborhood. No trailer, tent, shack or other such structure shall be located, erected or used on any Lot, temporarily or permanently, except portable toilets used during construction.
- (h) Except as provided below, satellite dishes, radio or television serial antenna or any other exterior electronic equipment or device of any kind shall only be installed or maintained in locations that are not visible from the street. Notwithstanding the preceding, Approved Video Antennas which cannot be installed or maintained at locations not visible from the street with an acceptable quality signal can be installed with the approval of the Committee in the following locations: i) the outside walls up to the height of the soffit; or ii) if acceptable signal level cannot be achieved by i) above, on the roof peak. For purposes of this subparagraph (h), the term "Approved Video Antennae" shall mean i) a "Dish A" antenna that is one meter (39") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service; or ii) an antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming service via MMDS (wireless cable); or iii) an antenna that is designed to receive television broadcast signals.
- (i) No signs of any kind except those placed by the Developer shall be displayed to the public view on any portion of the Subdivision except one sign of not more

than two (2) square feet identifying the Lot owner and address, one sign of not more than four (4) square feet advertising a Lot or Lots for sale or rent, or signs used by a builder to advertise Lots for sale or rent during the construction and sales period. Any sign utilized in connection with the foregoing will be professionally prepared and may be located only on the Lot to which the sign refers.

- (j) No husbandry of either animals or fowls shall be conducted or maintained on any Lot or any portion of a Lot. House pets only shall be excluded from this restriction, but pets will not be permitted to run unattended or without a lease in the Subdivision except within the confines of the Lot owned or leased by the owner of such pets. House pets may not become a nuisance to the other owners of Lots in the Subdivision by permitting such pets to generate noise, smell or waste material offensive to other Lot owners or in a violation of law.
- (k) Wheeled vehicles of any kind or any other offensive objects may not be parked or kept on any part of a Lot, except that private automobiles and private pick-up trucks without commercial signs may be parked in the driveway. Visitors for periods of less than 12 hours are excluded. Boats, recreational vehicles, utility trailers, mobile homes, camping trailers and all commercial vehicles must be completely housed within the closed garage.
- (l) No air conditioning units shall be installed on the front of any building (or the side of a building which faces a street), unless previously approved in writing by the Committee. Air conditioning units may be installed at the side or back of the residence provided they are at least three and one-half (3 2) feet from the closest property line. Each unit must be adequately and ornamentally screened so as not to be visible from the street.
- (m) All telephone, electric and other utility lines and connections between the main utility lines and the residence and other buildings located on each Lot shall be concealed and located underground so as not to be visible. Electric service is provided by Florida Power and Light, through underground primary service lines running to transformers.

#### 11. **Violations and Enforcement**

Violations of any covenant or restriction contained in this Declaration may be remedied by the Developer or the Committee and the expense thereof shall be chargeable to the then owner of the Lot or Lots on which or in connection with which the violation has occurred and said expense shall be payable forthwith and upon demand. In the event that the Developer or the Committee has expended funds in connection with curing such violation, then and in such event, the funds so expended shall become a lien upon said Lot or Lots, Enforcement shall be by proceeding at law or in equity, brought by the Developer, the Committee or upon the failure of the Committee to act after written request therefore has been made, by the owner of any

Lot or Lots located within the Subdivision; against any person or persons violating or attempting to violate any covenants or restrictions contained in this Declaration either to restrain violation or to recover damages, or both. In the event that the Developer or Committee is obligated to engage counsel in connection with its enforcement of this Declaration, or any of the provisions herein contained, then and in such event, and if such matter proceeds to litigation, the Developer or the Committee, if the prevailing party, will be entitled and authorized to recover its reasonable attorney's fees and costs from the defendant in such proceedings.

12. **Setback Lines**

Any dwelling constructed on any Lot shall be located no closer than thirty-five (35) feet to the front lot line, except for Lots 6,7,8,16,17 and 18 which shall be located no closer than twenty-five (25) feet to the front line; for all lots no closer than ten (10) feet to one side and ten (10) feet on the opposite sideline except on corner lots (other than Lots 5,9 10,14 and 15 where sideline setback shall be fifteen (15) feet and on Lots 5,9, 10, 14 and 15 where sideline setback shall be twenty-five (25) feet on the side which is contiguous to the road. No structure except fences and walls shall be closer than fifteen (15) feet to the side street line on corner lots, except as provided herein. However, The Committee reserves the right to impose greater or other setback requirements as may be justified by Lot configuration or site utilization in the course of its review pursuant to the provisions of Paragraph 5.

13. **Maintenance of Subdivision Improvements**

All construction undertaken in the Subdivision by Lot owners, their contractors or other agents or servants, shall be performed in a manner not to interfere with, modify or otherwise adversely affect the Subdivision improvements described in the plat thereof or otherwise installed by the Developer. Any such interference, modification or adverse effect, if found to have occurred in the opinion of the County Engineer, Brevard County, Florida, or his designee, shall be immediately corrected upon written notification by the Developer or the Committee directed to the Lot owner responsible therefore or for or by whom the work in question had been performed, and such corrective work will immediately thereafter be undertaken and completed at the expense of such Lot owner.

14. **Modification**

The covenants, agreements, conditions, reservations, restrictions, and charges created and established herein for the benefit of the Subdivision and each Lot therein contained, may be waived, abandoned and terminated, modified, altered, or changed as to the Subdivision or any part thereof, with the written consent of the owners of 51% or more of the Lots in the Subdivision. However, no such waiver, abandonment, termination, modification, alteration or change shall be effective without the joinder therein and the approval thereof by the Developer until such time that the Developer has conveyed title to all of the Lots owned by the Developer and for a period of 36

months thereafter. No such waiver, abandonment, termination, modification or alteration shall become effective until a proper instrument in writing evidencing such consents and approval shall be executed and recorded among the Public Records of Brevard County, Florida.

15. **Limitation of Liability**

Nothing herein contained shall serve to impose any duty upon the Developer or the Committee which would subject the Developer or the members of the Committee, jointly or severally, to any liability to the third parties for the failure, in whole or in part, of the Developer or the Committee to enforce any or all of the covenants contained in this Declaration.

16. **Waiver of Minor Violations**

Where a violation of this Declaration exists and is of such a nature so that in the opinion of the Committee the existence of such violation does not result in an economic hardship to or adversely affect the property values of other owners in the Subdivision or substantially interfere with the property rights of the other owners, the Committee shall have the right at any time after proper request is made therefore by the party responsible for such violation or the owner upon whose Lot the violation is found, to release such Lot or portion thereof from the obligation to cure such violation.

17. **Easements**

Easements for installation and maintenance of utilities and drainage facilities are hereby established and shall be recorded on the Plat of the Subdivision. Within these easements, no structure, planting or other material shall be placed that may damage or interfere with the installation or maintenance of utilities, change the direction of flow of drainage channels in the easement or obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and improvements thereon shall be maintained continuously as provided by Paragraph 3, except for those improvements for which a public utility or authority is responsible.

18. **Stormwater Management Provisions**

In order to ensure the integrity of the stormwater management system which provides for management and storage of surface waters to the Subdivision, the following provisions shall apply and control in the event of conflict of any other provision hereof:

- (a) **Definitions.** "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or

otherwise affect the quantity and quality of discharges from the system as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C.

- (b) **Surface Water or Stormwater Management System.** The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be permitted, if modified as approved by the St. Johns River Water Management District.
- (c) **Amendment.** Any amendment to the Covenants and Restrictions which alter the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Management District.
- (d) **Enforcement.** The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water for stormwater management system.

## 19 **Conservation Easement Areas**

For purposes of this section, "Conservation Area" or "Conservation Easement Areas" shall mean and refer to all of such areas so designated as "Conservation Easement Area" upon the recorded Subdivision Plat.

The Conservation Easement Areas shall and are hereby declared to be subject to conservation deed restriction in favor of the Developer, its successors and assigns, for the purpose of retaining and maintaining the Conservation Easement Areas in their predominantly natural condition as wooded water recharge, detention and percolation and environmental conservation area and for irrigation, including all electrical water distribution systems used for irrigation of the Conservation Easement Areas. In furtherance of this Conservation Easement, each of the following uses of the Conservation Easement Areas are hereby prohibited and restricted without the prior written consent of the St. Johns River Water Management District, to wit:

- (a) The construction, installation or placement of signs, buildings, fences, walls, roads or any other structures and improvements on or above the ground of the Conservation Area; and
- (b) The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials; and

- (c) The removal or destruction of trees, shrubs or other vegetation from the Conservation Area; and
- (d) The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Area; and
- (e) Any use which would be detrimental to the retention of the Conservation Area in its natural condition; and
- (f) Acts or uses detrimental to such retention of land or water areas.

The Conservation Area hereby created and declared shall be perpetual.

The Developer, its successors and assigns and the St. Johns River Water Management District shall have the right to enter upon the Conservation Area at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

The Developer, and all subsequent owners of any land upon which there is located any Conservation Area, shall be responsible for the periodic removal of trash and other debris which may accumulate on such parcel. The prohibitions and restrictions upon the Conservation Area as set forth in this paragraph may be enforced by the St. John's River Water Management District by proceedings at law or in equity, including without limitations, actions for injunctive relief. The provisions in this Conservation Area restriction may not be amended without prior approval from the St. John's Water Management District.

All rights and obligations arising hereunder and appurtenances and covenants running with the land of the Conservation Area, shall be binding upon, and shall inure to the benefit of the Developer, and its successors and assigns. Upon conveyance by the Developer to third parties of any land affected hereby, the Developer shall have no further liability or responsibility hereunder, provided the deed restriction including the Conservation Area is properly recorded.

## 20. **Sidewalks**

The Lot owner or owners shall be required to complete construction of the sidewalks in accordance with the standards of and within the time required by Brevard County, regardless of whether any construction has otherwise commenced on the Lot. In the event construction of the sidewalk is not completed within thirty (30) days after written notification of required completion is given by the Review Committee or its designee, the Committee is granted the authority to cause completion of the sidewalk on the same manner as is provided for completion of construction which is deemed abandoned under the provisions of paragraph 8 hereof, which provisions, including without limitations, lien provision thereof, shall apply to the completion of the sidewalk.

21. **Annexation**

Additional lands, contiguous, in whole or in part to the Subdivision, may, for a period of seven years (7) from date hereof, be annexed by the developer and permitted by use of inter-connecting roadways to utilize the common area or easements, if any, described in the Plat of the Subdivision. Such annexation will be evidenced by a certification of same executed by the Developer or the Developer's successor in interest and recorded among the Public Records of Brevard County, Florida, either as a separate instrument or as a part of the declaration of Covenants and Restrictions recorded among the Public Records of Brevard County, Florida, and describing the additional land or lands intended to be annexed.

22. **Invalidity**

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants, which shall remain in full force and effect

23. **Titles**

The paragraph titles are for convenience and reference only.

24. **Conflict with Statutes**

Nothing contained herein is intended to conflict with applicable Florida Statutes.

**Bylaws of The Woods At Crooked  
Mile Homeowners' Association, Inc.**

**Article I**

**Members**

**1. Membership**

The members of The Woods at Crooked Mile Homeowners' Association, Inc. (the "Association"), a corporation not for profit organized under Florida law, shall consist of the owners ("Owner") of lots ("Lots") on the Property located in Brevard County, Florida, as described in the Declaration of Homeowners' Association, recorded in the Public Records of Brevard County, Florida (the "Declaration"), and in any other property annexed in accordance with the Declaration. The members of each Owner shall terminate when the Owner ceases to be an owner of a Lot. Upon the sale, transfer or other disposition of his ownership interest in a Lot, membership in the Association shall automatically be transferred to the new Lot Owner. The Association may issue certificates evidencing membership.

**2. Voting Rights**

The Association shall have two (2) classes of voting Membership:

**Class A.** Class A Members shall be all owners of Lots other than South Island properties, Inc., a Florida corporation ("Developer"), and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot and the members of that Lot must agree by majority vote to cast the vote represented by that Lot.

**Class B.** The Class B Members shall be the Developer and it shall be entitled to six (6) votes for each Lot owned by it. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A Membership equal the total outstanding in the Class B Membership; or
- (b) on January 1, 2000.



### **3. Quorum**

A quorum at Association meetings shall consist of attendance in person, telephone conference or by proxy of members entitled to cast at least thirty percent (30%) of the votes of the Association. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purposes of determining a quorum.

### **4. Proxies**

Votes may be cast in person or by proxy. Proxies shall be in writing, shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the appointed time of the meeting.

## **Article II**

### **Meetings of Membership**

#### **1. Rules**

The meetings of the membership shall be held in accordance with the provisions of the Declaration and, subject to the Declaration, in accordance with these Bylaws. Except where in conflict with the Declaration of these Bylaws, Roberts Rules of Order (as amended) shall govern the conduct of all membership meetings.

#### **2. Annual Meeting**

The annual meeting of the Association membership shall be held at the offices of the Association or at such other place in the state of Florida as shall be designated by the Board or the President of the Association. The annual meeting shall be held in March of each year unless otherwise determined by the board.

#### **3. Special Meetings**

Unless specifically provided otherwise herein or in the Declaration, meetings of the membership shall be held when directed by the President or the Board or when requested in writing by members holding at least thirty percent (30%) of the votes having the right to vote at such meeting. The call for the meeting shall be issued by the Secretary.

#### **4. Notice**

Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association to each member unless waived in writing. Such notices shall be written or printed, and shall be mailed or personally delivered to each member as follows:

- (a) For annual meetings, not less than fourteen (14) nor more than sixty (60) days prior to the date set for the meeting:

- (b) For any meetings, annual or special, at which the budget of common expenses will be considered, not less than thirty (30) nor more than sixty (60) days prior to the date of the meeting;
- (c) For special meetings called by the membership pursuant to Section 3 above, not less than ten (10) nor more than sixty (60) days prior to the meeting; and
- (d) For any other special meetings, not less than forty-eight (48) hours prior to the date of the meeting, unless the Board determines that an emergency exists, in which case the Board shall give such notice as is reasonable under the circumstances.

All notices may be sent to members by regular mail. In addition, except in an emergency when such notice requirement shall be waived, written notice shall be posted in a conspicuous place on the Property not less than forty-eight (48) hours prior to any special meeting and not less than fourteen (14) days prior to the annual meeting.

**5. Waiver**

Any owner may waive notice of a meeting or consent to the holding of a meeting without notice or consent to action taken without a meeting, by execution of a waiver or consent in writing. Such a waiver or consent may be executed prior to, at, or subsequent to the meeting or Association action to which the waiver or consent relates.

**6. Action Without Meeting**

Any action required to be taken by vote or assent of the Members may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of the requisite percentage of the Membership. Any action so approved shall have the same effect as though taken at a meeting of the Members, and such approval shall be duly filed in the minute book of the Association.

**7. Telephone Conferences**

Members present by telephone conference shall be considered as present at a meeting for the purpose of a quorum, and may vote in any matters presented for a vote of the membership.

**Article III**  
**Board of Directors**

**1. Election**

The Board of Directors ("Board") of the Association shall consist of not less than three (3) persons who shall be originally appointed as provided in the Articles of Incorporation ("Articles"). Thereafter, subject to the provisions of the Declaration and the Articles, the members at each annual meeting shall elect such directors. Directors shall hold office for a term of one (1) year and until their successors shall be elected and qualified. At each election for directors, each member shall be qualified. At each election for directors, each member shall be entitled to vote for as many persons as there are directors to be elected. No cumulative voting shall be permitted. The candidates receiving the highest number of votes shall be declared elected.

**2. Qualifications**

Each director shall be a Lot Owner or the spouse of a Lot Owner (or, if a Lot Owner is a corporation, partnership or trust, a director may be an officer, partner or beneficiary of such Owner). If a director shall cease to meet such qualifications during his term, he shall thereupon cease to be a director and his place on the Board shall be deemed vacant.

**3. Vacancy**

Any vacancy occurring in the Board may be filled by a majority vote of the remaining members thereof, provided, however, that a vacancy resulting from removal of a director by the members shall be filled by a vote of the membership.

**4. Meetings**

An annual meeting of the Board shall be held immediately following the annual meeting of the membership and at the same place. Special meeting of the Board shall be held upon call by the President or a majority of the Board on not less than forty-eight (48) hours notice in writing to each director, unless the board determines an emergency to exist, in which event the Board shall give such notice as is reasonable under the circumstances. All meetings of the Board shall be open to all members and, except in an emergency as provided above, notices of all meetings shall be posted in a conspicuous place on the Property at least forty-eight (48) hours prior to the meeting. However, members shall not be entitled to vote or participate in any other way at the meeting.

**5. Waiver**

Any director may waive notice of a meeting or consent to the holding of a meeting without notice or consent to any action of the Board without a meeting. Such waiver or consent may be executed prior to, at, or subsequent to the meeting or Board action to which the waiver or consent relates.

**6. Quorum**

A quorum for the transaction of business shall consist of a majority of the directors present in person, proxy or telephone conference. However, less than quorum may adjourn a meeting from time to time. A majority of directors who represent at any meeting where a quorum is present shall decide any question before the meeting.

**7. Action Without Meeting**

Any action required to be taken by vote or assent of the Board may be taken in the absence of a meeting (or in the absence of a quorum at a meeting) by obtaining the written approval of all members of the Board. Any action so approved shall have the same effect as though taken at a meeting of the Board, and such approval shall be duly filed in the minute book of the Association.

**8. Removal**

Except for directors appointed by the Declarant, any director may be removed from office, with or without cause by at least a majority vote of all Owners, at a duly called meeting of Owners. Notwithstanding any other provision herein, a special meeting of Owners to remove a director or directors from office may be called by ten percent (10%) of all Owners giving notice to all Owners of the Meeting, which notice shall state the purpose of the meeting and shall be give to all Owners in writing as provided in Article II, Section 4.

**9. Powers and Duties**

Directors shall have the following powers and duties:

- (a) to elect the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property and formulate policies for such purposes;
- (c) to adopt, administrative rules and regulations governing the administration, management, operation and use of the Property and to amend such rules and regulations from time to time;
- (d) to provide for the maintenance, repair and replacement of those parts of the Property stated in the Declaration to be maintained by the Association;
- (e) to provide for the designation, hiring and removal of employees and other personnel or service companies, including a property manager, to engage or contract for the services of others, to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and to delegate any such powers to the employees or agents of the Association;

- (f) to estimate the amount of the annual budget, to provide the manner of assessing and collecting from the Owners their respective shares of such estimated expenses as hereinafter provided and to assess any supplemental assessment as the Board shall deem necessary;
- (g) unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of the Owners as express in a resolution duly adopted at any annual or meeting of the Owners;
- (h) to exercise all other powers and duties of the Board provided for in the Declaration of the Articles.

## **Article IV**

### **Officers**

#### **1. Election**

Subject to the provisions of the Declarations and Articles, at each annual meeting of the Board, the Board shall elect from the membership of the Association the following officers of the Association:

- (a) A President, who shall be a director, shall preside over the meetings of the Board and of the Association and shall be the chief executive officer of the Association. In the recess of the Board, the President shall have general control and management of the business and affairs of the Association;
- (b) One or more Vice Presidents, who shall in the absence of disability of the President, perform the duties and exercise the powers of the President;
- (c) A Secretary, who shall keep the minutes of all meetings of the Board and of the membership and who shall perform all the duties generally incident to the office of Secretary;
- (d) A Treasurer, who shall cause to be kept the financial records and books of account of the Association; and
- (e) Such additional offices as the Board shall see fit to elect. An individual may hold more than one position.

#### **2. Powers**

The officers shall have the general powers usually vested in such officers of a not-for-profit corporation, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the board may deem necessary.

**3. Term**

Each officer shall hold office for the term of one (1) year and until his successor shall have been elected and qualified.

**4. Vacancy**

Vacancies in any office shall be filled by the Board at special meetings thereof. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of the whole board.

**5. Compensation**

Officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted by the Owners.

**Article V**

**Assessments**

**1. Budget**

The Board shall cause to be prepared an estimated annual budget for each fiscal year of the Association, taking into account the estimated expenses and cash requirements necessary to fulfill all of the obligations of the Association as set forth in the Declaration. To the extent that the assessments and other cash income collected during the preceding year shall be more or less than the expenditures for such preceding year, such surplus or deficit shall also be taken into account.

**2. Approval**

The estimated annual budget for each fiscal year as prepared by the Board shall be approved as provided in the Declaration. A copy of the proposed annual budget shall be mailed to Owners not less than ten (10) days prior to the meeting at which the budget is to be considered, together with notice of the meeting specifying the time and place at which it will be held.

**3. Payment**

Payment of the assessments shall be as provided in the Declaration. The Board may send to each Owner a statement of the assessment of such Owner for the period covered by the statement, but the failure to receive such statement shall not relieve any Owner of his obligation to pay his assessment to the Treasurer (or as otherwise directed) on or before the date owned.

**4. Supplemental Budget**

If during the fiscal year it appears to the Board that the assessments are insufficient to cover the estimated common expenses for the remainder of the year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, which shall be approved in accordance with the Declaration.

**5. Records**

The Board shall maintain accounting records according to generally accepted accounting practices, which records shall be open to inspection by Owners at reasonable time and upon reasonable notice. These accounting records shall include a record of receipts and expenditures and a separate account for each Owner showing the assessments charged to be paid by such Owner. Within ninety (90) days after the end of each year covered by an annual budget, the Board shall cause to be furnished to each Owner a statement for such year showing the receipts and expenditures and such other information as the Board may deem desirable. Upon reasonable notice to the Board, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from him.

**6. Limitation**

Without the approval of Owners holding at least 75% of the votes of the Association, the Board shall not approve any capital expenditures in excess of two thousand dollars (\$2,000) other than rebuilding, repairing or replacing damaged property or as specifically provided in the Declaration.

**Article VI**

**Rules and Regulations**

Uniform rules and regulations governing the use of the Property shall be adopted from time to time by the Board. All Owners shall obey the rules and regulations as adopted by the Board.

**Article VII**

**Amendment**

These Bylaws may be amended, altered or rescinded upon a majority vote of the membership at a regular or special meeting of the Association, notice of which shall state that such proposed amendment is to be voted on at the meeting. All amendments of these Bylaws shall be duly recorded as an Exhibit to the Declaration in the Public Records of Brevard County, Florida.

## **Article VIII**

### **Indemnification**

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement as long as actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonable believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect to any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of this duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expense which such court shall deem proper. The termination of any action, suit or proceedings by judgment order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.



## **Article IX**

### **Insurance**

- 1.** The Association shall keep (i) any buildings and other improvements on the Common Area insured against loss by fire and the risks covered a Standard All Risk of Loss Perils insurance policy under an extended coverage casualty policy in the amount of the maximum insurance replacement value thereof, and (ii) all personal property owned by the Association insured with coverage in the maximum insurable fair market value of such personal property as determined annually by an insurance carrier selected by the Association. Insurance proceeds for any improvements in the Common Area and any personal property owned by the Association shall be payable to the Association. In the event of any loss, damage or destruction, the Association shall cause the same to be replaced, repaired or rebuilt if it occurred in the Common Area. In the event the cost of such replacement repair or rebuilding of any improvements on the Common Area (i) exceeds the insurance proceeds available therefore, or (ii) no insurance proceeds are available therefore, the deficiency of full cost thereof shall be assessed to the Owners.
- 2.** The Association shall procure and keep in force public liability insurance in the name of the Association and the Owners against any liability for personal injury or property damage resulting from any occurrence in or about the Common Area, in an amount not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for damage to property in one (1) or more persons in one (1) accident or event and not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for damage to property in one (1) accident or event.
- 3.** Copies of all such insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained by the Association and open for inspection by the Owners at any reasonable time. All such insurance policies shall (i) provide that they shall not be cancelable by the insurer without first giving at least ten (10) days prior notice in writing to the Association, and (ii) contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.
- 4.** Anything contained herein to the contrary notwithstanding, the Association shall maintain such insurance coverage as may be required by the Veterans Administration ("VA"), the Federal Housing Administration ("FHA"), or Federal National Mortgage Administration ("FNMA") so long as VA, FHA, FNMA holds a mortgage on or owns any Lot.