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1028 Lake Sumter Landing
The Villages, FL 32162



Unit 229
DISTRICT 4

**AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE VILLAGES OF MARION BIRCHBROOK VILLAS**

a Subdivision in Marion County according to the Plat thereof as recorded in Plat Book 7, Pages 57 and 58, Public Records of Marion County, Florida.

RECITALS

A. On November 26, 2002, The Villages of Lake-Sumter, Inc., as Declarant, recorded in Official Records Book 3286, beginning on Page 504, Public Records of Marion County, Florida, a DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for the subdivision known as THE VILLAGES OF MARION BIRCHBROOK VILLAS ("Declaration"), according to the plat recorded in Plat Book 7, Pages 57 and 58, Public Records of Marion County, Florida.

B. At this time, pursuant to the rights reserved in Article X, Section 4 of the Declaration, Declarant hereby wishes to amend the Declaration.

NOW, THEREFORE, the Declaration is amended as follows:

The Declaration is amended by amending and restating Article V, Section 9 as follows:

"Section 9. No outbuilding, tent, shack, garage, trailer, shed, utility building or temporary building of any kind shall be erected, except temporarily only for construction purposes. Clear (non-colored) concrete and driveway coatings are permitted. No colored coatings are permitted without the prior written consent of Declarant, its designee, or an architectural review committee appointed by Declarant or Declarant's designee."

Dated this 18th day of May, 2012.

Witnesses: [Signature]
Print Name: Vicki C. Varnon

THE VILLAGES OF LAKE-SUMTER, INC.,
a Florida corporation
By: [Signature]
Martin L. Dzuro, Vice President

[Signature]
Print Name: Jennifer A. Peters

**STATE OF FLORIDA
COUNTY OF SUMTER**

The foregoing instrument was acknowledged before me the 18th day of May, 2012, by Martin L. Dzuro, the Vice President of The Villages of Lake-Sumter, Inc., a Florida corporation, who is personally known to me.

[Signature]
NOTARY PUBLIC - STATE OF FLORIDA
(Signature of Notary Public) Vicki C. Varnon

(Print Name of Notary Public)
My Commission Expires: _____
Serial/Commission Number: _____



Arts Dept



DAVID R. ELLSPERMANN, CLERK OF COURT MARION COUNTY

DATE: 11/26/2002 02:02:52 PM

FILE NUM 2002132285 OR BK/PG 03286/0504

RECORDING FEES 60.00

DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS

FOR THE VILLAGES OF MARION

BIRCHBROOK VILLAS 029

THE VILLAGES OF LAKE-SUMTER, INC., a Florida Corporation, hereinafter called Declarant, is the owner in fee simple of certain real property located in Marion County, Florida, known by official plat designation as the VILLAGES OF MARION BIRCHBROOK VILLAS pursuant to a plat recorded in Official Plat Book 7 beginning at page 57,58 of the Public Records of Marion County, Florida.

For the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, Declarant hereby declares that all of the Homesites (as hereinafter defined), and each part thereof shall be held, sold, and conveyed only subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereat, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

Section 1. "Common Area" shall mean all real property shown on the plat referenced above conveyed to the District and dedicated for the common use and enjoyment of the owners or residents of the District or the public, together with additions in accordance herewith. Title to the Common Area shall be conveyed to the District and dedicated for common use free and clear of any liens or encumbrances.

Section 2. "Declarant" shall mean THE VILLAGES OF LAKE-SUMTER, INC. and its successors and assigns.

Section 3. "District" shall mean the Village Community Development District No.4, a community development district created pursuant to Chapter 190, Florida Statutes.

Section 4. "Homesite" shall mean any unit of land designated as a Homesite on the recorded subdivision plat referred to above.

Section 5. "Institutional First Mortgage" shall mean a mortgage upon a Homesite and the improvements thereon granted to an owner by a bank, savings and loan association, pension fund, trust, real estate investment, insurance company or any other federally insured investment or financial institution.

Section 6. "Maintenance" shall mean the exercise of reasonable care and repair to keep buildings, roads, landscaping, lighting, lawns, walls, fences, water and sewer distribution systems, storm water run off collection systems, and other related improvements and fixtures in good repair and condition. Maintenance of landscaping shall further mean the exercise of generally accepted garden-management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

Section 7. "Mortgage" shall mean a conventional mortgage.

Section 8. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Homesite which is a part of the Subdivision, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 9. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of these restrictions as hereinafter provided.

ARTICLE II. THE DISTRICT

Section 1. Services Provided by the District. The District shall have such authority and perform those services consistent with Chapter 190 of the Florida Statutes. Services shall include, but not limited to the following:

(a) Maintenance and repair of the Common Area held by the District or dedicated to the use and enjoyment of the residents of the District, the Subdivision or the public;

(b) Water, sewer, garbage, electrical, lighting, telephone, gas and other necessary utility service for the Common Area;

(c) Maintenance and repair to roads within the Subdivision;

(d) Maintenance and repair of the storm water runoff drainage system including drainage easements and drain pipes.

(e) Maintenance and repair to the top and exterior of the security wall fences, running along the rear of Homesites 1 through 31 and the exterior side yard of Homesites 3, 24, and 25.

Section 2. District Assessments. The District shall have the authority to impose assessments pursuant to the authority granted under Chapter 190 of the Florida Statutes.

Section 3. No Maintenance by Marion County. No maintenance services on the roadways, drainage easements, drain pipes, or any other maintenance services within the Subdivision will be performed by county government of Marion County, Florida.

ARTICLE III. THE VILLAGES AMENITIES FEE

Each Owner hereby agrees to pay a monthly fee, or charge (the "Amenities Fee") against each Homesite for the benefit and use of the recreational and other amenities of the Villages of Lake, the Villages of Sumter and the Villages of Marion in the amount per month set forth in such Owner's Deed. The Amenities Fee set forth is limited to the Owner named therein. In the event the Owner(s) transfers, assigns or in any way conveys their interest in and to the Homesite, the new Owner(s) shall be obligated to pay the prevalent Amenities Fee sum that is then in force and effect for new Owner(s) of Homesites in the most recent addition or unit of the Villages of Lake, the Villages of Sumter and the Villages of Marion. The monthly Amenities Fee as set forth in this section is based on the cost of living for the month of sale as reflected in the Consumer Price Index, U.S. Average of Items and Food, published by the Bureau of Labor Statistics of the U.S. Department of Labor. The month of sale shall be the date of the Contract for Purchase of the Homesite. There shall be an adjustment in the monthly Amenities Fee or charge in three years after such date and every year subsequent thereto. The adjustments shall be proportional to the percentage increase or decrease in the Index from the date of sale to three years from said date and each subsequent one year period thereafter. Each adjustment shall be in effect for the intervening one year period. Adjustments not used on any adjustment date may be made any time thereafter. Each

Owner agrees that as additional facilities are requested by the Owner(s) of Homesites in the Villages of Lake, the Villages of Sumter and/or the Villages of Marion and the erection of such additional facilities is agreed to by the Declarant, that upon a vote of one half (½) of the Owners in the Villages of Lake, the Villages of Sumter and the Villages of Marion, including the Owners in the Subdivision, approving such additional facilities and commence with charges therefor, the monthly Amenities Fee provided for in this section shall be increased accordingly without the limitations set forth herein. For the purpose of all votes the Declarant shall be entitled to one (1) vote for each Homesite owned by the Declarant. The monthly charges shall be paid to the Declarant or its designate each month to insure the provision of the services being paid for. The monthly charges for services described in this section shall be due and payable to Declarant and said charges once in effect will continue month to month whether or not said Homesite is vacant. Owner does hereby give and grant unto Declarant a continuing lien in the nature of a Mortgage upon the Homesite of the Owner superior to all other liens and encumbrances, except any Institutional First Mortgage. This lien shall secure the payment of all monies due Declarant hereunder and may be foreclosed in a court of equity in the manner provided for the foreclosures of mortgages. In any such action or any other action to enforce the provision of this lien, including appeals, Declarant shall be entitled to recover attorney's fees incurred by it, abstract bills and court costs. Owner together with Owner's heirs, successors and assigns, agree to take title subject to and be bound by, and pay the charge set forth herein and acceptance of the deed shall further signify approval of said charge as being reasonable and fair, taking into consideration the nature of Declarant's project, Declarant's investment in the recreational area, and in view of all the other benefits to be derived by the Owners as provided herein. Purchasers of Homesites further agree, by the acceptance of their deeds and the payment of the purchase price therefor, acknowledge that the purchase price was solely for the purchase of their Homesite or Homesites, and that the Owners, their heirs, successors and assigns, do not have any right, title or claim or interest in and to the recreational, Common Area or security areas or facilities contained therein or appurtenant thereto, by reason of the purchase of their respective Homesites, it being specifically agreed that Declarant, its successors and assigns, is the sole and exclusive Owner of the areas and facilities, and (2) the Amenities Fee is a fee for services and is in no way adjusted according to the cost of providing those services.

ARTICLE IV. PROPERTY RIGHTS

Section 1. Reciprocal Easements. There shall exist reciprocal appurtenant easements between adjacent Homesites and between Homesites and adjacent Common Area or reserved areas. Each Homesite may be both benefitted and burdened by side yard easements, driveway easements, easements for ingress and egress, and easements for maintenance, as described below:

(a) **Side Yard Easements.**

(1) **Scope and Duration.** There shall exist for the benefit and use of the dominant tenement side yard easements over and upon the servient tenement. The easements shall be perpetual and the holder of the dominant tenement shall have exclusive use of that portion of the servient tenement burdened by the side yard easement, except that the servient tenement shall retain the following rights:

- (i) The Owner of the servient tenement shall have the right at all reasonable times to enter upon the easement area, including the right to cross over the

dominant tenement for such entry, in order to perform work related to the use and maintenance of the servient tenement. In exercising the right of entry upon the easement area as provided for above, the Owner of the servient tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area.

- (ii) The servient tenement shall have the right of drainage over, across and upon the easement area for water draining from the roof of any dwelling or structure upon the servient tenement, the right to maintain caves and appurtenances thereto and the portions of any dwelling structure upon the servient tenement as originally constructed or as constructed pursuant to Article IX hereof.
- (iii) The Owner of the dominant tenement shall not attach any object to a wall, fence or dwelling belonging to the servient tenement or disturb the grading of the easement area or otherwise act with respect to the easement area in any manner which would damage the servient tenement.

(2) **Description of the Side Yard Easement.** The side yard easement shall extend over that portion of the servient tenement lying between the side Homesite lot line of the dominant tenement and the building wall and extending fence or wall located upon the adjacent servient tenement as originally constructed by Declarant. The side yard easement will extend from the interior of the rear fence or wall to the exterior of the front gate fence or wall. The dominant tenement shall be responsible for maintenance of the side yard easement.

(3) **Homesites Affected by the Side Yard Easement.** The side yard easement shall benefit and burden the following Homesites:

- (i) Homesites both burdened and benefitted by side yard easements shall be Homesites 2, 5 through 22 and 27 through 30.
- (ii) Homesites burdened but not benefitted by side yard easements shall be Homesites 1, 23, and 26.
- (iii) Homesites benefitted but not burdened by side yard easements shall be Homesites 3, 4, and 31.

(b) **Driveway Easements.**

(1) **Scope and Duration.** There shall exist for the benefit and use of the dominant tenement a driveway easement over and upon the servient tenement. The driveway easement shall be perpetual and the holder of the dominant tenement shall have exclusive use of that portion of the servient tenement burdened by the driveway easement except that the servient tenement shall retain the following rights:

- (i) The Owner of the servient tenement shall have the right of ingress and egress over the driveway easement to access the Owner's side yard and the side yard easement benefitting the Homesite Owner.

- (ii) The Owner of the servient tenement shall have the right at all reasonable times to enter upon the easement area, including the right to cross over the dominant tenement for such entry, in order to perform work related to the use and maintenance of the servient tenement. In exercising the right of entry upon the easement area as provided for above, the Owner of the servient tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area.
- (iii) The servient tenement shall have the right of drainage over, across and upon the easement area for water drainage from the roof of any dwelling or structure upon the servient tenement, the right to maintain eaves and appurtenances thereto and the portions of any dwelling structure upon the servient tenement as originally constructed or as constructed pursuant to Article IX hereof.
- (iv) The Owner of the dominant tenement shall not attach any object to a wall or dwelling belonging to the servient tenement or disturb the grading of the easement area or otherwise act with respect to the easement area in any manner which would damage the servient tenement.

(2) **Description of the Driveway Easement.** Beginning at a point where the side Homesite lot line of the dominant tenement intersects the driveway of the dominant tenement; thence run along the side Homesite lot line away from the roadway to a point on the front gate fence or wall; thence along the front gate fence or wall to a point on the side wall of the servient tenement; thence along a line running along the side wall of the servient tenement towards the roadway to a point where the line intersects the driveway of the dominant tenement; thence along said driveway toward the roadway to a point where the driveway intersects the front Homesite lot line of the servient tenement; thence along the front Homesite lot line of the servient tenement to a point where the front Homesite lot line of the dominant and servient tenements intersect; thence along the side Homesite lot line between the dominant and servient tenements to the point of beginning and close. The dominant tenement shall be responsible for landscaping and maintenance of the driveway easement.

(3) **Homesites Affected by Driveway Easements.** The driveway easement shall benefit and burden the following Homesites:

- (i) Homesites both burdened and benefitted by driveway easements shall be Homesites 2, 4 through 23, and 27 through 30.
- (ii) Homesites burdened but not benefitted by driveway easements shall be Homesites 3 and 31.
- (iii) Homesites benefitted but not burdened by driveway easements shall be Homesites 1, 24, and 26.

(c) **Easement for Ingress and Egress.** There shall exist for the benefit and use of the dominant tenement a perpetual easement for ingress and egress over and upon the servient tenement for the limited purpose of allowing the dominant tenement to access his side yard and side yard easement through the front gate fence wall.

Section 2. Owner's Easements of Enjoyment in Common Area. Every Owner of a Homesite shall have a right and easement of ingress and egress and enjoyment in and to the Common Area.

Section 3. Easements of Encroachment. There shall exist reciprocal appurtenant easements as between adjacent Homesites and between each Homesite and any portion or portions of the Common Area, reserved and dedicated areas adjacent thereto for any encroachment due to the nonwillful placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon, provided such construction, reconstruction, or alteration is in accordance with the terms of this Declaration. Such easement shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between adjacent Homesites, and between each Homesite and any adjacent portion of the Common Area. No easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of an Owner. A certificate by Declarant recorded in the Public Records to the effect that an encroachment is not willful, shall be conclusive proof thereof.

Section 4. Other Easements.

(a) Easements for installation and maintenance of underground utilities, cable television, drainage facilities, landscaping and wall fencing, are hereby reserved over the Common Area, reserved and dedicated areas. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each Homesite and all improvements therein shall be continuously maintained by the Owner of such Homesite, except for improvements for maintenance of which a public authority or utility company is responsible. Declarant contemplates constructing patios and similar improvements within such easements. Utility providers utilizing such easement area covenant, as a condition of the right to use such easement, not to interfere or disturb such equipment and improvements located within the easement area. In order to minimize damage to the property subject to such easement, utility providers are encouraged to install utilities pursuant to a Joint Trench Agreement. All utility providers are responsible for repairing the grading and landscape being disturbed pursuant to any utilization of such easements.

(b) Easements for the installation and maintenance of wall and fencing and easements for the installation and maintenance of a storm water runoff drainage system are hereby reserved over a strip of land five feet (5) wide running along the back Homesite lot line of each Homesite in the Subdivision, together with that portion of each Homesite actually occupied by side fence walls and gate fence walls and the storm water runoff drainage system. Easements for the installation and maintenance of utilities is hereby granted to the providers of those utilities over and upon a 5 foot strip of land within each Homesite, running along the front Homesite lot line adjacent and contiguous to the road right-of-ways.

(c) No dwelling unit or other structure of any kind other than the aforementioned walls or fences shall be built, erected, or maintained on any such easement, reservation, or right of way, except that patios and walks may be

constructed over the easement reserved over the strip of land running along the back Homesite lot line of each Homesite. Equipment for pool or spa operation may be placed within the easement however. Such easements, reservations, and rights of way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights of way are reserved.

Section 5. Right of Entry. The Declarant and the District, through its duly authorized employees and contractors, shall have the right after reasonable notice to the Owner thereof, to enter any Homesite at any reasonable hour on any day to perform such maintenance as may be authorized herein.

Section 6. No Partition. There shall be no judicial partition of the Common Area, nor shall Declarant, or any Owner or any other person acquiring any interest in the Subdivision or any part thereof, seek judicial partition thereof. However nothing contained herein shall be construed to prevent judicial partition of any Homesite owned in co-tenancy.

ARTICLE V. USE RESTRICTIONS

The Subdivision shall be occupied and used only as follows:

Section 1. The Subdivision is an adult community designed to provide housing for persons 55 years of age or older. All homes that are occupied must be occupied by at least one person who is at least fifty-five (55) years of age. No person under nineteen (19) years of age may be a permanent resident of a home, except that persons below the age of nineteen (19) years may be permitted to visit and temporarily reside for periods not exceeding thirty (30) days in total in any calendar year period. The Declarant or its designee in its sole discretion shall have the right to establish hardship exceptions to permit individuals between the ages of nineteen (19) and fifty-five (55) to permanently reside in a home even though there is not a permanent resident in the home who is fifty-five (55) years of age or over, providing that said exceptions shall not be permitted in situations where the granting of a hardship exception would result in less than 80% of the Homesites in the Subdivision having less than one resident fifty-five (55) years of age or older, it being the intent that at least 80% of the units shall at all times have at least one resident fifty-five (55) years of age or older. The Declarant shall establish rules, regulations policies and procedures for the purpose of assuring that the foregoing required percentages of adult occupancy are maintained at all times. The Declarant or its designee shall have the sole and absolute authority to deny occupancy of a home by any person(s) who would thereby create a violation of the aforesaid percentages of adult occupancy. Permanent occupancy or residency may be further defined in the Rules and Regulations of the Subdivision as may be promulgated by the Declarant or its designee from time to time. All residents shall certify from time to time as requested by the Declarant, the names and dates of birth of all occupants of a home.

Section 2. No business of any kind shall be conducted on any residence with the exception of the business of Declarant and the transferees of Declarant in developing and selling all of the Homesites as provided herein.

Section 3. No noxious or offensive activity shall be carried on in or on any Homesite with the exception of the business of Declarant and the transferees of Declarant in developing all of the Homesites as provided herein.

Section 4. No sign of any kind shall be displayed to public view on a Homesite or the Common Area without the prior written consent of the Declarant, except customary name and address signs. Professional signs advertising a

property for sale or rent shall be permitted. Lawn ornaments are prohibited, except for seasons displays not exceeding a thirty (30) day duration.

Section 5. Nothing shall be done or kept on a Homesite or on the Common Area which would increase the rate of insurance relating thereto without the prior written consent of the Declarant, and no Owner shall permit anything to be done or kept on his Homesite or the Common Area which would result in the cancellation of insurance on any residence or on any part of the Common Area, or which would be in violation of any law.

Section 6. Birds, fish, dogs and cats shall be permitted, with a maximum of two (2) pets per Homesite. Each Owner shall be personally responsible for any damage caused the Common Area by any such pet and shall be responsible to immediately remove and dispose of any excrement of such pet and shall be responsible to keep such pet on a leash. No other animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Homesite or on the Common Area.

Section 7. No rubbish, trash, garbage, or other waste material shall be kept or permitted on any Homesite or on the Common Area except in sanitary containers located in appropriate areas concealed from public view.

Section 8. No fence, hedge, wall, or other dividing instrumentality shall be constructed or maintained on any Homesite, except that Declarant and the transferees of Declarant may construct fences in accordance with existing architectural plans. In order to maintain a visible roadway, no bush, shrub, tree, or other similar plant may be placed within the road right-of-way. No ingress or egress to or from any Homesite is permitted except pursuant to such driveways and sidewalks as originally constructed by Declarant.

Section 9. No outbuilding, tent, shack, garage, trailer, shed, utility building or temporary building of any kind shall be erected, except temporarily only for construction purposes. Clear (non-colored) concrete and driveway coatings are permitted. No colored coating is permitted.

Section 10. Nothing shall be altered in, constructed on, or removed from the Common Area except on the written consent of the Declarant, after the original development thereof by the Declarant. Landscaping maintenance in the Common Area shall be the duty of the District and no other person shall attempt to alter or maintain it.

Section 11. The hanging of clothes or clotheslines or placing of clothes poles is prohibited to the extent allowed by law. No aerials, satellite reception dishes, or antennas of any kind, nor window air-conditioners or irrigation wells are permitted within the Subdivision, except as specifically allowed by law. The location of any improved device will be as previously approved by the Declarant in writing.

Section 12. All garbage will be contained in plastic bags prescribed by Declarant and placed curbside no earlier than the day before scheduled pick-up. In the alternative, the Declarant shall have the right to require that garbage be placed in a dumpster and not placed curbside. In either event, all garbage must be contained in fully closed and sealed plastic bags prescribed by the Declarant. Garbage and trash service shall be provided by a carrier selected by the Declarant, and charges paid separately by each Owner. Owner agrees that garbage and trash service shall commence on the closing date the Owner purchases Owner's Homesite and home. Owner acknowledges that garbage and trash services is provided, and the fee for such service is payable, on a year-round basis regardless of use or occupancy. Declarant reserves the right to require all Owner's to participate in a curbside recycling program if and when one is instituted.

Section 13. Owner(s) shall use his property in such a manner as to allow his neighbors to enjoy the use of their property. Radios, record players, television, voices and other sounds are to be kept on a moderate level from 10:00 p.m. to one (1) hour before daylight. These restrictions shall not apply to construction noises being made by the Declarant.

Section 14. The Declarant reserves the right to prohibit or control all peddling, soliciting, selling, delivery and vehicular traffic within the Subdivision.

Section 15. The Declarant reserves the right to establish such other reasonable rules and regulations covering the utilization of the Homesites by the Owner(s) in order to maintain the aesthetic qualities of this Subdivision, all of which apply equally to all of the parties in the Subdivision. The rules and regulations shall take effect within five (5) days from the sending of a notice to an Owner(s).

Section 16. Individual mailboxes may not be located upon a Homesite. Mailboxes are provided by the U.S. Postal Service at no cost to Owner, however, those boxes shall be housed by Declarant at a one time lifetime charge to Owner of \$100.00 per box. If title to a Homesite is transferred, a new charge shall be made to the new Owner. Payment of this fee shall be a condition collectible in the same manner as the maintenance fee and shall constitute a lien against the Homesite until it is paid. The mailbox fee may be increased in the same percentages and manner as increases in The Villages Amenities Fees.

Section 17. Declarant or the transferees of Declarant shall undertake the work of developing all Homesites included within the Subdivision. The completion of that work, and the sale, rental, or other disposition of residential units is essential to the establishment and welfare of the Subdivision as an ongoing residential community. In order that such work may be completed and the Subdivision be established as a fully occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from doing on any part or parts of the Subdivision owned or controlled by Declarant or Declarant's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work;

(b) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from constructing and maintaining on any part or parts of the Subdivision property owned or controlled by Declarant, Declarant's transferees, or their representatives such structures as may be reasonably necessary for the completion of such work, the establishment of the Subdivision as a residential community, and the disposition of Homesites by sale, lease, or otherwise;

(c) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from conducting on any part or parts of the Subdivision property owned or controlled by Declarant or Declarant's transferees or their representatives, the business of completing such work, of establishing the Subdivision as a residential community, and of disposing of Homesites by sale, lease, or otherwise; or

(d) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from maintaining such sign or signs on any of the Homesites owned or controlled by any of them as may be necessary in connection with the sale, lease or other disposition of subdivision Homesites.

As used in this section, the words "its transferees" specifically exclude purchasers of Homesites improved with completed residences.

Section 18. No unauthorized person may enter onto any wildlife preserve set forth within the areas designated as such in the Development Order entered in connection with the Villages of Marion, a Florida Quality Development, or as it may be amended from time to time. No Owner of the property within the Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit and recorded plat of the Subdivision, unless prior approval is received from the District pursuant to Chapter 40C-4, F.A.C.

Section 19. Except as originally constructed by the Developer, no driveways, walkways, or access shall be located on or permitted on Buena Vista Boulevard or Belle Meade Circle.

ARTICLE VI. OWNER'S OBLIGATIONS OF MAINTENANCE AND REPAIR

Section 1. Maintenance Obligations.

(a) **Home, Homesite and adjoining areas.** Subject to Article IX, each Owner shall, at his sole cost and expense, repair his residence, other than as otherwise provided for herein, keeping the same in condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear. Each Homesite Owner shall be responsible for maintaining in a mowed, edged, neat and clean manner:

- (i) that portion of his Homesite not subject to side yard or driveway easements,
- (ii) his side yard easement area, driveway easement area and driveway, whether on his Homesite or on an adjacent Homesite, Common Area or dedicated area, and
- (iii) the unpaved area between an adjacent roadway and the Owner's front and side Homesite lot lines.
- (iv) Owners of Homesites subject to a Special Easement for Landscaping, as shown on the Plat or described in Article IV above, shall perpetually maintain the vegetation located thereon, consistent with good horticultural practice. No owner of a Homesite which is subject to a Special Easement for Landscaping shall take any action to prevent the Landscaped Buffer from complying with those provisions of the Marion County Subdivision regulations requiring Landscaped Buffer areas.

(b) **Walls, Fences and Gates.** Owners shall be responsible for all Wall and Fence maintenance not assumed by the District in ARTICLE II, Section 1. Subject to Article IX each Owner shall paint and keep clean all fences and walls. The gate on the gate fence or wall shall be maintained by the Owner enjoying the use of the adjacent side yard area. Owners shall be responsible for maintenance and repair of the structural integrity of all walls and fences serving the Owners' Homesites whether on the Owner's Homesite or on an adjacent Homesite, Common Area or dedicated area. Where a wall or fence serves more than one Homesite, the cost of maintaining and repairing the structural integrity of the wall or fence shall be shared among the respective Owners served by such wall. In addition, the Owners of Homesites 1 and 4 shall clean and paint the exterior portion of the wall or fence upon their Homesite facing the adjoining road right of way, parking area, or common area. The Owners of Homesites 1 and 4 shall also clean and paint the interior portion of the security wall or fence upon and adjacent to the Homesite. Owners of Homesites on

the perimeter of the Subdivision who must maintain the exterior of the fence on their Homesites are encouraged to do so in a cooperative and uniform manner with other adjacent Homesite Owners so as to present to the public a uniform well maintained appearance of the Subdivision as a whole. Owners of Homesites 4 through 24 shall also maintain the railing of the wall situated on their Homesite. All gates, walls and fences must be of a uniform color and type of paint. Owners intending to paint must contact the Declarant or the District for paint specifications.

Section 2. If an Owner does not adhere to the above regulations, then the work may be performed on behalf of the Owner by the Declarant or the District and the cost shall be charged to the Owner.

ARTICLE VII. OWNER'S OBLIGATION TO REBUILD

If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild repair, or reconstruct such residence and walls in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, and shall be completed within six (6) months after the damage occurs, unless prevented by governmental authority. Such reconstruction is subject to the provisions of Article IX.

ARTICLE VIII. PARKING RESTRICTIONS

No Owner of a Homesite shall park, store, or keep any vehicle except wholly within his driveway, garage or other non-visitor parking spaces. No truck in excess of 3/4 ton, camper, boat, trailer, or aircraft, or any vehicle other than a private non-commercial vehicle may be parked in a parking space except a boat may be kept in the garage with the garage door closed. No Owner of a Homesite shall repair or restore any motor vehicle, boat, trailer, aircraft, or other vehicle on any portion of any Homesite, or on the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

ARTICLE IX. ARCHITECTURAL CONTROL

Section 1. Alterations, additions, and Improvements of Residences. No Owner, other than Declarant or its transferees, shall make any structural alteration, or shall undertake any exterior repainting or repair of, or addition to his residence, which would substantially alter the exterior appearance thereof, without the prior written approval of the plans and specifications therefor by the architectural committee appointed by the Declarant. The Declarant or an architectural committee designated by the Declarant shall grant its approval only in the event the proposed work will benefit and enhance the entire Subdivision in a manner generally consistent with the plan of development thereof. All Fences and Walls must be of a uniform color and type of paint. Owners intending to paint their fence walls must contact the Declarant or the District for paint specifications.

Section 2. Waiver and Release. When a building or other structure has been erected or its construction substantially advanced and the building is located on any Homesite or building plot in a manner that constitutes a violation of these covenants and restrictions, the Declarant may release the Homesite or building plot, or parts of it, from any part of the covenants and restrictions that are violated. The architectural committee shall not give such a release except for a violation that it determines to be a minor or insubstantial violation in its sole judgment.

ARTICLE X. GENERAL PROVISIONS

Section 1. Water Features. Owner recognizes that lakes, ponds, retention and detention areas, marsh areas or other water related areas (hereafter, "Water Features") within or outside of the Subdivision are designed to detain, or

retain stormwater runoff and are not necessarily recharged by springs, creeks, rivers or other bodies of water. In many instances, the Water Features are designed to retain more water than may exist from ordinary rainstorms in order to accommodate major flood events. The level of water contained within such Water Features at any given time is also subject to naturally occurring events such as drought, floods, or excessive rain. Owner acknowledges that from time to time there may be no water in a Water Feature and that no representation has been made that the water depth or height will be at any particular level.

Section 2. Enforcement. Declarant, or any Owner shall have the right but shall not have the obligation to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Cost of such proceedings, including attorney's fee, shall be paid by the party losing said suit. Failure by Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Amendments. Covenants and restrictions of this Declaration may be amended by duly recording an instrument executed and acknowledged by the Declarant.

Section 5. Subordination. No breach of any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the Subdivision or any Homesite therein; provided, however, that such conditions shall be binding on any Owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

Section 6. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, or any Owner until the first day of January 2033 (except as elsewhere herein expressly provided otherwise). After the first day of January 2033, said covenants, restrictions, reservations and servitudes shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Developer or his assignee shall be recorded, which instrument shall alter, amend, enlarge, extend or repeal, in whole or in part, said covenants, restrictions, reservations and servitude.

EXECUTED this 18th day of October, 2002.

Signed Sealed and Delivered
in the presence of

Lisa Carnes
Lisa Carnes

(Printed Name)
Lori West
Lori West
(Printed Name)

THE VILLAGES OF LAKE SUMTER, INC.

By: Martin L. Dzurko
Martin L. Dzurko, Vice President

Address of The Villages of Lake-Sumter, Inc.:
1100 Main Street, The Villages, FL 32159

STATE OF FLORIDA
COUNTY OF LAKE

Before me, the undersigned authority, personally appeared **Martin L. Dzuro** as the Vice President of Declarant, to me known to be the person in and who executed the foregoing instrument with full authority of Declarant corporation.

WITNESS my hand and official seal in the County and State aforesaid, this 18th day of October 2002.

Lisa Carnes
NOTARY PUBLIC
Printed Name: Lisa Carnes
My Commission Expires: 9-16-05
Serial/Commission Number: DD057192
Personally Known or Produced Identification _____
Type of Identification Produced: _____

[S E A L]



Lisa Carnes
My Commission DD057192
Expires September 16, 2005

THIS INSTRUMENT PREPARED BY:

Craig W. Little/ml
McLin & Burnsed, P.A.
P.O. Box 1299
The Villages, Florida 32158-1299

RETURN TO:

Martin L. Dzuro, PSM
Grant & Dzuro
1100 Main St
The Villages, Florida 32159

G:\User\TRVLS\Restrictions\Birchbrook Villas.wpd/October 17, 2002