

Prepared By and Return To:
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LARSEN & ASSOCIATES, P.A.
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Scott Ellis

Clerk Of Courts, Brevard County

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Mtg: 0.00		

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS
FOR MURRELL APARTMENTS MULTIFAMILY DISTRICT**

THE LAND SUBJECT TO THIS AMENDED AND RESTATED DECLARATION AND THE IMPROVEMENTS LOCATED THEREON HAVE PREVIOUSLY BEEN SUBMITTED TO COVENANTS AND RESTRICTIONS ON USE AND OPERATION PURSUANT TO THAT CERTAIN DECLARATION OF RESTRICTIONS FOR MURRELL APARTMENTS MULTIFAMILY DISTRICT RECORDED IN OFFICIAL RECORDS BOOK 4527 AT PAGE 669 ET SEQ., OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA (HEREINAFTER "ORIGINAL DECLARATION"). THAT DECLARATION IS HEREBY AMENDED AND RESTATED IN ITS ENTIRETY. ALL OF THE LANDS AFFECTED BY SAID ORIGINAL DECLARATION ARE SUBJECT TO THIS AMENDED AND RESTATED DECLARATION. IN ADDITION, ANY AND ALL PLATS OF SAID LANDS AND ANY EASEMENTS THEREON, AS PREVIOUSLY AMENDED OR MODIFIED, REMAIN UNCHANGED, UNLESS SPECIFICALLY MODIFIED HEREIN. EXCEPT AS MAY BE SPECIFICALLY SET FORTH HEREIN, IT IS INTENDED THAT THIS AMENDED AND RESTATED DECLARATION SUPERSEDE THE ORIGINAL DECLARATION WHETHER OR NOT DESCRIBED HEREIN.

WHEREAS, Lakes at Viera East, LLC is the Owner of that certain real property described in Exhibit "A", attached hereto and made a part hereof, located in Brevard County, Florida (hereinafter referred to as the "District Property");

WHEREAS, the District Property is a portion of the Properties as that term is defined in that certain First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community, recorded in Official Records Book 3225, Page 4071, both of the Public Records of Brevard County, Florida, as supplemented and amended from time to time (hereinafter referred to as the "Community Declaration");

WHEREAS, the Community Declaration anticipates the formation of various Districts (as defined in the Community Declaration) within the Properties as separately denominated residential, commercial, industrial, office, governmental, educational, institutional or other use areas subject to the Community Declaration as provided therein;



WHEREAS, Lakes at Viera East, LLC desires to re-designate the District Property as a separately denominated Residential District subject to the Community Declaration as provided therein;

WHEREAS, the real property subject to this Declaration shall be comprised of a Condominium complex containing 200 Condominium Units known as "Lakes at Viera East, A Condominium;"

WHEREAS, Lakes at Viera East, A Condominium is managed and governed by "Lakes at Viera East Condominium Association, Inc.," a Florida Corporation, not-for-profit;

WHEREAS, The Viera Company (f/k/a Duda Lands, Inc.), a Florida corporation, as Declarant under the District Declaration (hereinafter referred to as the "District Declarant"), desires to consent to the imposition of this District Declaration upon the District Property as required under the terms of the District Declaration; and

WHEREAS, The Viera Company (f/k/a Duda Lands, Inc.), a Florida corporation, as Declarant under the Community Declaration (hereinafter referred to as the "Community Declarant"), desires to consent to the imposition of this District Declaration upon the District Property as required under the terms of the Community Declaration; and

WHEREAS, Lakes at Viera East, LLC intends to impose on the District Property mutually beneficial restrictions under a general plan of improvement.

NOW, THEREFORE, District Declarant and Lakes at Viera East, LLC hereby declare that the above recitals are true and correct, and that the District Property, and any additional property as is hereinafter subjected to this District Declaration in accordance with its terms, shall be held, sold and conveyed subject to the following covenants, conditions, easements, reservations and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property subjected to this District Declaration and which shall be binding on all parties having any right, title or interest in the real property subjected to this District Declaration or any part thereof, their heirs, successors, successors in title and assigns.

ARTICLE I
Definitions

Section 1. "Community Association" shall mean and refer to Viera East Community Association, Inc., formerly known as Viera Southeast Community Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

Section 2. "Community Declarant" shall mean and refer to The Viera Company, a Florida corporation, or its successors, successors-in-title or assigns who are

designated as the Community Declarant under the terms and provisions of the Community Declaration.

Section 3. "Community Declaration" shall mean and refer to that certain First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community, recorded at Official Records Book 3225, Page 4071, Public Records of Brevard County, Florida, as supplemented and amended from time to time.

Section 4. "Condominium Association" shall mean and refer to Lakes at Viera East Condominium Association, Inc., a Florida Corporation, Not-For-Profit.

Section 5. "Condominium Declaration" shall mean the Declaration of Condominium of Lakes at Viera East, A Condominium to be recorded in the Public Records of Brevard County, Florida, which Declaration, once recorded, shall be a covenant running with the land affecting the District Property.

Section 6. "District" shall mean and refer to the Murrell Apartments Multifamily District, which shall include the District Property.

Section 7. "District Declaration" shall mean and refer to this Amended and Restated Declaration of Restrictions for Murrell Apartments Multifamily District, as supplemented and amended from time to time.

Section 8. "District Declarant" shall mean and refer to The Viera Company, a Florida corporation, or its successors, successors-in-title or assigns who are designated as the District Declarant hereunder in a recorded instrument executed by the immediately preceding District Declarant, provided, however, in no event shall there be more than one District Declarant for the District Property at any given time.

Section 9. "District Drainage System" shall mean and refer to all land, easements, structures and other facilities and appurtenances which together constitute and comprise the Surface Water Management and Drainage System of the District Property (or portions thereof) as approved by District Declarant. The District Drainage System shall be owned and maintained by the Condominium Association.

Section 10. "District Property" shall mean and refer to the real property described in Exhibit "A".

Section 11. "Master Drainage System" shall mean and refer to all land, easements, structures and other facilities and appurtenances which together constitute and comprise the master Surface Water Management and Drainage System of the Properties (or portions thereof) and adjacent property as reflected on plans therefor now or hereafter on file with and approved by Brevard County, Florida and the St. Johns River Water Management District.



Section 12. "Person" shall mean and refer to a natural person, a corporation, a partnership, an estate, a trust, a trustee or other legal entity.

Section 13. "Plan Review Committee" or "PRC" shall mean and refer to the Plan Review Committee established by the Community Declarant pursuant to the Community Declaration.

Section 14. "Plat" shall mean and refer to any subdivision plat of all or a portion of the District Property recorded in the Public Records of Brevard County, Florida.

Section 15. "Resident" means a person residing in any Condominium Unit located in the District Property.

Section 16. "Unit Owner" shall mean and refer to one (1) or more Persons who hold record title to a Condominium Unit in Lakes at Viera, A Condominium.

Section 17. "Voting Member" shall mean and refer to the representative (or such representative's alternate if he is unable to attend a meeting of the Community Association) responsible for casting all votes of the Membership of the Community Association attributable to Parcels in the District for all matters requiring the vote of Membership of the Community Association, unless otherwise expressly specified in the Community Declaration or Bylaws of the Community Association. The Voting Member of the District shall be the President of the Condominium Association, unless a majority of the Board of Directors of the Condominium Association shall determine to appoint another representative as the Voting Member for the District. The Alternate Voting Member shall be the Secretary of the Condominium Association, unless a majority of the Board of Directors of the Condominium Association shall determine to appoint another representative as the alternate Voting Member for the District.

Capitalized terms not otherwise defined in the District Declaration, but defined in the Community Declaration, shall have the meaning set forth in the Community Declaration unless the context shall indicate otherwise.

ARTICLE II **Use Restrictions**

The District Property shall be used only for such purposes as are permitted in the Development Order and other applicable Development Approvals, subject to such further restrictions as may be set forth in this District Declaration and the Community Declaration or other covenants or deed restrictions pertaining thereto. The Community Association, acting through its Board of Directors, shall have standing and power to enforce restrictions and standards imposed under the District Declaration and to enforce deed restrictions on the District Property. If the Condominium Association fails to perform its maintenance responsibility as may be required in the Condominium Declaration, the Community Declaration or herein, the Community Association shall



have a right of entry and may perform same and assess the cost thereof, all as provided in the Community Declaration.

Section 1. Water and Sewage Facilities. No individual water supply system or individual sewage disposal system (other than connection to public utility systems) shall be permitted for any portion of the District Property, unless so approved by the PRC.

Section 2. Landscaping. Landscaping on any portion of the District Property and stormwater drainage and retention features located on any portion of the District Property shall be continuously maintained in a good and attractive condition by the Owner.

Section 3. Vehicles and Repair. No inoperative cars, motorcycles, trucks or other types of vehicles shall be allowed to remain either on or adjacent to any portion of the District Property for a continuous period in excess of forty-eight (48) hours; provided, however, this provision shall not apply to any such vehicle being kept in an enclosure and not visible from the street or any portion of the District Property. No semi-tractors, semi-tractor trailers, or vehicle having more than two (2) axles may be stored or parked on the District Property, except vehicles directly related to the construction of improvements upon the District Property from 6:00 a.m. to 7:00 p.m. daily while such construction is in progress.

Section 4. Storage. Unless specifically approved by the PRC, no materials, supplies or equipment (except during construction of improvements) shall be stored on any portion of the District Property, except inside an enclosed building, or behind a visual barrier approved by the PRC, screening such areas from the view of adjoining portions of the District Property, any other properties, and any public right-of-way. All refuse, trash and garbage containers shall be located in an enclosed building or other improvement or otherwise screened from view by a visual barrier approved by the PRC.

Section 5. Wells. Without the prior written consent of the PRC, no well for the production of water, whether potable or for irrigation or other limited purposes, shall be dug, used or otherwise permitted on the District Property.

Section 6. Clearing and Excavation. No clearing or excavation of any portion of the District Property shall occur except in connection with the construction approved by the PRC, or maintenance or repair of improvements on the District Property.

Section 7. Signs: Window Coverings: Laundry. No signs or posters may be displayed from the interior of or be placed on the exterior of any multifamily residential Unit on the District Property. Further, no bed linens, towels, foil, flags, banners or reflector film may be utilized as window coverings in any multifamily residential Unit on the District Property. No clothes line may be installed or laundry hung for drying or any other purpose on or about the exterior of any multifamily residential Unit on the District Property.



Section 8. Recreational Vehicles, Campers, Boats. No recreational vehicles, motor homes, campers, boats or any other type of water craft, or any trailer relating thereto, may be parked or stored on the District Property except in any enclosed building or in an area designated for such parking, which area must be enclosed by an opaque fence, berm, landscape screen or other visual barrier approved by the PRC screening such areas from the view of adjoining portions of the District Property, any other properties, and any public right-of-way.

Section 9. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any portion of the District Property, with the exception of dogs, cats, or other usual and common household pets, which may be kept or permitted in a reasonable number so as not to create a nuisance, provided same are not bred for commercial or other purposes; and provided, however, those pets which are permitted shall be sheltered inside multifamily residential Units. All dogs, cats and other pets must be leashed when outside and shall not be permitted to run loose.

Section 10. Nuisance. No portion of the District Property shall be used, in whole or in part, for the storage of any property or thing that will cause such portion of the District Property to appear to be in an unclean, unsightly, unhealthy or unkempt condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon, nor shall any use or practice be allowed upon any portion of the District Property that will emit foul or obnoxious odors and/or fumes or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of the District Property or other properties, or which shall be a source of material and unreasonable annoyance or discomfort to the Owners, Residents or their invitees, or which materially and unreasonably interferes with the peaceful possession and enjoyment of the District Property. No illegal, noxious, or offensive activity shall be carried on or conducted upon any portion of the District Property. Notwithstanding the foregoing, construction activity which occurs on the District Property in accordance with the terms hereof, the Community Declaration and applicable governmental ordinances and rules is permitted and shall not be deemed to violate the foregoing.

Section 11. Antennas; Satellite Dishes. The following restrictions shall apply to the District Property in its entirety, except to the extent any restriction or portion thereof is now or hereafter preempted by law or otherwise rendered unlawful. No antennae for the transmission or reception of cellular, radio or television signals, or any other form of electrical magnetic radiation which is visible on or about the exterior of any building or other improvement or otherwise located on the District Property outside of any building, shall be erected, used or maintained on any portion of the District Property, whether freestanding, attached to any improvement or otherwise. The installation of any dish type antenna designed to receive video programming services by way of direct broadcast service, multichannel/multipoint distribution service or any other type of transmission which exceeds one (1) meter (39.37 U.S. inches) in diameter is prohibited on the District Property and any part thereof. The installation and/or operation on the District Property or any part thereof, of any antenna, dish, receiver or other means of



receiving television broadcast signals or any other type of video programming for the purpose of distributing such signals or programming to multifamily residential Units and/or other buildings located upon the District Property is prohibited, except and excluding equipment related to the reception and/or amplification of signals received by means of underground cable from a cable television services provider providing underground cable television services throughout Viera.

Section 12. Compliance with Viera East CATV Pre-Wire Guidelines. All multifamily residential Units and other buildings intended for occupancy constructed upon the District Property or any part thereof shall comply with the Viera East Pre-Wire Requirements for multifamily construction as set forth on Exhibit "B."

Section 13. Tents, Trailers and Temporary Structures. No tent, trailer, mobile home or any structure of a temporary nature shall be placed on any portion of the District Property without obtaining prior written approval of the PRC.

Section 14. Porches and Balconies. No clothes line, banner, sign or poster shall be installed on any porch or balcony of any multifamily residential Unit on the District Property. Such porches and balconies shall be kept in an attractive condition free of unsightly uses.

Section 15. Determination of District Standard. The District Declarant or Community Association may establish a standard for the District as to conduct, maintenance or other activity generally prevailing throughout the District, which standard, if established, shall at least meet that of the Community-Wide Standard. In the event such a standard is established, it may be amended by the District Declarant or Community Association. Notwithstanding the foregoing, the PRC shall determine whether the District or any portion thereof, and all structures, parking areas, landscaping and other improvements located thereon are being maintained in a manner consistent with the Community-Wide Standard.

Section 16. Voting Member. The Condominium Association shall advise the Community Declarant of the name and address of the Voting Member and any alternate on an annual basis and also promptly after any change is made in the Voting Member or any alternate.

Section 17. Occupants Bound. All provisions of the District Declaration and of any Rules and Regulations or use restrictions promulgated pursuant thereto shall apply to all Residents on any portion of the District Property.

Section 18. Enforcement. In the event of the violation of or the failure to comply with the requirements of this Article, and the failure of the Condominium Association or the Resident of the affected portion of the District Property within ten (10) days following written notice by the District Declarant of such violation or non-compliance and the nature thereof, to cure or remedy such violation, then the District Declarant or its duly appointed employees, agents or contractors, shall have the right, but not the obligation,



and an easement and license to enter upon the affected portion of the District Property, without being guilty of any trespass therefor, for the purpose of curing or eliminating such violation, all at the sole expense of the violating party. All costs and expenses of curing or eliminating such violation, together with an overhead expense to the District Declarant of fifteen percent (15%) of the total amount thereof, shall be payable by the violating party to the District Declarant within ten (10) days after written notice to the violating party of the amount thereof. Any amount not paid when due shall bear interest at the rate of eighteen percent (18%) per annum.

Section 19. Leasing. A Unit Owner shall be allowed to lease his Condominium Unit provided that any such lease(s) shall be on forms approved in writing in advance by District Declarant and shall require the tenant(s) thereunder to comply with the terms and conditions of the District Declaration, Bylaws, Articles of Incorporation, Community Declaration, Bylaws and Articles of Incorporation of the Community Association, and provided further that such lease(s) and tenancy(ies) are otherwise in compliance with any Rules and Regulations promulgated by the Condominium Association or the Community Association, including, without limitation, Rules and Regulations regarding the use and occupancy of the leased premises. Without the prior written consent of the Community Association, no lease of a Condominium Unit or any portion thereof, shall be for a term of less than six (6) months, and any such lease shall be in writing and shall be enforceable by the Condominium Association or Community Association, whether or not so stated in its terms. During the terms of any lease, Unit Owner shall not be relieved of any obligations under the terms of the Condominium Declaration, District Declaration and Community Declaration, and Unit Owner shall be liable for the actions of his tenants which may be in violation of the terms and conditions of the Condominium Declaration, District Declaration, Community Declaration, any Rules and Regulations thereunder and any other documents set forth above, notwithstanding the fact that the tenants are also fully liable for any violation of the documents and regulations. In the event a tenant, occupant, or person living with the tenant violates the Condominium Declaration, District Declaration, the Community Declaration, the Bylaws or Articles of Incorporation of the Community Association, or the Rules and Regulations of the Condominium Association or Community Association, the Condominium Association or Community Association as appropriate, shall have the power to bring an action or suit against the tenant or occupant and the Unit Owner, or any combination of the foregoing, to recover sums due for damages or injunctive relief, or for any other remedy available at law or in equity. The restrictions contained in this section shall not apply to Condominium Units or Unplatted Parcels owned by, or leased to, District Declarant, or by any Mortgagee of a first Mortgage acquiring title by foreclosure or deed in lieu of foreclosure.

Section 20. Time-Share Prohibition. No time sharing plan as the term is defined in Chapter 721, Florida Statutes (1993), as amended, or any similar plan of fragmented or interval ownership of Units or Unplatted Parcels shall be permitted on the District Property, and no attempt to create same by lease or otherwise shall be allowed.



Section 21. Drainage. All stormwater from any portion of the District Property shall only drain into or onto contiguous or adjacent street rights-of-way, drainage easements, retention areas, Common Areas or Areas of Common Responsibility in the manner approved by the PRC and the Owner and operator of the Master Drainage System or the District Drainage System, as the case may be, if such drainage is part of the Master Drainage System or the District Drainage System, respectively. If such drainage is not part of the Master Drainage System or the District Drainage System and is not required to be part of the Master Drainage System or the District Drainage System, then the manner of its drainage shall be approved by the PRC and the District Declarant (and at such time as District Declarant owns no portion of the District Property, or property which can be annexed to the District Property, or at such earlier time as District Declarant in its sole discretion may determine, the approval of the District Declarant will not be required, and the Condominium Association and the PRC shall approve the manner of drainage). No Owner (other than the District Declarant) shall be permitted to alter the grade of or original drainage plan for any portion of the District Property, or change the direction of, obstruct, alter or retard the flow of Surface Water Drainage, nor to erect, place or maintain any structure which shall in any way obstruct drainage devices or facilities or impede their efficient operation unless approved by the PRC and the Owner and operator of the Master Drainage System or the District Drainage System, as the case may be, if such drainage is part of the Master Drainage System or the District Drainage System, respectively, or unless approved by the PRC and the District Declarant (and at such time as the District Declarant owns no portion of the District Property or property which can be annexed to the District Property, or at such earlier time as District Declarant in its sole discretion may determine, the approval of the District Declarant will not be required, and the Condominium Association and the PRC shall approve the manner of drainage), if such drainage is not part of the Master Drainage System or the District Drainage System.

Section 22. Lakes, Ponds, retention and Other Water Areas; Hedging and Landscaping. Condominium Units and unplatted parcels shall not have riparian rights to lakes, ponds, retention and other water areas unless so specifically provided herein or in the deed to the Owner of such Unit or unplatted parcel. Access to and use of lakes, ponds, retention and other water areas within the District Property shall be governed and controlled by the Owner and operator of the Master Drainage System or the District Drainage System, respectively. This shall not be deemed to imply that any of the District Property or the Owners thereof will have access to or rights to use lakes, ponds, retention or other water areas within the District Property. Docks and other structures or improvements within lakes, ponds, retention and other water areas within the District Property shall not be permitted unless approved by the PRC and the Owner and operator of the Master Drainage System or the District Drainage System, respectively. The Owner or operator of the District Drainage System may establish Rules and Regulations relevant to access and use of lakes, ponds, retention and other water areas within the District Property, which may include, without limitation, regulation or prohibition of sailing, boating or other watercraft (including jet skis or other vehicles containing gas, diesel or other form of combustion engines), swimming, fishing, or other water sports or activities and use of lake slopes. The District Declarant shall also have



the right, but not the obligation, to specifically designate the portions, if any, of the lakes, ponds, retention or other water areas and the corresponding shoreline or beach areas upon which boats or other vehicles may be stored, docked or launched, or within which swimming may be permitted. To the extent the Rules and Regulations of the District Declarant allow access to or use of lakes, ponds, retention or other water areas, such use shall be at the risk of the Person undertaking such activity, and there shall be no obligation by the District Declarant to provide supervisory personnel or lifeguards. At such time as District Declarant no longer owns any property which is subject to this District Declaration or which can be annexed to the District Property, or at such earlier time as District Declarant in its sole discretion may determine, the rights reserved to District Declarant in this section shall become rights of the Community Association, to be exercised by its Board of Directors. BY ACCEPTANCE OF A DEED TO A HOME OR PARCEL, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL LAKES AND WATER BODIES MAY VARY. THERE IS NO GUARANTEE BY COMMUNITY DECLARANT, THE COMMUNITY ASSOCIATION, DISTRICT DECLARANT OR CONDOMINIUM ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME.

Section 23. Garage Sales. No garage or yard sales of any kind shall be conducted, nor shall any signage related to any garage or yard sales be erected, in any manner, except as specifically provided by the Rules and Regulations promulgated by the District Declarant or the PRC, which Rules and Regulations shall address the location, frequency, scope, hours, placement or signs and all other matters relating to garage or yard sales and signage or advertising thereof.

Section 24. Wetlands and Conservation Areas. The District Property may contain or be adjacent to preserves, wetlands, conservation areas and /or mitigation areas. No Unit Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by the Condominium Association in their natural state. No Unit Owner shall have the right, under any circumstances, to disturb or alter such areas.

Section 25. Amendment. This Article shall not be amended without the written consent of the District Declarant and, as to provisions pertaining to it, the Community Declarant.

ARTICLE III

General Provisions

Section 1. Term. The covenants and restrictions of this District Declaration shall run with and bind the District Property, and shall inure to the benefit of and shall be enforceable by the District Declarant and the Community Declarant, their respective successors and assigns, for a term of forty (40) years from the date this District Declaration is recorded in the Public Records of Brevard County, Florida, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by the then Owner, has been recorded within the



year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this District Declaration shall be modified or terminated as specified therein.

Section 2. Enforcement. Every Resident shall comply strictly with the restrictions set forth in the District Declaration. The Community Association, Community Declarant, District Declarant or the Condominium Association shall have the right individually, collectively or in any combination to enforce the restrictions and other provisions of this District Declaration or seek such other relief as may be available as a result of a breach of such restrictions and other provisions of the District Declaration, by and proceeding at law or in equity. Failure to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter. The right to enforce the District Declaration shall include, without limitation, an action to recover sums due for damages or an action for injunctive relief, or both, maintainable by the Community Association, Community Declarant, District Declarant, or the Condominium Association. In addition, the Community Association may impose per diem penalties for failure of the Unit Owner or a Resident to comply with this District Declaration and associated documents after notice of such noncompliance and the elapsing of a stated time period within which to cure such noncompliance. Such penalties shall be due and payable upon imposition and shall be secured, collected and otherwise treated in the same manner as Assessments. The Community Association or Community Declarant shall have the right, but not the obligation, to take all actions that the District Declarant might otherwise take under the provisions of this District Declaration, including the right to enforce the terms of this District Declaration. Costs, expenses and reasonable attorneys' and paralegals' fees, whether suit be brought or not, including those resulting at all trial and appellate levels, incurred by the prevailing party in any action to enforce any provision of this District Declaration or to seek such other relief as may be available as a result of a breach of such restrictions and other provisions of the District Declaration, or deed restrictions on the District Property, including without limitation actions to recover sums due for damages or actions for injunctive relief, shall be the personal obligation of the nonprevailing party.

Section 3. Cumulative Effect; Conflict. The restrictions and provisions of this District Declaration shall be cumulative with those of (i) the Community Declaration and associated documents thereunder, (ii) any deed restrictions and (iii) any plat notes and the District Declarant may, but shall not be required to, enforce those documents described in (i), (ii) and (iii), provided, however, in the event of conflict between or among such restrictions and provisions, those of the District Declaration, deed restrictions and plat notes shall be subject and subordinate to those of the Community Declaration and the Community Association.

Section 4. Severability. Invalidation of any one of the covenants or restrictions, or any portion thereof, contained in the District Declaration by statute, judgment or court order shall in no way affect the validity of the remaining valid portion of any such covenant or restriction or any other provisions contained in the District Declaration, which shall remain in full force and effect.



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Section 5. Community Association Assessments. Assessments are payable from the Unit Owners to Viera East Community Association, Inc. and are incorporated into the Condominium Association's budget. This payment arrangement may change in the future and the individual Condominium Unit Owners may be required to pay Assessments directly to Viera East Community Association, Inc. The authority to charge and collect for said Assessments is found in the First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community (formerly referred to as Viera Southeast Community) as recorded at official records Book 3225, Page 4071, Public Records of Brevard County, Florida. This authority to access also includes the authority to secure said Assessment by lien on each Condominium Unit.

ARTICLE IV
CATV Easements; Declarant's Rights

Section 1. CATV Easements. All providers of cable television services shall have and are hereby granted a permanent non-exclusive easement upon, across and under the District Property for the installation, maintenance, repair and improvement of cable television facilities and related equipment reasonably necessary to provide cable television and other telecommunication services to multifamily residential Units and other buildings from time to time located on the District Property, together with the right of ingress and egress over and across the District Property, including roads, parking areas and Common Areas, in connection therewith. The easements herein granted shall be limited to specific locations and other limitations reasonably determined by the Condominium Association, provided, however, that in no event shall such easements be located or limited by the Condominium Association in a manner which renders such easements insufficient to allow the installation and facilities to the point of service installed in all multifamily residential Units and other buildings pursuant to Exhibit "B" attached hereto. Without limiting the generality of the foregoing, all utility easements described on any Plat of the District Property shall also be deemed to be easements for the construction, installation, maintenance and operation of cable television services.

Section 2. Assignment of Rights. Any or all of the obligations of District Declarant may be transferred to other Persons provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein; provided further, no such transfer shall be effective unless it is in a written instrument signed by District Declarant and duly recorded in the public records of Brevard County, Florida.

Section 3. Amendment. This Article shall not be amended without the written consent of the District Declarant.



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**ARTICLE V
Amendment**

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This District Declarant may only be amended by an instrument executed by both the Condominium Association and the District Declarant. Any such amendment shall require the prior written approval of the Community Declarant. No Amendment shall remove, revoke or modify any right or privilege of District Declarant or Community Association without the written consent of such party or the assignee of such party's right or privilege.

IN WITNESS WHEREOF, the undersigned District Declarant has executed this District Declaration as of the 01 day of December, 2004.

WITNESSES:

THE VIERA COMPANY, a Florida Corporation

Brooke Fredrick
Witness Signature
Print Name: Brooke Fredrick

By: [Signature]
Print Name: Stephen L. Johnson
Title: Vice Pres
Address: 7380 Murrell Rd, Suite 201
Viera FL 32940

Valerie A. Smith
Witness Signature
Print Name: Valerie A. Smith

STATE OF FLORIDA)
COUNTY OF Brevard)

The foregoing instrument was acknowledged before me on the 01 day of December, 2004, by Stephen L. Johnson, of THE VIERA COMPANY, a Florida Corporation, on behalf of the Corporation. Said person is personally known to me and did not take an oath.

VALERIE SMITH
Notary Public, State of Florida
My Comm. Expires March 21, 2005
Comm. No. DD 011138
(NOTARY SEAL)

Valerie Smith
Signature of Person Taking
Acknowledgment
Print Name: _____
Title: Notary Public
Serial No. (if any) _____
Commission Expires: _____



EXHIBIT "A"

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DESCRIPTION OF TRACTS R & S:

A parcel of land lying within Sections 33 & 34, Township 25 South, Range 36 East Brevard County, Florida more particularly described as follows:

From the Southeast corner of Viera North P.U.D., Parcel as recorded in Plat Book 45, page 98 of the Public Records of Brevard County, Florida: also being a point on the Westerly Right of Way of Murrell Road (150' Right of Way recorded in Official Records Book 3487, Page 3235 of the Public Records of Brevard County, Florida), said point being the POINT OF BEGINNING; and the beginning of a curve, concave Easterly, having a radius of 1875.00 feet and a radial bearing of North 80° 18'30" East; thence Southerly along the PRC of said curve to the left, a distance of 466.19 feet; through a central angle of 15° 56'49"; to a non-tangent line; thence South 70° 29'52" West, 690.17 feet, along the Northeasterly boundary of Bayhill at Viera East, Phase 2 as recorded in Plat Book 46, pages 6-9 of the Public Records of Brevard County, Florida; to the point of a curve, concave Northeasterly, having a radius of 915.00 feet; thence Westerly along the PRC of said curve to the right a distance of 1647.74 feet, through a central angle of 103° 10'44"; to a non-tangent line; thence North 80° 23'15" East, 563.22 feet; thence South 09° 36'45" East, 137.06 feet; thence South 39° 43'14" East, 141.57 feet; thence South 68° 57'35" East, 158.60 feet; thence North 57° 60'04" East, 218.34 feet; thence South 60° 48'26" East, 189.26 feet; thence South 86° 09'38" East, 279.25 feet; thence North 73° 59'05" East 154.04 feet; thence North 44° 28'54" East 52.12 feet, to the POINT OF BEGINNING.

LESS AND EXCEPT The Lift Station Parcel as record in Official Records Book 4284, pages 2327-2330, of the Public Records of Brevard County, Florida.



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EXHIBIT "B"

VIERA CATV PRE-WIRE REQUIREMENTS

All multifamily residential structures shall be pre-wired for cable television service in accordance with the following requirements:

(a) The builder of multifamily residential Units shall be responsible for the installation of all conduit, coaxial wire, electrical boxes, risers, raceway systems and finish work, including the installation of wall plates or other cavity closures. Conduit size shall not be less than $\frac{3}{4}$ ". All such conduits must be dedicated to the sole use of the CATV provider.

(b) All conduit shall meet applicable codes and these requirements and shall be installed from each outlet or point of service to an external interface location. At their external termination all conduits will be identified as to their internal termination (i.e., living room, family room, etc.). Multistory buildings with Unit entrances on each floor must have the interface located near the front entrance at conventional outlet height and accessible for service and maintenance. This interface must be a standard recessed electrical box with approximate minimum dimensions of 4"x4"x4".

(c) All multifamily residential Units must, at a minimum, have two opposing outlets in each master bedroom and living room and one outlet in all other rooms compatible with television viewing.

(d) Central interface locations in each multifamily building must be adjacent to and have access to the power ground location for the purpose of code compliance for grounding. All riser or raceway conduits terminating at the central interface location must be identified as to their internal termination (i.e., Unit 308). All central interface locations will be sufficient size to allow for the efficient installation, maintenance and security of service equipment and must have 110 volt electric service available.

(e) Each multifamily Unit must be prewired for CATV service with coaxial cable capable of passing the frequency spectrum of 5 MHZ through 600 MHZ.

(f) Cable television service providers shall only provide or be responsible for the installation and maintenance of connectors and other hardware necessary for the transmission and delivery of cable television service.



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CONSENT OF OWNER

Lakes at Viera East, LLC, Owner of the subject property hereby consents to this Amendment.

WITNESSES:

LAKES AT VIERA EAST, LLC

**BY: BENCHMARK PROPERTIES
MANAGEMENT CORP., Manager**

Christopher L Friel
(Print Name): Christopher L Friel

BY: *[Signature]*
John F. Rehak, Jr.
Title: Vice President
4053 Maple Road
Amherst, NY 14226-1072

Karen A. Allen
(Print Name): Karen A. Allen

Date: 12-03-04

STATE OF ~~FLORIDA~~ New York
COUNTY OF Erie

THE FOREGOING instrument was acknowledged before me this 3rd day of December, 2004, by **John F. Rehak, Jr.**, Vice-President of Benchmark Properties Management Corp., who is personally known to me or ~~produced identification (type of identification produced)~~ and who did/did not take an oath.

Deborah M. Slisz
Printed Name:
Notary Public - State of ~~Florida~~ New York
My Commission Expires:
Commission No.:

DEBORAH M. SLISZ
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires July 7, 2011