

## **TRAFFIC ENFORCEMENT AGREEMENT**

### **Brookstone Property Owners Association, Inc.**

**THIS TRAFFIC ENFORCEMENT AGREEMENT** (“Agreement”) is made and entered into as the (10) day of (Sept), (2011), (the “Effective Date”) by and between **BROOKSTONE PROPERTY OWNERS ASSOCIATION, INC.**, whose mailing address is c/o Southwest Property Management, P.O. Box 783367, Winter Garden, FL 34778 (hereinafter referred to as the “Association”) and the **CITY OF OCOEE**, a Florida municipal corporation, whose mailing address is 150 North Lakeshore Drive, Florida 34761 (hereinafter referred to as the “City”).

#### **WITNESSETH:**

**WHEREAS**, the Association is a not-for-profit corporation existing pursuant to and in accordance with Florida Statutes, Chapter 617, Corporations Not For Profit, §§ 617.301-617.312; and

**WHEREAS**, the Association is a homeowners association organized pursuant to Florida Statutes, Chapter 720, Homeowners’ Association, General Provisions, §§ 720.301-720.313; and

**WHEREAS**, the Association owns and/or controls those private roads within the (subdivision) which is located in Orange County, Florida, and within the corporate limits of the City of Ocoee, Florida, said private roads being those roads within the (subdivision) (hereinafter referred to as the “Private Roads”); and

**WHEREAS**, Florida Statutes, Chapter 316, State Uniform Traffic Control § 316.006(2)(b) regarding jurisdiction authorizes the City, subject to certain provisions, to enter into an agreement with the Association whereby the Association grants unto the City traffic control jurisdiction over the Private Roads within the subdivision controlled by the Association; and

**WHEREAS**, Florida Statutes, Chapter 316, State Uniform Traffic Control, § 316.640(3) regarding enforcement authorizes the City to require that the City police department enforce the traffic laws of the State of Florida on any private roads pursuant to a written agreement under Florida Statutes, § 316.006(2)(b); and

**WHEREAS**, the Association and the City desire to have the Association grant unto the City traffic control jurisdiction over the Private Roads as authorized by Florida Statutes § 316.006(2)(b) so that the City may enforce the traffic laws of the State of Florida on the Private Roads; and

**WHEREAS**, this Agreement has been duly approved and authorized by the Association in accordance with its Articles of Incorporation, Bylaws, and other applicable governing documents.

**NOW, THEREFORE**, in consideration of the premises and other good and valuable considerations exchanged between the parties hereto, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**Section 1. Recitals.** The above recitals are true and correct and incorporate herein by this reference.

**Section 2. Traffic Control Jurisdiction.** The Parties agree that the City shall have traffic control jurisdiction over the Private Roads and that officers of the City police department are authorized to enter upon the Private Roads for the purpose of enforcing uniform traffic control laws on the Private Roads. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by the City under law, and nothing in this Agreement shall be construed to limit or remove any such jurisdictional authority. Such existing jurisdiction includes, but is not limited to, the regulation of access to the Private Roads by security devices or personnel.

**Section 3. Traffic Enforcement.** The City hereby agrees that the police department will enforce Florida Statutes, Chapter 316, State Uniform Traffic Control and the Code of the City of Ocoee, Chapter 168, Vehicles and Traffic, on the Private Roads; provided, however, that the foregoing shall not be construed to require any minimum level of staffing or create any priority for traffic enforcement on the Private Roads vis-à-vis public roadways or other private roads. All decisions regarding the level of traffic enforcement on the Private Roads and staffing related thereto shall be within the sole discretion of the City police department.

**Section 4. Traffic Control Signs and Markings.** All traffic control signs and markings within the subdivision shall be in compliance with the Manual on Uniform Traffic Control Devices (MUTCD), and shall be installed and maintained by the Association. The City shall have the right at any time to require installation, maintenance and modification of traffic control signs and other traffic control apparatus as the City may deem to be necessary for the enforcement of traffic laws on the Private Roads.

**Section 5. Traffic Enforcement Fee.** In consideration for the City exercising traffic control jurisdiction over the Private Roads, the Association hereby agrees to pay to the City an annual Traffic Enforcement Fee ("Annual Fee"). The initial Annual Fee under this Agreement will be set at \$ 0.00. The parties hereby agree that the Annual Fee is made as reimbursement for (i) the actual costs of traffic control and enforcement, and (ii) the additional liability insurance costs incurred by the City as a result of this Agreement.

**Section 6. Indemnification.** The Association hereby agrees to indemnify and hold the City harmless from and against all losses, costs, expenses, claims, damages, judgments, liabilities and causes of action whatsoever (collectively, "Claims") including reasonable attorneys' fees and paralegal fees, both at trial and at appellate levels, arising out of or alleged to have arisen out of the City entering into this Agreement. Nothing

herein shall be construed to include within the foregoing indemnity and liability on the part of the Association for Claims arising out of acts of negligence by the City. The City shall use its best efforts to promptly notify the Association in writing of any Claims based on this Agreement and shall provide the Association with information regarding the Claims based on this Agreement as the Association may reasonably request, but the failure to give such notice or provide such information shall not diminish the obligations of the Association under this Section. No Claims whatsoever shall be made or asserted against the City by the Association for or on account of anything done or as a result of anything done or not done in connection with this Agreement.

**Section 7. Term; Termination.** The term of this Agreement shall be two (2) years from the Effective Date (the "Term"); provided, however, that this Agreement may be terminated by either party upon sixty (60) days written notice to the address first appearing in this agreement. This Agreement will automatically renew for an additional two-year term at the end of each two-year term unless the Agreement has been terminated in accordance with this Section.

**Section 8. Applicable Law.** This Agreement and the provisions contained herein shall be liberally construed and interpreted according to the laws of the State of Florida.

**Section 9. Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understanding and agreements, with respect to the subject matter hereof. The parties shall make amendments to and waivers of the provisions of this Agreement only in writing and by formal amendment.

**Section 10. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

**Section 11. Captions.** Captions of the Sections and Subsections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**Section 12. Severability.** If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

**Section 13. Effective Date.** The Effective Date of this Agreement shall be the date first appearing in this Agreement and shall coincide with the date the Agreement is executed by the City.

IN WITNESS WHEREOF, the Association and the City have caused this instrument to be executed by their duly authorized officers as of the day and year first above written.

ASSOCIATION

Signed, sealed and delivered  
In the presence of:

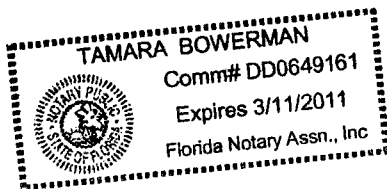
[Signature]  
Print Name NATHAN GURERA  
[Signature]  
Print Name Gwen White

By: [Signature]  
Name: Scott H. Rice  
Title: Treasurer / Secretary  
(CORPORATE SEAL)  
Executed on: December 7, 2010

STATE OF FLORIDA  
COUNTY OF Orange

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared and who  is personally known to me or  produced Identification and that he/she acknowledged executing the same in the presence of two subscribing witnesses, on behalf of said corporation, freely and voluntarily, for the uses and proposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid the 7 day of December, 2010.



Tamara Bowerman  
Signature of Notary

Tamara Bowerman  
Name of Notary (Typed, Printed, or Stamped)

Commission Number (if not legible on seal): \_\_\_\_\_  
My Commission expires (if not legible on seal): \_\_\_\_\_

CITY:

CITY OF OCOEE, FLORIDA

Signed, sealed and delivered in the Presence of:

Melanie S. Abbott  
Print Name Melanie S. Abbott

Tisha Williams  
Print Name Tisha Williams

By: S. Scott Vandergrift  
S. Scott Vandergrift, Mayor

Attest: Beth Eikenberry  
Beth Eikenberry, City Clerk

(SEAL)  
Executed on: Sept. 6, 2011

FOR USE AND RELIANCE ONLY BY THE CITY OF OCOEE, FLORIDA.

Approved as to form and legality this 6 day of September, 2011.

APPROVED BY THE OCOEE CITY COMMISSION AT A MEETING HELD ON Sept 6, 2011, UNDER AGENDA ITEM NO. 5.

Foley & Lardner LLP

By: Paul E. Lardner  
City Attorney

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared S. SCOTT VANDERGRIFT and BETH EIKENBERRY, personally known to me to be the Mayor and City Clerk, respectively, of the CITY OF OCOEE, FLORIDA and that they severally acknowledged executing the same in the presence of two subscribing witnesses, freely and voluntarily under authority duly vested in them by said municipality.

WITNESS my hand and official seal in the County and State last aforesaid this 6 day of September, 2011.

Tisha Williams  
Signature of Notary



TISHA WILLIAMS  
MY COMMISSION # DD 850804  
EXPIRES: January 22, 2013  
Bonded Thru Budget Notary Services

Name of Notary (Typed, Printed or Stamped)

Commission Number (if not legible on seal):  
My Commission expires (if not legible on seal): 1