

DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS

885224  
FILED FOR RECORD

FOR  
WYNDTREE PHASE V  
VILLAGE 8

CLK CIR CT - PASCO COUNTY, FL  
APR 30 5 23 PM '92

THIS DECLARATION, made on the date hereinafter set forth by First Florida Bank, N.A., a national banking association, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property in Pasco County, Florida, included within that more particularly described on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Declarant desires to create an exclusive residential community known as Wyndtree Phase V, Village 8, on the land described on Exhibit "A" attached hereto and incorporated herein by reference, and such other land within the Exhibit "A" land as may, from time to time, be added thereto pursuant to the terms and provisions of this Declaration.

NOW, THEREFORE, the Declarant hereby declares that the real property described in the attached Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Articles" shall mean and refer to the Articles of Incorporation of the Association (as hereinafter defined), including any and all amendments or modifications thereto.

Section 2. "Association" shall mean and refer to Wyndtree, Phase V - Village 8 Association, Inc., a Florida corporation not for profit, its successors and assigns.

RECORD VERIFIED

JED PITTMAN

Clerk Circuit Court, Pasco County

O.R. 3020 PAGE 1613

- 1 -

This Instrument prepared by and RETURN TO:

ROGER A. LARSON, ESQ.  
LARSON & BOBENHAUSEN, P.A.  
16120 U.S. HIGHWAY 19 NORTH  
SUITE 210  
CLEARWATER, FL 34624-6895

3

Section 3. "Board of Directors" shall mean and refer to the Association's Board of Directors.

Section 4. "By-Laws" shall mean and refer to the By-Laws of the Association, including any and all amendments or modifications thereof.

Section 5. "Common Area" shall mean and refer to all real property, including the improvements thereto, owned from time to time by the Master Association (as hereinafter defined) for the common use and enjoyment of the members of said Master Association.

Section 6. "Common Expense" shall mean and refer to any expense for which a general and uniform assessment may be made against the Owners (as hereinafter defined) and shall include, but in no way be limited to, the expenses of upkeep and maintenance of the Local Common Areas (as hereinafter defined); medians, shoulders, roadways and certain boundary walls and entrance signs within the Properties (as hereinafter defined) or any assessments by or reimbursement to the Wyndtree Master Community Association, Inc. if such Master Association performs any of the foregoing on behalf of the Association and charges the Association therefore.

Section 7. "County" shall mean and refer to Pasco County, Florida.

Section 8. "Declarant" shall mean and refer to First Florida Bank, N.A., a national banking association, its successors and assigns. It shall not include any person or party who purchases a Lot (as hereinafter defined) from Declarant, however, unless such purchaser is specifically assigned to such lot, by separate instrument recorded in the County, some or all of the rights held by First Florida Bank, N.A., as Declarant hereunder, with regard to such lot.

Section 9. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Wyndtree Phase V, Village 8 and any amendments or modifications thereof hereafter made from time to time.

Section 10. "Dwelling Unit" shall mean and refer to single family residential unit constructed upon a Lot (as hereinafter defined).

Section 11. "FHA" shall mean and refer to the Federal Housing Administration.

Section 12. "FNMA" shall mean and refer to the Federal National Mortgage Association.

O.R. 3020 PAGE 1614

Section 13. "Front Street Line" shall mean and refer to the line defined as such on the attached Exhibit "B".

Section 14. "Rear Yard Line" shall mean and refer to the line defined as such on the attached Exhibit "B".

Section 15. "Side Street Line" shall mean and refer to the line defined as such on the attached Exhibit "B".

Section 16. "Side Yard Line" shall mean and refer to the line defined as such on that attached Exhibit "B".

Section 17. "GNMA" shall mean and refer to the Government National Mortgage Association.

Section 18. "Institutional Lender" shall mean and refer to any federal or state chartered bank, insurance company, VA (as hereinafter defined) or FHA approved mortgage lending institution, FNMA, GNMA, recognized pension fund investing in mortgages, or federal or state chartered savings and loan association or savings bank.

Section 19. "Institutional Mortgage" shall mean and refer to any first mortgage on a Lot (as hereinafter defined) held by an Institutional Lender.

Section 20. "Local Common Area" shall mean and refer to all real property, including the improvements thereto, owned or in which there is an easement right from time to time by or to the Association for the common use and enjoyment of the members of said Association.

Section 21. "Lot" shall mean and refer to the least fractional part of the subdivided lands within the Plat (as hereinafter defined) and which has limited fixed boundaries and an assigned number, letter or other name through which it may be identified; provided, however, that "Lot" shall not mean any Common Area, Local Common Area or parcel of land designated as a "Tract".

Section 22. "Master Association" shall mean and refer to the Wyndtree Master Community Association, Inc., a Florida corporation not for profit, its successors and assigns.

Section 23. "Master Declaration" shall mean and refer to that certain Master Declaration of Covenants, Conditions and Restrictions for Wyndtree Master Community Association, Inc. as recorded in Official Record Book 1788, Page 0977, et seq., of the Public Records of the County and as amended.

Section 24. "Owner" shall mean and refer to the fee simple owner or owners of a Lot, other than Declarant.

Section 25. "Parcel" shall mean and refer to any part of the Properties (as hereinafter defined) when said Parcel is recorded in the Public Records of the County, other than a Common Area, Local Common Area, Lots, dedicated streets and roads, and land owned by a governmental body or agency or public utility company, whether or not such Parcel is developed or undeveloped, and without regard to the use or proposed use of such Parcel. Any Parcel, or part thereof, however, for which a subdivision plat has been filed of record, however, for which a subdivision plat has been filed of record shall, as to such portion, cease being a Parcel, or part thereof, and shall become Lots.

Section 26. "Plat" shall mean and refer to the plat of the Properties (as hereinafter defined) as recorded in the Public Records of the County.

Section 27. "Properties" shall mean and refer to the real property described in Exhibit "A" to this Declaration and such addition thereto, if any, which may be made pursuant to this Declaration.

Section 28. "Restrictions" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Wyndtree Phase V, Village 8 and any amendments or modifications thereof hereafter made from time to time.

Section 29. "Structure" shall mean and refer to the structure as that term is defined by Zoning Ordinance of the County in effect at the time of the recording of this Declaration.

Section 30. "VA" shall mean and refer to Veterans Administration.

Section 31. "Voting Member" shall mean and refer to the Owner or the Declarant who is authorized to cast the vote for the Lot they own as set forth in this Declaration.

Section 32. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation". The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

## ARTICLE II

### PURPOSE

Section 1. Operation, Maintenance and Repair. The Declarant, in order to insure that the Local Common Areas and other land for which the Association is or may become responsible

for under this Declaration will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, has organized the Association. The purpose of the Association shall be to operate, maintain and repair the Local Common Areas, and any improvements thereon; to maintain the decorative entranceways to the Properties and landscaped medians, shoulders, surfaces and subsurfaces of any and all private streets, if any, within the Properties; to maintain and repair any irrigation facilities servicing land which the Association is obligated to maintain as well as irrigation system located within individual Lots installed by Declarant or its designee; and take such other action as the Association is authorized to take with regard to the Properties pursuant to the Articles of Incorporation, By-Laws and this Declaration.

Section 2. Common Expense. The expenses and costs incurred by the Association in performing the rights, duties and obligations set forth in Section 1 of this Article are hereby declared to be common expenses.

Section 3. Damages Caused by Owners, Etc. Notwithstanding Section 2 of this Article, should the maintenance, repair or replacement provided for in Section 1 of this Article be caused by the negligence or misuse, intentional or otherwise, of or by an Owner or occupant of the Owner's Dwelling Unit or guest of the Owner, said Owner shall be responsible to the Association for all costs incurred in said maintenance, repair or replacement and the Association shall have the right to a lien against the Lot and the Owner thereof to the costs of such maintenance, repair or replacement, said lien to be of the same nature and have the same force and effect as a lien created hereunder for delinquent assessments.

Section 4. Easement for Maintenance. The Declarant hereby reserves to itself and grants to the Association a nonexclusive, perpetual easement as to the Properties and any Lot to the extent reasonably necessary to discharge its duties of maintenance under this Declaration. Such right of entry shall be exercised in a peaceful and reasonable manner at reasonable times upon reasonable notice whenever the circumstances permit.

Section 5. Owner's Maintenance Responsibilities. The responsibility of the Owner shall be to maintain, repair and replace, at their sole expense, their Lot and all portions of their Dwelling Unit, and to promptly report to the Association any defect or need for repairs when the responsibility for the remedying of which is that of the Association.

### ARTICLE III

#### PROPERTY RIGHTS

OR. 3020 PAGE 1617

Section 1. Owners, Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Local Common Areas, which right and non-exclusive easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association from time to time in accordance with its By-Laws to establish, modify, amend and rescind reasonable rules and regulations regarding use of the Local Common Areas;

(b) The right of the Association to charge reasonable admission and other fees for use of any facilities, if any, situated upon the Local Common Areas;

(c) The right of the Association to suspend the voting rights and right to use of the Local Common Areas by an Owner for any period during which any assessment levied under this Declaration against such Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association;

(d) The right of the Association to dedicate or transfer all or any part of the Local Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Voting Members. No such dedication or transfer shall be effective unless approved, in writing, by not less than two-thirds (2/3) of each class of Voting Members and no such dedication or transfer shall limit or impair the rights of ingress and egress for any Lot within the Properties.

(e) The right of the Association to grant easement as to the Local Common Areas or any part thereof as provided by this Declaration or the Articles; and

(f) The right of the Association to otherwise deal with the Local Common Areas as provided by the Declaration or the Articles.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Local Common Areas and facilities, if any to the members of his family, his tenants, or contract purchasers, provided the foregoing actually reside at the Owner's Lot.

Section 3. Prohibition of Certain Activities. No damage to or waste of the Local Common Areas or any part thereof shall be committed by any Owner or any family member, tenant or invitee of any Owner. No noxious, destructive or offensive activity shall be permitted on or in the Local Common Areas or any part thereof, nor shall anything be done thereon which may be or may become an

unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod or place or erect any improvement or structure of any kind on any Local Common Area without the prior written approval of the Board of the Directors, which approval may be arbitrarily withheld by the Board of Directors.

Section 4. Signs Prohibited. No sign of any kind shall be displayed in or on any Local Common Area without the prior written approval of the Declarant. This Section shall not apply to the Declarant. The Declarant shall have the right and any easements necessary to the exercise thereof to erect, construct and maintain signs of any nature on any Local Common Area.

Section 5. Animals. No animals shall be permitted on or in the Local Common Areas at any time except as may be provided in the rules and regulations of the Association.

Section 6. Rules and Regulations. No Owner or other permitted user of the Local Common Areas shall violate the reasonable rules and regulations for the use of the Local Common Area as the same are, from time to time, adopted by the Board of Directors.

#### ARTICLE IV

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. General Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, By-Laws, rules and regulations, and this Declaration. The foregoing does not include persons or entities who hold a leasehold interest in a Lot and also does not include an interest in a Lot merely as security for the performance of an obligation. Ownership, as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. When any Lot is owned of record by two (2) or more persons or other legal entities, all such persons or entities shall be members. An Owner of more than one (1) Lot shall be entitled to one (1) membership for each Lot owned by him. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment; and it shall be automatically transferred by conveyance of that Lot to the grantee named in such conveyance. The Declarant shall also be a member so long as it owns one (1) or more Lots.

Section 2. Voting Members. As to each Lot owned by one (1) or more Owners, there shall be filed with the Secretary of the Association a "Voting Member Designation Certificate" which shall name one (1), and only one (1), of the Owners of such Lot as the Voting Member for that Lot. Such Certificate shall be signed by all of the Owners of such Lot and shall, upon filing with the

Secretary of the Association, be effective until a new Certificate is subsequently duly executed by all Owners and filed with the Secretary of the Association. Only the person named in such Certificate, or their duly appointed proxy, shall be allowed to cast a vote for the subject Lot. A Lot which does not have on record with the Secretary of the Association a valid Voting Member Designation Certificate shall not be entitled to a vote; nor shall such Lot be counted as existing for the purposes of determining any percentages or fractions for voting purposes or for total outstanding votes or quorums under this Declaration or for the Articles, By-Laws or the Association.

Section 3. Classes of Memberships Established. The Association shall have not more than two (2) classes of membership, as follows:

(a) Class A Membership. Every owner of a Lot, other than the Declarant, shall be a Class A member of the Association.

(b) Class B Membership. The Declarant shall be the Class B member of the Association until such Class B membership is converted to Class A membership, at Declarant's option, as hereinafter set forth. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever earlier occur:

1. When the total votes outstanding in the Class A memberships equal the total votes outstanding in the Class B membership; or

2. Four (4) months after ninety-five (95) percent of the Lots have been sold by Declarant; or

3. Five (5) years following conveyance of the first Lot by Declarant to an Owner; or

4. When the Declarant waives in writing its right to Class B Membership.

(c) Re-establishment of Class B. Notwithstanding the foregoing, if at any time or times subsequent to any conversion set forth in (b) above, additional land is added by the Declarant pursuant to Article XII hereof, such additional land shall automatically be and become Parcels or Lots, as appropriate. Following such addition of land, the total votes allocable to all Lots and Parcels then owned by the Declarant shall be calculated as Class B votes and if then the Class B votes shall exceed the remaining Class A Lots and all Parcels owned by the Declarant shall automatically be reconverted to Class B.

(d) Voting for Class A Lots. The Owners of any Lot who are Class A members pursuant to this Declaration shall have one (1)



vote for each Lot owned by them subject, however, to the requirements and limitations set forth in Section 2 of this Article.

(e) Voting for Class B Lots. The Class B member shall, as to all Lots owned by it within the Properties, be entitled to four (4) votes for each such Lot.

(f) Voting for Parcels. The Declarant shall be entitled to ten (10) votes per acre for each Parcel. Acreage of Parcels shall be as determined in good faith by an engineer or surveyor licensed to practice **in** Florida.

## ARTICLE V

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Local Common Areas, any common boundary fence or wall not maintained by the Master Association, and shall keep the same in good, clean and proper condition, order and repair as well as the irrigation system installed by Declarant or its designee on individual Lots. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Local Common Areas and performance of its other obligations under this Declaration.

Section 2. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Association's Articles or By-Laws.

Section 3. Insurance. The Association at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary. The Association additionally shall cause all persons responsible for collecting and disbursing Association monies to be insured or bonded with adequate fidelity insurance or bonds.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles, By-Laws, or by law and every other right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privileges granted in this Declaration, the Articles, By-Laws or such laws.

## ARTICLE VI

### EXPENSES

O.R. 3020 PAGE 1621

Section 1. Common Expenses. All expenses of the Association apply to all Lots within the Properties regardless of which Class of membership is attributable to the Owners of such Lot.

Section 2. Creation of the Lien and Personal Obligation for Common Expense Assessments.

(a) The Declarant, for each Lot within the Properties, hereby covenants, and each Owner of any Lot within the Properties, by acceptance of a deed or other instrument of conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association:

1. Annual assessments or charges for common expenses;

and

2. Special assessments for charges against a particular Lot as may be provided by the terms of this Declaration.

(b) Such assessments and charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by such successors in title.

Section 3. Purpose of Common Expense Assessments. The Common Expense assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties for the improvement and maintenance of the Local Common Areas and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles and the By-Laws. Without limiting the generality of the foregoing, such funds may be used for the acquisition, improvement and maintenance of real property, services and facilities related to the use and enjoyment of the Local Common Areas; the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes and assessments made or levied against the Local Common Areas; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful; the maintenance, landscaping and beautification of the Local Common Areas and such public lands and private lands, whether owned by the Association or not, as may be designated by the Declarant or the Association.

Section 4. Maximum Annual Assessment for Common Expenses.

(a) Initial Lot and Unit Assessment. Until January 1, 1992, the maximum annual common expense assessment per Lot shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The annual assessments provided for herein shall commence as to each Lot at the time of closing of the purchase of each Lot from the Declarant to any other third party. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The foregoing provisions of this Subsection shall not apply to any assessments by the Master Association as hereinafter provided in Section 10 of this Article.

(b) Standard Increases. From and after January 1, 1992, the maximum annual assessment for common expenses as stated above may be increased each year to reflect the increase, if any, in the Consumer Price Index for All Urban Consumers, All Items, published by the Bureau of Labor Statistics U.S. Department of Labor the area including or nearest to Tampa, Florida. The maximum annual assessment shall be determined by multiplying the maximum annual assessment then in effect by the Consumer Price Index for the most recent month available and dividing the product by the Consumer Price Index for the same month during the immediately preceding calendar year. If publication of the Consumer Price Index should be discontinued, the Association shall use the most nearly comparable index, as determined and selected by the Board of Directors. The foregoing provisions of this Subsection shall not apply to any assessments by the Master Association as hereinafter provided in Section 10 of this Article.

(c) Special Increases. From and after January 1 of the year immediately following the conveyance by the Declarant of the first Lot to an Owner, the maximum annual assessment for common expense may be increased above the increase permitted by Paragraphs (a) and (b) of this Section by a vote of two thirds (2/3) of each Class of Voting Members at a meeting duly called for this purpose. The foregoing provisions of this Subsection shall not apply to any assessments by the Master Association as hereinafter provided in Section 10 of this Article.

(d) Duty of Board to Fix Amount. The Board of Directors may fix the annual assessment for common expenses at an amount not in excess of the maximum annual assessment rate established in this Section.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction, reconstruction,

O.R. 3020 PAGE 1623

repair or replacement of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each Class of Voting Members at a meeting duly called for this purpose.

Section 6. Notice of Meeting and Quorum for Any Action Authorized Under Sections 4 and 5. Written notice of any members meeting called for the purpose of taking any action authorized under Sections 4 and 5 of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of a total of Voting Members and proxies of Voting Members entitled to cast a majority of all the votes of the duly registered Voting Members of each Class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence of a total of Voting Members and proxies of Voting Members entitled to cast one-third (1/3) of all votes of the duly registered Voting Members of each Class of membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Declarant's Common Expenses Assessment. Notwithstanding any provision of this Declaration, the Articles or By-Laws to the contrary, as long as there is a Class **B** membership in the Association, the Declarant shall not be obligated for, nor subject to, any annual assessment for any Lot which it may own, provided:

(a) The annual assessment paid by the other Owners shall not exceed the maximum assessment for common expenses permitted by Section 4 of this Article; and

(b) The Declarant shall be responsible for paying the difference between the common expenses otherwise to be funded by annual assessments and the amount received from Owners, other than the Declarant, in payment of the annual assessments for common expenses levied against their respective Lots. Such difference, herein called the "Deficiency", shall not include any reserve for replacements, operating reserves, depreciation reserves or capital expenditures. The Declarant may at any time give written notice to the Association prior to November 30 of a calendar year its responsibility for the Deficiency and waiving its right to exclusion from annual assessments. Upon given such notice, or upon termination of Class **B** membership, whichever is sooner, each Lot owned by the Declarant shall thereafter be assessed at twenty-five percent (25%) of the annual assessment established for Lots owned by Class A members other than the Declarant. Such assessment shall be prorated as to the remaining whole calendar months of the then current fiscal year

of the Association. Upon transfer of title of Lot owned by the Declarant, the Lot shall be assessed in the amount established for Class A members, prorated as of an commencing with the month following the date of transfer of title. Notwithstanding the foregoing, any Lots from which the Declarant derives any rental income, or holds an interest as mortgagee or contract seller, shall be assessed at the same amount as Lots owned by Owners other than the Declarant, prorated as of and commencing with the month following the execution of the rental agreement or mortgage or the contract purchaser's entry into possession, as the case may be.

Section 8. Exemption from Assessments. The assessments, charges and lien provided for or created by this Article shall not apply to the Local Common Areas, any property dedicated to and accepted for maintenance of a public or governmental authority or agency, any property owned by a public or private utility company or public or governmental body or agency, or any property owned by a charitable or non-profit organization.

Section 9. Date of Commencement of Annual Assessment: Due Dates. The annual assessments for Common Expenses shall commence as to all Lots subject thereto on the date of the recording of the Plat. The Board of Directors shall fix the amount of the annual assessment for Common Expenses against each Lot not later than December 1 of each calendar year for the following calendar year. Written notice of the annual assessment for Common Expenses shall be sent to every Owner. Unless otherwise established by the Board of Directors, assessments for common Expenses shall be collected on an annual basis. The due date for the assessments and for any special assessments shall be as established by the Board of Directors.

Section 10. Master Association Assessments. Notwithstanding anything else within this Declaration to the contrary, Common Expenses shall include any and all assessments made by the Master Association against the Association or collectively against all Lots within the Properties; provided, however, that such Master Association assessments shall be established, from time to time, by the Master Association and shall not be calculated in or be considered a part of the maximum annual assessment set forth in Section 4(a) or the limitation of standard increases set forth in Section 4(b) of this Article VII but, rather, shall be considered as an additional assessment in addition to the other Common Expense assessments made pursuant to this Declaration.

#### SECTION VIII

#### GENERAL PROVISION ON ASSESSMENTS

Section 1. Application. The provisions of this Article shall apply to Class A and Class B members.

O.R. 3020 PAGE 1625

Section 2. Lien for Assessments. All sums assessed to any Lot pursuant to this Declaration, including those owned by the Declarant, together with interest and all costs and expenses of collection including reasonable attorney's fees, shall be secured until paid in full by a continuing lien on such lot in favor of the Association.

Section 3. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by Florida law per annum. The Association may bring an action at law against the Owner personally obligated to pay such assessment, or foreclose the lien against the Lot, or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Local Common Areas or abandonment of his Lot.

Section 4. Foreclosure. The lien for sums assessed pursuant to this Declaration may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Florida. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorney's fees. All such costs and expenses shall be secured by the lien being foreclosure. The Owner shall also be required to pay the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the Owner's title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

Section 5. Homestead. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Lot shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provisions of Florida law, if for any reason such are applicable. This Section is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration, but to be construed in its favor.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any Institutional Mortgage which is given to or held by an Institutional Lender or which is guaranteed or insured by the FHA or VA. The sale or transfer of any Lot pursuant to foreclosure of such Institutional Mortgage or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No

sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall, upon written request from an Institutional Lender, report to any such Institutional Lender any assessments remaining unpaid on the Lot for which they hold or guarantee an Institutional Mortgage for a period longer than sixty (60) days after the same have become due, and shall give such Institutional Lender a period of thirty (30) days from the date of such request in which to cure such delinquency before instituting foreclosure proceedings against the lot; provided, however, that such Institutional Lender first shall have furnished to the Association written notice of the existence of its Institutional mortgage, which notice shall designate the Lot encumbered by a proper legal description and shall state the address to which notices pursuant to this Section are to be given. Any such Institutional Lender holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Declaration.

Section 7. Certificate of Amounts Due. The Association shall, upon written demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

## ARTICLE IX

### USE RESTRICTIONS

Section 1. Residential Use. All of the Properties shall be known and described as residential property and no more than one (1) single-family Dwelling Unit may be constructed on any Lot.

Section 2. Structures. Except as originally constructed by Declarant or its designees or thereafter reconstructed to repair damage or destruction to the original Dwelling Unit, no Dwelling unit shall be erected nearer to a Front Street line than \_\_\_\_\_ feet, nearer to Rear Yard Line than \_\_\_\_\_ feet. Above ground swimming pools of any type are prohibited.

Section 3. Dwelling Unit. No Dwelling Unit shall have a square foot area of less than \_\_\_\_\_ square feet, exclusive of screen enclosed areas, open porches, terraces, patios and garages. Each Dwelling Unit shall have at least one (1) inside bath, each containing at least one (1) shower or tub, one (1) toilet and one (1) wash basin. No Dwelling Unit shall exceed \_\_\_\_\_ feet in height. A shrubbery planting shall be in front of each Dwelling Unit, which planting shall comply with County regulations.

#### Section 4. Easements.

(a) Perpetual easements for the installation and maintenance or utilities and drainage areas are hereby reserved to Declarant and the County in and to all utility easement and drainage easements areas shown on the plat, which easements shall include, without limitation, the right of reasonable access over Lots to and from the easement areas, and Declarant and the County each shall have the right to convey in whole or in part such easements on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Neither the easement rights reserved pursuant to this Section or as shown on the Plat shall impose any obligation on Declarant to maintain such easement areas, or to install or maintain the utilities or improvements that may be located on, in or under such easements, or which may be served by them. Within any such easement areas, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with access to or the installation, use and maintenance of which easement areas or any utilities or drainage facilities contained therein, or which may change the direction of flow or obstruct or retard the flow of drainage water in any such easement areas, or which may reduce the size of any water retention areas constructed by Declarant in such easement areas. The easement areas of each Lot, whether as reserved hereunder or as shown on the Plat and all improvements in such easement areas shall be maintained continuously by the Owner of the Lot upon which such easements exists, except for those improvements for which a public authority, utility company or the Association pursuant to this Declaration is responsible. With regard to specific easements for drainage shown on the Plat, the Declarant shall have the right, but without any obligation imposed thereby, to alter or maintain drainage shown on the Plat, the Declarant shall have the right, but without any obligation imposed thereby, or alter or maintain drainage facilities in such easement areas, including slope control areas. No owner shall alter or modify the drainage flow on his Lot without prior approval as set forth in Section 17 of this Article.

(b) There may be designated certain areas of the Properties as "Drainage Easements" on the Plat. No permanent improvements or structures shall be placed or erected upon such Drainage Easements. In addition, no fences, driveways, pools and decks, patios, air conditioners, improvements with any impervious surface, utility sheds, trees, shrubs, hedges, plants or any other landscaping element other than sod shall be placed or erected upon or within such Drainage Easements. This Section shall not apply to Declarant if such improvements by it are approved by the County.

(c) The Declarant, for itself and its successors and assigns and for the Association may reserve a landscape and signage easement running along the perimeters of certain Lots



within the Properties as more specifically shown on the Plat or other instrument recorded in the Public Records of the County, for the purposes of construction of monument signage. Once such monuments have been erected, the Association shall have the obligation, at the Association's expense, which shall be a common expense, to maintain, repair and replace such monuments in a neat and aesthetic condition like that as originally constructed. Declarant shall have the right, but not the obligation, to maintain, repair, replace or remove such monuments and shall have all easements reasonably necessary upon the properties to permit Declarant to exercise such rights. Nothing in this Section shall be construed to obligate Declarant to construct any such monuments.

(d) Association and Owners consent hereby to an easement for utilities, including but not limited to, telephone, gas, water, cable television, electricity, sanitary sewer service, irrigation and drainage in favor of all lands which abut the Properties, their present Owners and their successors and assigns. The easement set forth in this Paragraph shall include the right to "tie-in", join and attach to the existing utilities, sanitary sewer service, irrigation and drainage in the Properties so as to provide access to these services to said abutting lands directly from the Properties.

(e) The Board of Directors shall have the right to create new easements for pedestrian and vehicular traffic and utility services across and through the Properties; provided, however, that the creation thereof does not materially adversely affect the use of any Lot.

(f) The creation of new easements as provided for in this Section shall not unreasonably interfere with ingress to and egress from a Lot or Dwelling Unit thereon.

(g) In the event that any structure or improvement on any Lot shall encroach upon any of the Common Areas, Local Common Areas or upon any other Lot for any reason other than the intentional or negligent act of the Owner, or in the event any Common Areas or Local Common Areas shall encroach upon any Lot, then an easement shall exist to the extent of such encroachment for so long as the encroachment shall exist.

(h) Notwithstanding anything in this Section to the contrary, no easement granted by this Section shall exist under the outside perimetrical boundaries of any Dwelling Unit originally constructed by the Declarant on any portion of the Properties.

(i) There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area adjacent thereto, or between adjacent Lots, or both, for the maintenance,

repair and reconstruction of any party wall or walls; for lateral and subjacent support; for roofs and eaves installed by Declarant or its designees and for replacements thereof; and for encroachments caused by the unwilling, reconstructed or altered thereon in accordance with the terms of this Declaration. To the extent not inconsistent with the terms of this Declaration, the applicable case law of the State of Florida shall apply to the foregoing easements. The extent of said easements for lateral and subjacent support and for overhangs shall be that reasonably necessary to effectuate the purposes thereof; and said easements of encroachment shall extend to a distance of not more than five (5) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point. Notwithstanding the foregoing, in no event shall there be any easement for overhangs or encroachments if the same is caused by willful misconduct on the part of an Owner, tenant or the Association.

Section 5. Use of Accessory Structures. Other than the Dwelling Unit and its garage, no tent, shack, barn, utility shed or building shall, at any time, be erected and used on any Lot temporarily or permanently, whether as a residence or for any other purpose; provided, however, that temporary buildings, mobile homes, or field construction offices may be used by Declarant and its agents contractors and subcontractors in connection with construction work. No recreation vehicle may be used as a residence or for any other purpose on any Lot.

Section 6. Commercial Uses and Nuisances. No trade, business, profession or other type of commercial activity shall be carried on upon any Lot, except as hereinafter provided for Declarant and except that real estate brokers, Owners and their agents may show Dwelling Units in the Properties for sale or lease. Nothing shall be done on any Lot which may become a nuisance or an unreasonable annoyance to the neighborhood. Every person, firm or corporation purchasing a lot in the properties recognized that Declarant, its agents or designated assigned, have the right to (i) use Lots or Dwelling Units erected thereon for sales offices, field construction offices, storage facilities, general business offices, (ii) maintain lighted or spotlight furnished model Dwelling Unit in the Properties open to the public for inspection seven (7) days per week for such hours as are deemed necessary; and (iii) to construct additional Dwelling Units and other improvements upon the Properties. Declarant's rights under the preceding sentence, except that of construction of Dwelling Units and other improvements, shall terminate on December 31, 1997, unless prior thereto Declarant has indicated its intention to abandon such rights by recording a written instrument among the Public Records of the County. It is the express intention of this Paragraph that the rights granted Declarant to maintain sales offices, general business offices and model Dwelling Units shall not be restricted or limited to

Declarant's sales activity relating to the properties, but shall also benefit Declarant in the construction, development and sale of such other real property which Declarant may own.

Section 7. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that cats, dogs, and other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes. No person owning or in custody of a dog shall allow the dog to stray or go upon any other Owner's Lot without the consent of the Owner of such Lot. No more than a total of two (2) animals may be kept on any Lot. Every dog must be on a leash when the dog is outside of the Owner's Lot.

Section 8. Fences, Walls and Hedges. Except as to fences, walls or hedges originally constructed or planted by or with the written authorization of the Declarant, if any, no fences, walls or hedges of any nature may be erected, construed or maintained upon any Lot except in accordance with the terms and conditions of this Declaration and the Building and Zoning Codes of the County; provided, however, that no such fence, wall or hedge shall be erected or permitted on a Lot in any location thereon where Declarant has erected a Subdivision privacy fence or monument as provided in Subsection 4(c) of this Declaration or which abuts or runs along the boundary of any pond, lake, water body, common area, recreation area or facility. As to any fence, wall or hedge erected or maintained pursuant to this Paragraph, such fence, wall or hedge may be constructed or maintained to a height not to exceed six (6) feet. Such fences shall only be made of wood materials and must be kept in good condition and repair. No fence, wall or hedge may be constructed or maintained between a Front Street Line and the Front Dwelling Line. Notwithstanding the foregoing, a decorative wall or entrance forward of the Front Dwelling Line or forward of a Side Dwelling Line fronting a Side Street Line shall be permitted if constructed at the same time as the original Dwelling Unit on the Lot as part of the Dwelling Unit's elevation or design.

Section 9. Vehicles. No motor vehicles shall be parked on the Properties except on a paved or concrete driveway or in a garage. No motor vehicle which are primarily used for commercial purposes, except off duty public service vehicles such as police and emergency medical vehicles, other than those present on business, and no trailer, motorcycle, camper, truck, semitrailer, truck-tractor, recreational vehicle, travel trailer, camping trailer, truck camper, motor home, boat or boat trailer may be parked in the properties unless inside a garage and concealed from public view.

Section 10. Storage. No Lot shall be used for the storage of rubbish, trash, garbage or other waste and such material shall not be kept on any Lot except in sanitary containers properly concealed from public view.

Section 11. Clothes Hanging And Drying. All outdoor clothes hanging and drying activities shall be done in a manner so as not to be visible from any Front Street or Side Street or any adjacent or abutting property and are hereby restricted to the area between the Rear Dwelling Line and the Rear Yard Line and, in the cases of Lots bordering a Side Street, to that portion of the aforescribed area which is not between the Side Street and the Side Dwelling Line. All clothes poles shall be susceptible of being lifted and removed by one (1) person in one (1) minute's time and shall be removed by the Owner when not in actual use for clothes drying purposes.

Section 12. Antennas. No exterior radio, television or other electronic antennas or aerials or satellite dish antennas shall be allowed, unless installed so as to be completely concealed from the public view, such as in attics or garages.

Section 13. Street Lighting. All street lighting on the Properties shall be in accordance with applicable governmental ordinances, rules and regulations now or hereafter in effect. The Association shall have the right to contract for street lighting and the fees under any such contract shall be a common expense of the Association.

Section 14. Signs. Except as otherwise provided in this Section, no signs of any nature whatsoever shall be erected or displayed upon any of the Properties other than by Declarant, except when express prior written approval of the size, shape, content and location thereof has been obtained from the Association. Every Owner has the right, without the consent of the Association, to place upon his Lot one (1), but only one (10, professionally made sign which shall not be larger than nine (9) square feet and which shall contain no wording other than "For Sale" or "For Rent", the name and address of one (1) registered real estate broker and a phone number of Owner or his agent.

Section 15. Lot Upkeep. All Owners of Lots with completed Dwelling Units thereon shall, as a minimum, have the grass regularly cut and all trash and debris removed. If an Owner of a Lot fails, in Declarant's sole discretion, to maintain their Lot as required herein, Declarant, after giving such Owner at least ten (10) days written notice, is hereby authorized, but shall not be hereby obligated, to maintain that Lot and said Owners shall reimburse Declarant for actual costs incurred therewith.

Section 16. Lot & Dwelling Unit Rental. No Lot of Dwelling Unit shall be leased or rented for a period less than six (6) consecutive months.

Section 17. Party Walls.

(a) Each wall which is built as part of the original construction of the Dwelling Units and placed on the dividing

line between the Lots shall constitute a party wall; and, to the extent not inconsistent with the provisions of this Article, the applicable case law of the State of Florida regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) The cost of reasonable repair and maintenance of any such party wall shall be shared by the Owners who make use of the party wall in proportion to such use.

(c) If a party wall is destroyed or damaged by fire or other casualty and if such destruction or damage is not covered by insurance, any Owner who has used the party wall may restore it; and if the other Owners thereafter make use of the party wall, they shall contribute to the cost of restoration thereof in proportion to their use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.

(f) In the event of any dispute arising concerning a party wall or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and said decision shall be enforceable in any court of competent jurisdiction. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors shall select an arbitrator for the refusing party.

Section 18. Architectural Control. Prior to the commencement of the work described therein, all building plans and specifications (including plot plan, grading plan and material lists) for the original construction, alteration or addition of structures, or for the erection of hedges or fences, and all plans for the landscaping of Lots, and all plans or agreements relating to the appearance, colors and materials to be used on the exterior of a structure, shall be approved in writing by Declarant. Declarant shall have the absolute right to approve or disapprove said plans for any reason including aesthetic considerations. All plans must be sent to Declarant by registered mail or certified mail, return receipt requested to First Florida Bank, N.A., Attention: Michael Tufano, Slad-T2803, Post Office

Box 31265, Tampa, Florida 33631-3265, or such other address as Declarant may hereafter from time to time designate in writing. Any plans not disapproved within thirty (30) days after their receipt by Declarant shall be deemed approved. The rights granted to Declarant under this Section shall terminate on December 31, 2000, unless prior thereto Declarant has indicated its intention to abandon such rights by recording a written instrument among the Public Records of the County.

Section 19. Modifications. No Owner shall cause any additions, modifications, improvements or changes to be made on the exterior of their Dwelling Unit, including painting, stone work, veneer, brick work, brick, stucco, stucco veneer or any facade of any nature or other decoration, or the installation of electrical wiring, machinery, water softener or air-conditioning units which may protrude through the walls or roof of the Dwelling Unit, or in any manner change the exterior appearance of any portion of the Dwelling Unit, or change any grade or drainage flow on the Properties or modify any landscaping of the Properties without the written consent of Declarant, for the period set forth in Section 16 of this Article and thereafter, the Board of Directors of the Association first had and obtained. Declarant, and subsequently the Board of Directors of the Association, may establish any reasonable requirements it deems necessary to grant or deny such modifications.

Section 20. DER and SWFWMD Regulations. The following requirements of the Florida Department of Environmental Regulation ("DER") and Southwest Florida Water Management District ("SWFWMD") shall apply to the Association and all Lots and Owners. With respect to any Lot which abuts any wet detention pond, the Owner of such Lot shall not remove native vegetation (including cattails) that become established within the wet detention pond. As used herein the term "remove" shall include dredging, application of herbicides or cutting. It shall be the responsibility of said Lot Owner to consult with SWFWMD or such other governmental entity as has control or authority over such wet detention ponds with respect to the care and maintenance thereof. It shall be the responsibility of such Lot Owners, at their sole expense, to maintain any land area between the rear of their Lot and the high water mark of such detention pond in such a fashion as to be reasonably acceptable to the Association. No Owner 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 any approved permit or the Plat, unless prior approval is received from SWFWMD pursuant to Chapter 40D-4 of the Florida Administrative Code.

Section 21. Mandatory Irrigation System. Each Lot shall be required to have an automated lawn irrigation system reflected on the plans and constructed as part of the original construction of improvements. Such system shall provide for a timer mechanism

and such irrigation lines and sprinkler heads as may be approved by the Declarant or its designee so as to provide for the capability of automated lawn irrigation. It is the intent of this provision to assure the aesthetic values of the Lots by providing a mechanism whereby the Owner of each Lot may have a reasonable level of confidence that all Owners of Lots will provide proper and timely irrigation of their lawns. Once such automated system is installed as part of original construction of improvements to a Lot it shall be the obligation of the Association to maintain such system, together with timing or other automation equipment, in good working order. Owner shall utilize such irrigation system to maintain the lawn of the Lot in a properly irrigated manner. If a Lot Owner fails to do so, the Association shall have the same rights of enforcement it has with respect to maintenance of the Lot and improvements generally.

## ARTICLE X

### FNMA PROVISIONS

Section 1. Information. The Association shall make available to all Owners and to all Institutional Lenders holding an Institutional Mortgage encumbering a Lot, upon reasonable notice and for a reasonable charge not to exceed the cost of photocopying, current copies of this Declaration, the Articles and By-Laws, and any rules and regulations in force from time to time, and the most recent annual financial statement of the Association. Copies of any of the foregoing, and the books and records of the Association, shall be available for inspection, upon request, during normal business hours.

Section 2. Contracts. The Association shall not be bound to contracts or leases prior to transfer of control of the Association by the Declarant to the Owner unless there is a right to termination, without cause, exercisable by the Association, without penalty, after such transfer of control by the Declarant, and upon not more than ninety (90) days notice to the other party to such contract or lease.

### Section 3. Transfer of Control.

(a) The Declarant shall transfer control of the Association to the Owner no later than the earlier of the following events:

1. When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

2. Four (4) months after ninety-five (95) percent of the Lots have been sold by Declarant; or

3. Five (5) years following conveyance of the first Lot by Declarant to an Owner; or

4. When the Declarant waives in writing its right to Class B membership.

(b) As used in this Article, the term "control" means the right to control the Association, the Board of Directors, the Properties or the Owners in any manner except through votes allocated to Lots owned by Declarant on the same basis as votes pertaining to other Lots.

Section 4. Reserves. The Association shall establish and maintain, out of regular maintenance assessments, adequate reserve improvements to the Local Common Areas and other portion of the Properties which the Association is obligated to maintain. The Declarant is excused from any such reserve assessments or payment for so long as Declarant is paying assessments pursuant to Section 7 of Article VII.

Section 5. Lender's Notices. Upon written request to the Association, identifying the name and address of the Institutional Lender and the Lot number or address, such Institutional Lender will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Properties or the Lot encumbered by its Institutional Mortgage.

(b) Any delinquency of sixty (60) days or more in the payment of assessments or charges owed by the Owner of the Lot encumbered by its Institutional Mortgage.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that requires the consent of a specified percentage of Institutional Lenders.

Section 6. Fidelity Bonds. All officers of the Association dealing with funds of the Association, and such other officers as the Board of Directors may designate from time to time, shall be provided with fidelity bond coverage as a common expense of the Association and for the benefit of the Association.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Master Declaration and Association. Every Owner of a Lot within the Properties, by acceptance of a Deed for said Lot, hereby acknowledges that such Lot and such Owner are, or will be, subject to the Master Declaration and Master Association



and all the terms and conditions thereof including, but not limited to, assessment for common expenses and lien rights in favor of the Master Association for the collection of such assessments. In the event that, at the time of conveyance of a Lot to an Owner, the Declarant has not yet made the Properties subject to the Master Association and Master Declaration, such Owner agrees that they will execute any and all documents reasonably necessary to make such Lot subject to the Master Declaration and the Master Association.

Section 2. Enforcement. The Association, the Master Association, the Declarant and any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or as may be expressly authorized by the Master Declaration as described in Section 1 of this Article. Failure of the Association, Master Association, Declarant or any Owner to enforce any covenant or restriction herein or therein contained shall in no event be deemed a waiver of the right to do so thereafter. If a person or party is found in the proceedings to be in violation of or attempting to violate the provisions of this Declaration or the Master Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorney's fees, including those on appeal, incurred by the party enforcing them. The Master Association or Declarant shall not be obligated to enforce this Declaration or the Master Declaration and shall not in any way or manner be held liable or responsible for any violation of this Declaration or the Master Declaration by a person other than itself.

Section 3. Severability. Invalidation of any word, term, phrase, or other portion of this Declaration by law, judgment or court order shall not affect any of the other provisions of this Declaration, and such other provisions shall remain in full force and effect.

Section 4. Amendment. The Covenants and Restrictions of this Declaration shall run with and bind the Properties for a term of twenty (20) years from the date this Declaration is recorded in the Public Records of the County, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated by the vote of eighty (80) percent of the Voting Members of each then existing class of members, at a meeting called for such purpose. This Declaration may be amended during the first twenty (20) year period or any subsequent ten (10) year period by an instrument signed either by:

- (a) The Declarant as provided in Section 5 of this Article; or
- (b) A vote of sixty-six and two-thirds (66 2/3rds) percent of the Voting Members of each then existing class of membership, at a meeting called for such purpose; or

(c) By the duly authorized officers of the Association provided such amendment by the Association officers has been approved in the manner provided in Paragraph (b) of this Section.

Notwithstanding anything herein to the contrary, so long as the Declarant shall own any Lot, no amendment shall diminish, discontinue or in any way adversely affect the rights of the Declarant under this Declaration, nor shall any amendment pursuant to (b) or (c) above be valid unless approved by the Declarant, as evidenced by its written joinder.

Section 5. Exception. Notwithstanding any provision of this Article to the contrary, the Declarant shall have the right, to amend this Declaration, from time to time, for a period of five (5) years from the date of its recording to make such changes, modifications and additions therein and thereto as may be requested or required by the FHA, VA, FNMA, GNMA, or any other governmental agency or body as a condition to make, purchase, accept, insure, guaranty or otherwise approve loans secured by mortgages on Lots or any other amendment which Declarant seems necessary, provided, however, such amendment does not destroy or substantially alter the general plan or scheme of development of the Properties. Any such amendment need be executed only by the Declarant and shall be effective upon its recording. No approval or joinder of the Association, other Owners, or any other party shall be required or necessary to such amendment.

Section 6. Irreparable Harm. Every Owner agrees and acknowledges that a violation of any term or condition of this Declaration by such Owner or their family members, guests, invitees, licensees, tenants or servants constitutes irreparable harm to the Declarant and every other Owner in the Properties and that any action at law or equity to obtain an injunction against such violation shall require no further proof of irreparable harm other than the admission herein contained.

#### ARTICLE XIII

#### ASSIGNMENT BY DECLARANT

Section 1. Assignment Rights. Notwithstanding anything to the contrary in this Declaration, Declarant shall have the right, to assign, from time to time, in whole or in party, any rights they have under this Declaration. Such assignment may be exclusive, non-exclusive, joint with Declarant, revocable or irrevocable, all at Declarant's sole option. Any such assignment shall not be effective unless and until such assignment has been evidenced by a written instrument and recorded in the Public Records of the County.

IN WITNESS WHEREOF, the undersigned, being the Declarant has caused this Declaration to be executed by an authorized officer

O.R. 3020 PAGE 1638

and affixed its corporate seal as of this 25<sup>th</sup> day of February, 1992.

Signed, sealed and delivered in the presence of:

FIRST FLORIDA BANK, N.A.,  
a national banking association

M. Annette Sampson

By: Michael J. Tufano

Print M. ANNETTE SAMPSON

Sheila M. Brown

Print SHEILA M. BROWN

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH



The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of February, 1992, by Michael J. Tufano, as VICE PRESIDENT of FIRST FLORIDA BANK, N.A., a national banking association, who produced IS PERSONALLY KNOWN TO ME as ~~identification~~ and who ~~did~~ (did not) take an oath.

Ellen M. Schmidt  
NOTARY PUBLIC

My Commission Expires:

"W" WYN.DEC-12



OFFICIAL SEAL  
ELLEN M. SCHMIDT  
MY COMMISSION EXPIRES  
NOVEMBER 15, 1994