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MARTHA O. HAYNIE, COMPTROLLER
ORANGE COUNTY, FL
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THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:

James E. L. Seay, Esquire
Holland & Knight LLP
200 S. Orange Avenue
Suite 2600
Orlando, FL 32801

-----{SPACE ABOVE FOR RECORDING PURPOSES}-----

**DECLARATION OF COVENANTS AND RESTRICTIONS FOR
THE ENCLAVE AT MOSS PARK**

THIS DECLARATION is made and executed on the date hereinafter set forth by **BEAZER HOMES CORP.**, a Tennessee corporation, (the "Developer").

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain property described in the plat for The Enclave at Moss Park, as recorded in the Public Records of Orange County, which is also more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof (hereinafter referred to as the "Community"); and

WHEREAS, Developer has established a land use plan for the Community and desires to provide for the preservation of the values and amenities hereby established and as may be established for the Community hereafter committed to a land use plan and to this end does hereby subject the Community to use covenants, restrictions, easements, reservations, regulations, burdens and liens as hereinafter set forth; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities established as aforesaid to create a corporation known as **THE ENCLAVE AT MOSS PARK HOMEOWNERS ASSOCIATION, INC.**, a Florida corporation not-for-profit, to which there has been and will be delegated and assigned certain powers and duties of ownership, operation, administration, maintenance and repair, the enforcement of the covenants, restrictions and easements contained herein and the collection and disbursement of the assessments and charges hereinafter provided.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, Developer hereby declares that the Community shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, burdens and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. “Annexation” shall mean and refer to the subjecting of real property to this Declaration by amendment in accordance with Article VI hereof.

Section 2. “Association” shall mean and refer to THE ENCLAVE AT MOSS PARK HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, its successors and assigns. The Articles of Incorporation for the Association are attached hereto as **Exhibit “B”**, and the Bylaws of the Association are attached hereto as **Exhibit “C”**.

Section 3. “Board” shall mean and refer to the Board of Directors of the Association.

Section 4. “Builder” shall mean and refer to a party who is in the business of purchasing Lots for the purpose of constructing a Home thereon for immediate resale.

Section 5. “Common Areas” shall mean and refer to Tracts B-1, B-2, B-3, OS-1, OS-2, OS-3, P-1, P-2, P-3, P-4, S-1 and W-1 of the Community and all other real property owned, or to be owned, by the Association for the common use and enjoyment of the Owners.

Section 6. “Common Expenses” means and refers to all expenses of any kind or nature whatsoever incurred by the Association, including, but not limited to, the following:

A. Expenses incurred in connection with the ownership, maintenance, repair, improvement or operation of the Common Areas, including Private Roads, or any other property to be maintained by the Association as provided in this Declaration, including, but not limited to, utilities, taxes, assessments, insurance, operation, maintenance, repairs, improvements, and alterations.

B. Expenses of obtaining, repairing or replacing personal property in connection with any Common Areas or the performance of the Association's duties.

C. Expenses incurred in connection with the administration and management of the Association.

D. Common water, sewer, trash removal, and other common utility, governmental, or similar services for the Homes which are not separately metered or charged to the Owners, or which the Association determines to pay in common in the best interest of the Owners.

E. Expenses declared to be Common Expenses by the provisions of this Declaration, or by the Articles or By-Laws of the Association.

Section 7. The “Community” shall mean and refer to that certain real property legally described in Exhibit “A” attached hereto and made a part hereof, and such additional lands that may be subjected to this Declaration by annexation.

Section 8. “Community-Wide” shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing throughout the Moss Park Community. Such standard may be more specifically determined by the Master Association.

Section 9. “County” shall mean and refer to Orange County, Florida.

Section 10. “Design Guidelines” shall mean and refer to the Moss Park Design Guidelines dated August, 2000, revised on September 12, 2000, and on September 18, 2000, and as may be further revised from time-to-time by Master Declarant. The initial Design Guidelines were approved by Orange County in connection with the Development Order, and may be found on file at the Association’s principal office.

Section 11. “Developer” shall mean and refer to Beazer Homes Corp., a Tennessee corporation, its successors and assigns, if such successors and assigns should: (i) acquire more than one undeveloped and/or unimproved Lot from Developer for the purpose of development; and (ii) obtain a written assignment of the Developer's rights from Beazer Homes Corp.

Section 12. “Development Order” shall mean and refer to that certain Development Order for Moss Park Development of Regional Impact adopted by Orange County, Florida on November 14, 2000, and recorded in Official Records Book 6163, Page 782, Public Records of Orange County, Florida, as the same shall be amended.

Section 13. “District” shall mean and refer to the South Florida Water Management District, an agency created pursuant to Chapter 373, Florida Statutes.

Section 14. “Home” shall mean and refer to a completely constructed attached or detached single family Home which is designated and intended for use and occupancy as a residence and which is subject to assessments under this Declaration or any Supplemental Declaration made by the Developer. Said term includes any interest in land, improvement and other property appurtenant to the Home.

Section 15. “Institutional Mortgagee” or “Institutional Lender” means and refers to a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, an agency of the United States Government, mortgage banker, or any other lender generally recognized as an institutional type lender, or the Developer, holding a first mortgage on a Home.

Section 16. “Lot” shall mean and refer to those parcels of land upon which exists or will exist a Home, regardless of whether such parcel(s) of land have been platted or are unplatted. The number of Lots in an unplatted area at any particular time shall be the number of Homes approved by Orange County, Florida for that unplatted area at such time.

Section 17. “Master Association” shall mean and refer to Moss Park Master Homeowners Association, a Florida non-profit corporation, its successors and assigns, which shall be a homeowners association, not a condominium, which association shall govern the Residential Property of Moss Park Community.

Section 18. “Master Declarant” shall mean and refer to Lake Hart Partners, Inc., a Florida corporation as declarant of the Master Declaration.

Section 19. “Master Declaration” shall mean and refer to the Declaration of Master Covenants and Restrictions of Moss Park Community (Residential Properties) recorded in Official Records Book 6539, Page 5942, Public Records of Orange County, Florida.

Section 20. “Master Easement” shall mean and refer to that certain Master Easement and Joint Use Agreement which is recorded in Official Records Book 6449, Page 6704, Public Records of Orange County, Florida, by and between Landowner (as defined in the Master Easement), as Grantor, and the Owners of all Residential Property, as Grantee, which grants the Owners of all Residential Property,

and their successors in title, the nonexclusive right to use the Community Common Property, and subjects the Residential Property to assessments, among other things.

Section 21. “Master Plan” shall mean and refer to the most recent Moss Park Land Use Plan approved by Orange County, Florida for the development of Moss Park Community, as amended. The Master Plan was originally approved by Orange County, Florida on November 14, 2000. A copy of the Master Plan may be found on file at the Association’s principal office or with Orange County.

Section 22. “Member” means and refers to each member of the Association as provided in Article III.

Section 23. “Model Home” shall mean and refer to a fully constructed Home, that prior to its sale by Developer, will be used by Developer to show prospective purchasers a model of the Home(s) available for purchase.

Section 24. “Moss Park Community” shall mean and refer to the Commercial Property, the Residential Property, Community Common Areas and Common Areas developed pursuant to the Master Plan.

Section 25. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Home, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 26. “Public Area” shall mean and refer to all lands owned by the State of Florida, the County, or municipality which, to the extent allowed by such governmental authority, are to be maintained by the Association.

Section 27. “Recreation Parcel” shall mean and refer to Tracts “R-1” and “R-2” of the Community and any other portion of the Common Areas on which the Association builds recreation facilities. Recreation facilities may be created, expanded or reduced by Developer without the consent of Owners or the Association.

Section 28. “Surface Water Management System” means and refers to a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the applicable provisions of the Florida Administrative Code.

Section 29. “Townhome” shall mean and refer to an attached single family Home which is one of a row of such Homes connected by party walls.

Section 30. “Townhome Building” shall mean and refer to a building comprised of Townhomes.

ARTICLE II **PROPERTY RIGHTS**

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

A. All provisions of this Declaration, the plat or plats of the Community, and the Articles of Incorporation and By-Laws of the Association;

B. Rules and regulations adopted by the Association governing the use and enjoyment of the Common Areas;

C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility which may be situated upon the Common Areas;

D. The right of the Association to suspend the voting rights and to suspend the right to use Common Areas of any Owner for any period during which any assessment against his Lot or Home remains unpaid; and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations.

E. The right of the Association to dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed upon in an instrument signed by two-thirds (2/3) of each class of members of the Association and recorded in the public records of the County.

F. The right of the Association to borrow money, and with the consent of two-thirds (2/3) of each class of members to mortgage, pledge or hypothecate all of its real and personal property as security for money borrowed or debts incurred.

G. The right of the Association to make additions, alterations or improvements to the Common Areas, and to purchase any personal property as it deems necessary or desirable from time to time, provided, however, the approval of two thirds (2/3) of the Owners shall be required for any addition, alteration or improvement or any purchase of personal property exceeding a sum equal to one (1) month's total Assessments for Common Expenses payable by all the Owners, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum equal to two (2) month's Assessments for Common Expenses payable by all of the Owners. The foregoing approval shall in no event be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing Common Areas, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the Common Areas, or the purchase of personal property, shall be a Common Expense. In addition, so long as the Developer owns any portion of the Community, Developer shall have the right to make any additions, alterations or improvements to the Common Areas as may be desired by Developer in its sole discretion from time to time, at Developer's expense.

H. The intention of Developer concerning utilization of the Tracts as set forth on the plat of the Community are as follows:

- (1) Tracts "B-1", "B-2" and "B-3" are conservation buffer tracts;
- (2) Tracts "OS-1", "OS-2", "OS-3" are open space tracts;
- (3) Tracts "P-1", "P-2", "P-3" and "P-4" are park and recreational tracts;
- (4) Tract "S-1" is a stormwater drainage and retention tract;
- (5) Tract "W-1" is a conservation tract.

Section 2. Zero Lot Line Maintenance and Easements. An exclusive easement for the minor, unintentional encroachment of any building, Home or other improvements upon any Lot or Common Areas caused by or resulting from the original construction of improvements or the repair or replacement of same, which exclusive easement shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching building, Home or other improvement, to the extent of such encroachment.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the appropriate By-Laws, his right of enjoyment to the Common Areas, to the members of his family, his tenants or contract purchasers who reside on the property.

Section 4. Permitted Uses. The Common Areas shall be restricted to the following uses:

A. The Common Areas, now and forever, shall be restricted hereby such that it shall be maintained as Open Areas for the recreation, use and benefit of the Owners, including as and for easements and rights-of-way for the construction, operation and maintenance of utility services and drainage facilities and shall not be used for any commercial or industrial use except as herein described.

B. The Private Roads, if any, now and forever, shall be restricted such that they shall be used solely for the benefit of the Owners, their tenants, invitees and guests as and for the common access, ingress and egress and as an easement and right-of-way for the construction, operation and maintenance of utility services and drainage facilities. The Private Roads shall be kept free and clear of obstructions, except as is reasonable for construction, operation and maintenance of traffic and speed controls.

Section 5. Delegation of Rights. Any Owner, including Developer may grant the benefit of any easement, license, right or privilege to tenants and guests for the duration of their tenancies or visits with the condition that such tenants and guests agree to comply with all this Declaration and the reasonable rules, regulations and policies of the Association as may be promulgated from time to time, but the same are not intended nor shall they be construed as creating any rights in or for the benefit of the general public.

Section 6. Master Declaration. The rights of all Owners shall be subject to the Master Declaration together with the Governing Documents as defined in the Master Declaration.

Section 7. Security. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE COMMUNITY DESIGNED TO MAKE THE COMMUNITY SAFER THAN IT OTHERWISE MIGHT BE. NEITHER THE ASSOCIATION, THE DEVELOPER, NOR ANY SUCCESSOR DEVELOPER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CAN NOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DEVELOPER, AND ANY SUCCESSOR DEVELOPER ARE NOT INSURERS AND THAT

EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot or Home which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot or Home which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership:

CLASS A: Class "A" Members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B: Class "B" Member(s) shall be the Developer as defined in this Declaration, and shall be entitled to nine (9) votes for each Lot owned by it in the Community. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of any of the following events, whichever occurs earliest:

- A. At such time when certificates of occupancy have been issued for ninety per cent (90%) of the Lots in the Community.
- B. Ten (10) years from the date of filing of this Declaration.
- C. At such time as the Class "B" member voluntarily relinquishes its right to nine (9) votes for each Lot.

ARTICLE IV
COVENANT FOR MAINTENANCE

Section 1. **Association Maintenance Responsibility.** The Association shall at all times maintain: (i) the Common Areas, including all retention areas, (ii) the grassed and landscaped area of the Public Areas within the Community or contiguous thereto, (iii) any entrance features constructed on the Common Areas or in Public Areas or on easements granted to the Association that run through the Community, (iv) any landscape easements or buffer areas contiguous to public rights-of-way which are indicated on any plats of the Community for maintenance by the Association (the maintenance of all grassed and landscaped area includes mowing and edging the grass, trimming the hedges and trees, and fertilization), (v) any Community message board located on the Common Areas (Developer, for so long as it owns a Lot or Home may use said message board for advertising the Lots or Homes it has for sale), (vi) all roadways located in the Community not otherwise dedicated as public roads, (vii) the sewer effluent lines located on the Common Areas and within easements, (viii) any easements granted to the Association, (ix) the electrical meters on the exterior of all the Townhome Buildings, and (x) the boundary wall, fencing, buffer areas and landscaping around the perimeter of the Community. The Association shall also have the right to do anything necessary or desirable in the judgment of the Board to keep the Community neat and attractive, to preserve or enhance the value thereof, to eliminate fire, health or safety hazards, or otherwise to benefit the Owners. Assessments shall also be used for the maintenance and repair of the Master Surface Water Management System including but not limited to work within

retention areas, drainage structures and drainage easements. Further, the Association shall have the right, but not the obligation, to maintain all county, district or municipal properties and rights-of-way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Community where deterioration of any of the described items would adversely affect the appearance of the Community or the operation of systems appurtenant to Moss Park Community. The Association shall adopt standards of maintenance and operation required by this Section 1 which are consistent with the Community-wide standard.

Section 2. Exterior Maintenance. Other than as specifically set forth in this paragraph below, each Owner shall be responsible for maintaining such Owner's Lot, the exterior of the Home located thereon and the exterior of all other improvements located thereon in a neat and attractive manner and as provided elsewhere herein. The Owners' maintenance obligations shall include, but shall not be limited to, maintaining, repairing and replacing all sidewalks located on such Owner's Lot and replacing all broken glass. The Association shall maintain the exterior surfaces of all of the Townhome Buildings, including roofs, gutters, downspouts, painting, repairs and replacements and the grass, irrigation and landscaped areas from time-to-time located on all Lots in a neat and attractive manner, as determined in the exercise of the Association's board of directors' reasonable discretion. Also, with respect to the Townhome Lots, until Class B Membership ceases to exist, no Owner or any other party may install any grass or landscaping on any Lot; provided, however, that after Class B membership in the Association ceases to exist, if an Owner seeks and obtains the approval of the Committee (as hereinafter defined) to install and maintain additional landscaping on such Owner's Lot, then the Owner obtaining such approval shall be required to maintain such additional landscaping on such Owner's Lot at such Owner's sole cost and expense. Notwithstanding the foregoing, to the extent that any Owner, or any of such owner's agents, employees, guests, invitees or licensees, causes damage to any improvement for which the Association is obligated to maintain, repair and/or replace, then any cost incurred by the Association to maintain, repair or replace such damaged improvements shall be charged to such Owner as an individual assessment, which individual assessment shall be subject to the same collection, lien and lien enforcement rights in favor of the Association as exist for annual Assessments.

Section 3. Owner's Responsibility. Except as set forth in Section 2 above regarding certain maintenance of Townhome Buildings and Townhome Lots, each Owner shall keep and maintain the building improvements and landscaping located on that Owner's Lot in good and presentable condition and repair consistent with the approved plans therefor, and shall otherwise keep such Lot and any Home located thereon in neat and attractive condition. Each Owner shall, at his expense, mow and otherwise keep and maintain those portions of the Surface Water Management System located on that Owner's Lot (whether or not included in a platted drainage easement) free of debris and other obstructions on a routine basis.

No Owner shall remove native vegetation from the conservation area or which becomes established within any Owner's Lot except in accordance with all applicable governmental regulations. For the purposes hereof, removal includes dredging, application of herbicide, and cutting.

Except as set forth in Section 2 above regarding certain maintenance of Townhome Buildings and Townhome Lots, the Association shall have the right but not the obligation to provide exterior repair and maintenance on any Lot or Home in the event of default by any Owner in the duties hereby imposed. Prior to performing repair or maintenance on any Lot or Home, the Board shall determine that same is in need of repair or maintenance and is detracting from the overall appearance of the Community. Except in emergency situations, prior to commencement of any work, the Board must furnish written notice to the Owner to the effect that, unless specified repairs or maintenance are commenced within fifteen (15) days after the mailing of the notice, and thereafter diligently pursued to completion, the Association may procure said repairs. Upon the Owner's failure to commence timely and to diligently pursue the repairs or

maintenance, the Association and its agents or employees shall have the right to do such things as, but not limited to, paint, repair, replace and care for pools, pool enclosures, roofs, gutters, down spouts and exterior building surfaces, clean or resurface paved access ways and parking areas, trim and care for trees, shrubs, grass, walks, swales, berms and other landscaping and drainage improvements, as well as to provide general cleanup, shoreline maintenance, and removal of debris which in the opinion of the Board detracts from the overall beauty and setting of the Community. Developer, the Association, and their respective agents and employees, shall have no liability to the Owner or any occupant or guest for trespass, or damage or injury to property or person as the result of actions taken hereunder unless caused by gross negligence or intentional wrongdoing.

Section 4. Assessment of Cost. The Cost of any work performed by or at the request of the Association pursuant to Section 3 shall be assessed as an individual assessment against the Lot upon which such work is done.

Section 5. Surface Water Management System. Master Declarant has caused or will cause to be constructed within the geographic areas shown by the Master Plan drainage canals, lakes and drainage retention/detention ponds. These drainage structures are part of the overall drainage plan for Moss Park Community. The Association and the Master Association shall have unobstructed ingress to and egress from all retention/detention ponds and lakes at all reasonable times to maintain said ponds and lakes in a manner consistent with its responsibilities as provided in this Declaration and any rules and regulations promulgated by the Association under authority thereof. No Owner shall cause or permit any interference with such access and maintenance.

The Association, if designated by the Master Association, shall, in perpetuity, operate, maintain and manage the Surface Water Management System, denoted on the Property in a manner consistent with South Florida Water Management District Permit requirements and applicable District rules, and shall assist in the enforcement of the restrictions and covenants contained herein which relate to the Surface Water Management System. The Association shall be required to assist in the monitoring and successful establishment of the Mitigation Area, if any, to the extent that the activities of the Association do not conflict with the terms of the Permit, and as further defined below. Maintenance of the surface water or stormwater management system shall mean the exercise of practices which allow the system to provide drainage, water storage, treatment, conveyance or other surface water or stormwater management capabilities as permitted by South Florida Water Management District. The Association, if designated by the Master Association, shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved by South Florida Water Management District.

A. **No Structures in Surface Water Management System.** Except as allowed by South Florida Water Management District and/or Orange County, no structure of any kind shall be constructed or erected within, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of any drainage areas or the Surface Water Management System, nor shall any grading, alteration, or other modifications to these areas be made without the prior written permission of the Association, the Master Association, Orange County, and South Florida Water Management District.

B. **Right of Ingress and Egress.** No Owner shall in any way deny or prevent ingress and egress by Declarant, the Association, the Master Association, Orange County, or South Florida Water Management District to any drainage areas or the Surface Water Management System for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of Declarant, the Association, the Master Association, Orange County,

South Florida Water Management District, or any appropriate governmental or quasi governmental agency that may reasonably require such ingress and egress.

C. No Filling. No Lot shall be increased in size by filling in any drainage areas or other portion of the Surface Water Management System. No Owner shall fill, dike, rip-rap, block, divert or change the established drainage area or the Surface Water Management System that have been or may be created by easement without the prior written consent of the Association, the Master Association, Orange County and South Florida Water Management District.

D. Relocation of Improvements. Any wall, fence, paving, planting or other improvement which is placed by an Owner within a drainage area, drainage easement, or the Surface Water Management System including, but not limited to, easements for maintenance or ingress and egress shall be removed, if required by the Association, the Master Association, Orange County or South Florida Water Management District, the cost of which shall be paid for by such Owner as a Special Assessment.

E. Enforcement by the District. South Florida Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water Management System.

F. Obligations of Association Limited. The covenants and restrictions regarding the Surface Water Management System are in no way intended to obligate the Association to perform any repairs, maintenance, corrections or modifications to those areas that Orange County or South Florida Water Management District will control, as part of their governmental obligations, by agreement with Master Declarant, or as provided in any permits or ordinances.

Section 6. **Access.** For the purpose of performing the maintenance authorized by this Article and as otherwise provided for in this Declaration, the Association, through its duly authorized agents or employees, shall have the right to enter upon any Lot(s) or the Common Areas, at reasonable hours on any day. In the case of emergency repairs, access will be permitted at any time with only such notice as, under the circumstances is practically affordable.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. **Creation of a Lien and Personal Obligation for Assessments.** The Developer, for each Lot owned by it within the Community, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments to be established, (3) assessments of the Master Association and (4) all assessments due under the Master Easement. The assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with costs and reasonable attorneys' fees, shall also be the personal obligation of the person who is the Owner of such Lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. **Establishment of Assessments.** Prior to the beginning of each fiscal year, the Board shall adopt a budget for such fiscal year which shall estimate all of the Common Expenses to be incurred by the Association during the fiscal year. Unless waived by the Master Association pursuant to the Master Declaration, the budget for each fiscal year shall include, but will not be limited to, all assessments levied by the Master Association on all Lots and Homes in the Community. The Board shall

establish the assessment for Common Expenses for each Lot and shall notify each Owner in writing of the amount, frequency, and due dates of the assessment for Common Expenses. From time to time during the fiscal year, the Board may modify the budget, and pursuant to the revised budget or otherwise, the Board may, upon written notice to the Owners, change the amount, frequency and/or due dates of the assessments for Common Expenses. If the expenditure of funds for Common Expenses will exceed the funds produced by assessment for Common Expenses, the Board may make special assessments for Common Expenses, which shall be levied in the same manner as hereinbefore provided for regular assessments, and shall be payable in the manner determined by the Board, as stated in the notice of any special assessments for Common Expenses. In the event any assessments for Common Expenses are made payable in equal payments, as provided in the notice from the Association, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until: (i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date of the payment of the specific amount; or (ii) the Association notifies the Owner in writing of a change in the amount and/or frequency of the periodic payments. In no event shall any assessments for Common Expenses be due less than ten (10) days from the date of the notification of such assessments.

Section 3. Uniformity and Commencement of Assessments. Assessments for Common Expenses assessed against each Lot shall be equal with the exception that the Association may make a differentiation between Lots for detached Homes and Lots for Townhomes based upon differing expenses for the separate housing types. The annual assessment for Common Expenses as to each Lot owned by an Owner other than the Developer shall commence on the first day of the full calendar month after a certificate of occupancy for the Home on the Lot is issued. As to any Home, including Model Homes, owned by the Developer, the annual assessment shall commence on the date that the Developer closes the sale of said Model Home to the first Owner acquiring title from the Developer.

Section 4. Working Capital Contribution. In addition to assessments for Common Expenses, each Owner, at the time of acquiring title to a Lot, shall pay to the Association a contribution to a working capital fund of the Association in the amount of Five hundred and No/100 Dollars (\$500.00), which shall be in addition to the Owner's responsibility for assessments for Common Expenses. The working capital fund shall be used by the Association for any expenses or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

Section 5. Builder Not Required to Pay Working Capital Contribution. Any Builder acquiring title to a Lot shall not be required to pay the working capital contribution unless the Builder leases the Lot to a third party or occupies the Lot as a residence.

Section 6. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to pay Common Expenses and to promote the recreation, health, safety and welfare of the residents in the Community, for the improvement of the Common Areas and for the responsibilities set forth in Article IV, Section 1 hereof.

Section 7. Effect on Developer. Notwithstanding any provision that may be contained to the contrary in this Declaration, for as long as Developer (or any of its affiliates) is the Owner of any Lot, Developer shall have the option, in its sole discretion, to: (i) pay assessments on the Lots owned by it; (ii) pay assessments only on certain designated Lots (e.g., those under construction or those containing a Home for which a certificate of occupancy has been issued); or (iii) not paying assessments on any Lots (regardless of whether there is a Home thereon) and in lieu thereof funding any resulting deficit in the Association's operations (exclusive of any reserves or capital improvements). The deficit to be paid under option (iii) above shall be the difference between (i) actual operating expenses of the Association (exclusive of capital improvement costs and reserves) and (ii) the sum of all monies receivable by the

Association (including, without limitation, assessments, interest, late charges, fine and incidental income) and any surplus carried forward from the preceding year(s). Developer may from time to time change the option stated above under which Developer is making payments to the Association by written notice to such effect to the Association. If Developer at any time elects option (ii) above, it shall not be deemed to have elected option (iii) as to the Lots which are not designated under option (ii). When all Homes within the Community are sold and conveyed to purchasers, neither the Developer, nor its affiliates, shall have further liability of any kind to the Association for the payment of assessments, deficits or contributions.

Section 8. Special Assessments. In addition to the annual assessments and special assessments for Common Expenses authorized above, the Association, through a two-thirds (2/3) vote of its Board of Directors, may levy in any assessment year a special assessment against an Owner(s) to the exclusion of other Owners for the purpose of defraying, in whole or in part, the cost of (i) any construction, reconstruction, repaving, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, if any, or (ii) work performed by the Association in accordance with this Declaration. Any such Special Assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure proceedings and interest. Any Special Assessment levied hereunder shall be due and payable within the time specified by the Board of Directors in the action imposing such Assessment.

Section 9. Annual Assessments. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amounts of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Failure to fix the amounts of the annual assessments within the time period set forth above shall not preclude the Board of Directors from fixing the assessment at a later date.

The Association shall, upon 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 is binding upon the Association as of the date of its issuance. The Association may delegate to a management company or financial institution responsibility for collection of assessments and the issuance of such certificates.

Section 10. Effect of Non-Payment of Assessment; Remedies of the Association. Any assessment not paid within fifteen (15) days of the due date shall be subject to a late charge of Twenty Five and No/100 Dollars (\$25.00). Any assessment not paid within thirty (30) days of the due date shall, in addition to the late charge due if not paid within 15 days of the due date, bear interest from the due date at the rate of 18% per annum. The Association may, at its election, bring an action at law against the Owner personally obligated to pay the same and/or foreclosure of the lien against the Lot and any improvements thereon. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot or Home.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be a lien superior to all other liens save and except ad valorem tax liens and mortgage liens, provided said mortgage liens are first liens against the property encumbered thereby, subject only to ad valorem tax liens, and said first mortgage secures an indebtedness which is amortized on monthly or quarter-annual payments over a period of not less than ten (10) years. The sale or transfer of any Lot pursuant to the foreclosure, or any proceeding in lieu thereof of a first mortgage meeting the above qualifications, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer pursuant to the foreclosure. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. All Common Areas and properties dedicated to and accepted by a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 13. Individual Assessments. The Association may levy individual assessments against any Owner and that Owner's Lot and any Home located thereon in order to cover costs incurred by the Association due to that Owner's failure to maintain his Lot or Home pursuant to the standards set forth in this Declaration, or to reimburse the Association for loss or damage to the Association or to any Common Areas, Recreation Parcel or easement area caused by that Owner or his lessee, agent, contractor or guest, or for any other purpose expressly permitted by this Declaration.

ARTICLE VI ANNEXATION OF PROPERTY

Section 1. Approval of Annexation. Additional land may be annexed to the Community by the Developer alone for as long as the Developer has Class "B" voting rights within the Community or by the approval of two-thirds (2/3) of the Class A Members. The additional lands annexed in accordance with the provisions hereof shall become subject to the provisions of this Declaration upon the recording in the Public Records of the County of an amendment hereto properly executed by the Developer and without the consent of the members of the Association. Until such amendment is recorded, no provision of this Declaration shall be effective as to any additional lands.

Section 2. Additions or Modifications. Such amendments to the Declaration may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the additional lands which are the subject of such amendments to the Declaration as are not inconsistent with the scheme of this Declaration, as determined by the Developer. Further, such amendments to the Declaration may contain provisions relating to the additional lands, or any portions thereof, dealing with, among other things, assessments and the basis thereof, rules and regulations, architectural controls and other provisions consistent with the nature of the development of such Community and pertaining to all or part of such additional lands to the exclusion of other portions of the Community.

The provisions of this Article VI, Section 2 cannot be amended without the written consent of the Developer, and any amendment of this Article VI, Section 2, without the written consent of the Developer, shall be deemed null and void.

ARTICLE VII WITHDRAWAL OF PROPERTY

Anything herein to the contrary notwithstanding, Developer reserves the absolute right to amend this Declaration at any time it still has Class "B" voting rights, without prior notice and without the consent of any person or entity, but not without the written approval of the County for the purpose of removing certain portions of the Community from the provisions of this Declaration, so long as a Home has not been constructed on said land to be withdrawn.

ARTICLE VIII PLATTING AND SUBDIVISION RESTRICTIONS

As long as there is a Class B membership, Developer shall be entitled at any time and from time to time, to plat and/or replat all or any part of the Community, and to file subdivision restrictions and/or

amendments thereto with respect to any undeveloped portion or portion(s) of the Community without the consent or approval of the Owners, but only with the written approval of the County.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. Planning Criteria and Architectural Review Board of the Master Association. All Lots and Homes in the Community are subject to architectural review in accordance with the requirements and procedures of the Master Declaration, this Article, the Design Guidelines and the Architectural Guidelines. The Master Association shall be entitled (but not obligated) to delegate to the Association, and the Association shall accept, perform and exercise as to the Community only, the duty and authority to administer and enforce the architectural control provisions of the Master Declaration. In addition to, and not in substitution for, the architectural review requirements of the Master Declaration, the Design Guidelines and the Architectural Guidelines, all Lots and Homes in the Community are also subject to architectural review in accordance with the following provisions of this Article IX.

Section 2. Committee. Except for improvements constructed by Developer, no building, fence, including chain link fences, wall or other structure shall be commenced, erected or maintained upon the Community, nor shall any exterior addition or change or alteration therein, including a change of the building exterior paint color, be made within the Community, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to the surrounding structures and topography by the Board, or by an architectural control committee composed of three (3) or more representatives appointed by the Board ("Committee"). In the event said Board or its designated Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Nothing contained herein shall relieve the Owner from the responsibility of obtaining proper governmental approvals and permits. The minimum square footage of any Home, whether attached or detached, shall be 1,000 square feet of heated and air conditioned space.

Section 3. Association and Committee Not Liable. The Association or the designated Committee shall not be liable to any Owner in connection with the exercise or non-exercise of architectural control hereunder, or the approval or disapproval of any alteration, addition, improvement or change. Furthermore, any approval of any plans or specifications by the Association or its designated Committee shall not be deemed to be a determination that such plans or specifications are complete or do not contain defects, or in fact meet any standards, guidelines and/or criteria of the Association, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the Association or its designated committee shall not be liable for any deficiency, or any injury resulting from any deficiency in such plans and specifications.

Section 4. Rights of Developer. Notwithstanding the foregoing, so long as Developer holds Class "B" voting rights, architectural control shall be vested in Developer and not the Association, and during such period all references contained in this paragraph to the Association or the Committee shall be deemed to refer to Developer, provided, however, that at any time Developer may assign its right to architectural control to the Association by a written assignment.

Section 5. Additions. Any proposed additions, changes or improvements to any Home or Lot by an Owner shall also be subject to the provisions of this Article IX. However, either the Developer or the Committee may waive any of the requirements of this Article IX provided, however, that any such waiver is granted in good faith.

Section 6. Planning Criteria for Detached Homes. The Developer, in order to give guidelines to the Owners concerning construction and maintenance of Lots and improvements thereon, hereby promulgates the Planning Criteria ("Planning criteria") for all detached homes in the Community, set forth below. The Developer declares the Community, and additions thereto, shall be held, transferred, sold, conveyed and occupied subject to the Planning Criteria, as amended from time to time by the Committee.

A. **Building Type.** No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family residence, not to exceed 35 feet in height, including a private closed garage for not less than two nor more than four cars. Unless approved by the Committee as to use, location and architectural design, no garage, tool or storage room may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior to the main residence. The Restrictions contained in Article XII, Section 27 are incorporated herein.

B. **Roofs.** All roofs shall have a pitch of at least 6/12, except two (2) story shall be 5/12. Flat roofs shall not be permitted unless approved by the Committee. Such areas where flat roofs may be permitted are Florida rooms, porches and patios. There shall be no flat roofs on the entire main body of an Improvement. The Committee shall have discretion to approve such roofs on part of the main body of an improvement, particularly if modern or contemporary in design. No built up roofs shall be permitted, except on approved flat surfaces. The composition of all pitched roofs shall be 20 year dimensional composition or other material approved by the Committee.

C. **Garages.** All two car garages must have either a single overhead door with a minimum door width of sixteen (16) feet, or two (2) overhead doors each a minimum of eight (8) feet in width. Three car garages may have any combination of the above. No carports will be permitted.

D. **Driveway Construction.** All dwellings shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. Unless prior approval is obtained from the Committee, all driveways must be constructed of concrete or approved pavers. When curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be acceptable to the Committee.

E. **Walls, and Fences.** The Restrictions contained in Article XII, Section 26, are incorporated herein. No wall or fence shall be constructed on any Lot until its height, location, design, type, composition and material shall have first been approved in writing by the Committee.

ARTICLE X **EASEMENTS**

Section 1. Utility Easements. Easements may be granted by the Association for utility purposes in accordance with the requirements of this Declaration.

Section 2. Easements for Association and Owners. Subject to the terms of the Master Easement and the Master Declaration, Developer does hereby establish and create for the benefit of the Association and for all Owners from time to time subject to this Declaration, and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges:

A. Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under and across the Private Roads and all streets, roads and walks within the Common Areas (as they may be built or relocated in the future).

B. Rights to connect to, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, telephone lines and equipment, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Common Areas, but only in accordance with applicable laws and regulations and the requirements of the applicable entities which regulate said utilities.

Section 3. Easements for Developer. Subject to the terms of the Master Easement and the Master Declaration, Developer reserves to itself, its designees, successors and assigns easements, licenses, and rights and privileges of a right-of-way in, through, over, under and across the Community for the construction, maintenance and repair of utility lines, wires, pipes, conduits, cable television, sewers, and drainage lines and other improvements which may from time to time be in or along the streets and roads or other areas of the Community. Developer also reserves the right for itself, its designees, successors and assigns to continue to use the Community, and any Common Areas, Private Roads, roadways, sales offices, model homes, signs, flags, promotional material and parking spaces located in the Community, in its efforts to market Lots, land and Homes in the Community. This paragraph may not be amended without the prior written consent of the Developer and is subject to the terms of those certain Notices of Development Obligations.

Section 4. Easement for Owner. The Developer, by its execution of this Declaration, hereby grants to each Owner a non-exclusive perpetual easement for the maintenance, repair and replacement of water and sanitary sewer lateral pipes servicing the Lot and improvements thereon, which lateral pipes are located within the Common Areas.

Section 5. Easement for Services. Developer hereby grants to delivery, pickup and fire protection services, police, building, zoning, code enforcement, health and sanitation, and other public service personnel and vehicles, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Developer, its successors or assigns to service the Community, and to such other persons as the Developer from time to time may designate, the nonexclusive, perpetual right of ingress and egress over and across the Common Areas for the purposes of performing their authorized services and investigation.

Section 6. Easement for Access and Drainage. The Association shall have perpetual non-exclusive easement over all areas of the Master Surface Water Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the Master Surface Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Master Surface Water Management System as required by the South Florida Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Master Surface Water Management System. No person shall alter the drainage flow of the Master Surface Water Management System, including buffer areas or swales, without the prior written approval of the South Florida Water Management District.

Section 7. Encroachments on Lots of Common Areas. In the event any portion of any roadway, walkway, parking area, roof drainage system, roof, trellis, water lines, sewer lines, utility lines, sprinkler system, Home or any other improvement as originally constructed by Developer or its designee, successor or assign encroaches on any Lot or Common Areas, it shall be deemed that the Owner of such Lot or Common Areas has granted a perpetual easement to the Owner of the adjoining Lot, Common Areas, or the Association as the case may be, for continuing maintenance and use of such encroaching roadway, walkway, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or other structure originally constructed by the Developer. The foregoing shall also apply to any replacements of any such roadway, walkway, parking area, roof drainage system, roof,

trellis, water lines, sewer lines, utility lines, sprinkler system or other structure, if same are constructed in substantial conformance to the original. Other encroachments may hereafter be maintained as provided in a Supplemental Declaration. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

Section 8. Mitigation and Conservation Areas. The Community may be subject to certain areas which may contain or be adjacent to wetland preservation or mitigation areas and upland buffers which are protected under conservation easements (collectively, the "Mitigation and/or Conservation Areas"). The following provisions and restrictions govern the Mitigation and Conservation Areas:

A. **Description of Mitigation and Conservation Areas.** The Mitigation and/or Conservation Areas, are part of the system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the applicable provisions of the Florida Administrative Code.

B. **Maintenance of Mitigation and Conservation Areas.** The Association, to the extent so designated by the Master Association, shall operate, maintain and manage the Mitigation and Conservation Areas in a manner consistent with South Florida Water Management District (the "District") Permit requirements and applicable District rules, and shall assist in the enforcement of the restrictions and covenants contained herein. The Association, to the extent so designated by the Master Association, shall be required to monitor and establish the Mitigation Areas. "Establishing" these areas shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance, survival and growth of installed aquatic plant material or other surface water or stormwater management requirements as permitted by the South Florida Water Management District. The Association, to the extent designated by the Master Association, shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved by South Florida Water Management District.

C. **No Structures Without Consent.** No structure (with the exception of permitted boardwalks) of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of any drainage areas or the Mitigation and Conservation Areas without prior written permission of the Association, the Master Association and South Florida Water Management District.

D. **Ingress and Egress Easement.** No Owner shall in any way deny or prevent ingress and egress by Declarant, the Association, the Master Association, Orange County or South Florida Water Management District to any drainage area or the Mitigation and Conservation Areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of Declarant, Landowner, the Association, the Master Association, Orange County, South Florida Water Management District or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

E. **No Filling.** No Lot shall be increased in size by filling in any drainage areas or Mitigation and Conservation Areas. No Owner shall fill, dike, rip-rap, block, divert or change the established drainage areas, or the Surface Water/Stormwater Management Systems that have been or may be created by easement without the prior written consent of the Association, the Master Association, Orange County and South Florida Water Management District.

F. No Alteration. The Mitigation and Conservation Areas may not be altered from their natural/permitted condition with the exception of: exotic or nuisance vegetation removal, or restoration in accordance with the restoration plan included in the Conservation Easement. Exotic vegetation may include, but is not limited to, melaleuca, Brazilian pepper, Australian pine, and Japanese climbing fern or any other species listed from time-to-time by the Florida Exotic Pest Control Council. Nuisance vegetation may include cattails, primrose willow, and grapevine.

G. Maintenance of Signage. The Association, if designated by the Master Association, shall be responsible for the installation and perpetual maintenance of any signage required by the District pursuant to any permits issued by the District, which signs are located on property owned by the Association or Master Association. The Association, or the Master Association, as appropriate, shall have a perpetual, non-exclusive easement for ingress and egress to any Lot for the perpetual maintenance of any signage required by the District permit which is located on such Lot.

H. Relocation of Improvements. Any wall, fence, paving, planting or other improvement placed by an Owner within a drainage area, drainage easement, Mitigation and Conservation Areas, including, but not limited to, easements for maintenance or ingress and egress access, shall be removed, if required, by the Association, the Master Association, Orange County or South Florida Water Management District.

I. Enforcement by the District. South Florida Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Mitigation and Conservation Areas.

Section 9. Conservation Easements. Certain Conservation Tracts or Easements (the "Conservation Easements") may be granted to South Florida Water Management District over a portion of the Moss Park Community (the "Conservation Areas").

A. Restrictions. The following restrictions shall apply to the Conservation Areas (as legally described in the Conservation Easements):

- (1) THE CONSERVATION AREAS ARE HEREBY DEDICATED AS COMMON PROPERTY AND THEY SHALL BE THE PERPETUAL RESPONSIBILITY OF THE MASTER ASSOCIATION OR THE ASSOCIATION, IF SO DESIGNATED, AND MAY IN NO WAY BE ALTERED FROM THEIR NATURAL OR PERMITTED STATE. ACTIVITIES PROHIBITED WITHIN THE CONSERVATION AREAS INCLUDE, BUT ARE NOT LIMITED TO, CONSTRUCTION OR PLACING OF BUILDINGS ON OR ABOVE THE GROUND; DUMPING OR PLACING SOIL OR OTHER SUBSTANCES SUCH AS TRASH; REMOVAL OR DESTRUCTION OF TREES, SHRUBS, OR OTHER VEGETATION -WITH THE EXCEPTION OF EXOTIC/NUISANCE VEGETATION REMOVAL; EXCAVATION, DREDGING OR REMOVAL OF SOIL MATERIAL; DIKING OR FENCING; ANY OTHER ACTIVITIES DETRIMENTAL TO DRAINAGE; FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.

The Conservation Areas are subject to deed restrictions pursuant to Section 704.06, Florida Statutes, in favor of South Florida Water Management District ("District"), for the purpose of maintaining

the Conservation Areas in their predominantly natural condition as a wooded water recharge, detention, percolation and environmental conservation area.

B. Prohibited Uses. In furtherance of the Conservation Easements, all the following uses in the Conservation Areas are hereby prohibited without the prior written consent of South Florida Water Management District:

- (1) The construction, installation or placement of signs, buildings, fences, walls, roads or any other structures and improvements on or above the ground in the Conservation Areas (with the exception of permitted boardwalks).
- (2) The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials.
- (3) The removal or destruction of trees, shrubs or other vegetation from the Conservation Areas. No removal, clearing, mowing or destruction of trees, shrubs or other vegetation is permitted within the Conservation Areas without the prior written consent of South Florida Water Management District.
- (4) The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Areas.
- (5) Surface use, except for purposes that permit the land or water area to remain in predominantly natural condition.
- (6) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- (7) Acts or uses detrimental to such retention of land or water areas.
- (8) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

C. Perpetual. The Conservation Easements shall be perpetual in duration.

D. Right of Entry. South Florida Water Management District, its successors or assigns, shall have the right to enter upon the Conservation Areas at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

E. Removal of Trash. The Master Association, and any subsequent owners of the Conservation Areas shall be responsible for the periodic removal of trash and other debris which may accumulate in such Conservation Areas.

F. Enforcement. The prohibitions and restrictions upon the Conservation Areas as set forth in this section may be enforced by South Florida Water Management District or its successor

agency by proceeding at law or in equity including, without limitation, actions for injunctive relief. The provisions of the Conservation Easement may not be amended without prior approval from South Florida Water Management District.

G. Binding Effect. All rights and obligations arising hereunder are appurtenances and covenants running with the land of the Conservation Areas, and shall be binding upon and shall inure to the benefit of the South Florida Water Management District and its successors and assigns.

Section 10. Discharge into Water Bodies and Pumps. Nothing other than storm water or irrigation waters may be discharged into any lake, canal, or other body of water located within or adjacent to the Properties. Any device through which water is drawn (other than a pumping device from any lake, canal, or other body of water onto) or within any portion of the Properties must not be visible unless necessary or unless its non-visibility would pose a hazard to navigation or water recreation. The construction and/or installation of any such device through which water is drawn shall be subject to the prior written approval of the Committee as set forth in this Declaration. No well may be dug, nor may any irrigation water be withdrawn from any body of water within the Properties or the ground without the consent of the Association and the Master Association, which consent may be withheld in the sole discretion of the Association and the Master Association.

Section 11. Master Easement. The Master Easement, which grants the owners of all Residential Property, and their successors in title, the nonexclusive right to use the Community Common Property (as therein defined), subjects the Residential Property to assessments, among other things. All Owners hereunder hereby consent to the granting of the Master Easement in perpetuity, and agree that the Property shall be subject to the Master Easement.

ARTICLE XI **CONVEYANCE OF COMMON AREAS TO ASSOCIATION**

At such time that Developer conveys the first Home in the Community, Developer shall be obligated to convey title to all of the Common Areas located in the Community to the Association, which shall be obligated to accept such conveyance. In the event Developer annexes any additional land into the Declaration, Developer shall convey the Common Areas in the additional land to the Association prior to the closing of title to the first Home in said additional land. In the event Developer withdraws any of the Common Areas from the effects of this Declaration as permitted by Article VII hereof, the Association will reconvey to the Developer those Common Areas withdrawn by Developer. Any withdrawal of Common Areas shall require the approval of the County.

ARTICLE XII **RESTRICTIONS**

Section 1. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown or designated on the recorded plat(s). Within these easements, no structure, planting or other material shall be placed or permitted to remain which would damage or interfere with the installation or maintenance of the utilities or which may change the direction of flow or drainage channels in the easements. No obstructions such as gates, fences, etc., which will prevent emergency access shall be erected in any easement strip for fire fighting access purposes. The Association is hereby granted an easement over each Lot for ingress and egress to any portions of the Lot or the improvements thereon requiring maintenance by the Association.

Section 2. Wells and Septic Tanks. Except for wells provided by Developer for irrigation purposes, no individual wells or septic tanks will be permitted on any Lot or the Common Areas within

this Community. This restriction will be enforceable as long as the water services and sewage disposal are in operation, satisfactorily servicing each Lot on which a completed building is located in the Community in accordance with the standard requirements as provided for by the applicable Board of Health.

Section 3. Nuisances. No noxious or offensive activity shall be carried on upon any lands within the Community, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 4. Temporary Structures and Use. No structure of a temporary character, trailer, basement, shack, shed, garage, barn or other building shall be moved to, erected on, or used on any of the lands within the Community at any time for a residence, workshop, office, storage room, either permanently or temporarily, provided, however, that Developer may place on the Community construction sheds, trailers, or temporary sales offices or sales trailers used to facilitate the development, construction and sale of land and Homes in the Community. No canvas, pipe, or other type of carport shall be placed between the sidewalk and the front building line on any Lot. Except during deliveries to Homes, no commercial vehicles shall be parked in areas zones for residential uses, including the Private Roads and other streets. No business, including any service, repair, or maintenance business shall be allowed on any Lot at any time. In order to prevent unsightly objects in and about each of the Homes to be erected in this Community, no gas tank, gas container, or gas cylinder, except those used by portable barbecue grills shall be permitted to be placed on or about the outside of any of the Homes built in this Community or any ancillary building.

Section 5. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any portion of the Community. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any portion of the Community.

Section 6. Pets. Traditional house pets (i.e., dogs or cats, fish and caged birds), may be kept by an Owner or such Owner's family members, guests, invitees or lessees, however, (a) no animals whatsoever may be kept or maintained for commercial purposes, (b) no animals shall be permitted to remain on any portion of the Community which become an unreasonable nuisance or annoyance to other Owners, and (c) any animal kept by an Owner shall be kept subject to any rules and regulations which may be promulgated from time to time by the Board. In no event shall dogs be permitted upon the Common Areas unless under leash. Any Owner who keeps a pet thereby agrees to indemnify the Association and hold it harmless against any loss or liabilities of any kind or character whatsoever arising from or growing out of the keeping of any such pet. All owners of pets shall be required and responsible to clean up any excretions of their pets.

Section 7. Visibility at Street Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by applicable government agencies.

Section 8. Clotheslines. No clotheslines shall be placed and no clothes drying shall be undertaken or permitted in the Community, provided, however, the Board may, upon its sole discretion, permit on a revocable basis the location of collapsible, retractable or umbrella type clotheslines or other equipment in the "backyard or patio" of the particular Home whose Owner(s) have made such request.

Section 9. Barbecues. Barbecues may be located or permitted only on the back patio of a Home and upon such portions of the Common Areas as are, from time to time, designated by the

Association; provided, however, that barbecuing shall be subject to such rules and regulations as may be promulgated from time to time by the Board.

Section 10. Vehicles and Recreational Equipment. No truck or commercial vehicle, limousine, mobile home, motor home, house trailer, utility trailer, camper, watercraft, watercraft trailer or other recreational vehicle or equipment, horse trailer, bus, passenger vehicle without current registration, van (other than a passenger van), or the like shall be permitted to be parked or stored on any portion of the Community unless they are parked within a garage, or are located on a Lot so they cannot be seen from any street and are shielded from view from any adjoining Lot (as viewed from ground level). For the purposes of this rule the following definitions shall apply:

A. "Truck means a vehicle with any sort of weight capacity, which has a compartment or bed for carrying cargo, as opposed to passengers. Regardless if such vehicle has a cover or "topper" for the cargo-carrying area, it shall be deemed to be a Truck; however, "pick-up trucks" or "sport utility vehicles" with a cargo capacity of one ton or less that are not Commercial Vehicles (as hereinafter defined) are permitted to park on the driveway of a Home.

B. "Commercial Vehicle" means any vehicle, which from viewing the exterior of the vehicle or any portion thereof, shows any commercial markings, signs, logos, displays, tool racks, saddle racks, or other elements of a commercial nature or otherwise indicates a commercial use.

This prohibition of parking shall not apply to temporary parking of Trucks and Commercial Vehicles used for pickup, delivery, and repair and maintenance of a Lot, nor to any vehicles of Declarant.

Any such vehicle or recreation equipment parked in violation of these or other regulations contained herein or in the rules and regulations adopted by the Association may be towed by the Association at the sole expense of the owner of such vehicle or recreation equipment if it remains in violation for a period of twenty-four (24) consecutive hours or for forty-eight (48) non-consecutive hours in any seven (7) day period. The Association shall not be liable to the owner of such vehicle or recreational equipment for trespass, conversion, damages, or otherwise, nor guilt of any criminal act by reason of such towing, and neither its removal nor failure of the owner of such vehicle or recreational equipment to receive any notice of said violation shall be grounds for relief of any kind.

Section 11. "On Street" Parking. Along the streets upon which Townhome Buildings have been constructed, Owners shall not park in "on street" parking spaces. Visitors, however, may park in designated "on street" parking spaces.

Section 12. Standing Cycles or Other Items. No bicycles, scooters, wagons, carriages, shopping carts, chairs, benches, tables, toys or other such items shall be parked or be permitted to stand for any period of time on any part of the Community lands except in the storage sheds or garages, if any, of each Home or on the patio of a Home if said rear yard or patio is completely fenced in and except in accordance with the rules and regulations promulgated from time to time by the Board.

Section 13. Antenna and Aerials. Except as required to be permitted by law, no antenna, aerial or satellite dish of any type shall be placed upon a Home or within a Lot or the Common Areas unless approved by the Board or Committee.

Section 14. Signs. Except for a sign of reasonable size provided by a contractor for security services displayed within ten (10) feet of any entrance to a Home and except as otherwise permitted by the Board of Directors, no sign of any character shall be displayed or placed upon any Lot except "for sale" signs, which signs may refer only to the particular premises on which displayed, shall not be larger

than 3 feet by 2 feet in size, shall not extend more than four (4) feet above the ground, and shall be limited to one (1) sign per Lot. Notwithstanding the foregoing, however, no "for sale" sign may be displayed or placed upon any Lot owned by an Owner until such time as the Developer, its affiliates, successors and/or assigns have completed the construction of Homes on all of the Lots of the Community and all such Homes have been sold and title transferred to Owners. This paragraph shall not apply to, and shall not prohibit, the Developer from erecting any number of signs of any size or configuration related to the construction or marketing of the Community or any of the Homes in the Community owned by Developer.

Section 15. Litter and Garbage Collection. No garbage, trash, refuse or rubbish shall be deposited, dumped, or kept on any part of the Community except in closed containers in the storage areas, garages, if any, or fenced in patio areas at the side or rear of the Home prior to collection by a refuse service contracted by the applicable local government or the Association.

Section 16. Personal Property. No articles of personal property of Owners shall be placed on any portion of the Common Areas unless such articles are being used by Owners in accordance with the terms and conditions of this Declaration and any rules and regulations promulgated from time to time by the Board.

Section 17. Removal of Sod and Shrubbery; Additional Planting. No significant change shall be made in any landscaping or plant material anywhere in the Community, no change shall be made in the elevation of any area of the Community and no change shall be made in the condition of the soil or the level of the land of any area of the Community if such change would or might result in any permanent change in the flow and drainage of surface water which the Board, in its sole discretion, considers detrimental; provided, however, that Owners may place additional plants, shrubs or trees in the rear yard or patio of a Home subject to approval by the Committee.

Section 18. Increase in Insurance Rates. No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of the Community.

Section 19. Windows, Awnings and Shutters. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of a building and no foil, window tinting materials or shielding materials or devices shall be placed upon any windows or sliding glass doors which are part of a Home, unless such awnings, canopies, shutters, foil, window tinting materials or shielding materials have been approved by the Board or the Committee appointed by the Board, which approval may be based on the aesthetic appearance of the properties. Drapes, blinds, and other window coverings visible from outside a home shall have a white covering visible from outside a home.

Section 20. Games And Play Structures. All game and play structures, including temporary roll-out basketball hoops and backboards, tree houses, and other recreational equipment shall be located or screened so they cannot be seen from any street and are shielded from view from any adjoining Lot. No permanent basketball hoops or backboards shall be permitted within the Community and all temporary hoops and backboards must be put away when not in use.

Section 21. Utility Additions. No additional utility system, including without limitation, water, sewage, electrical, air conditioning and heating systems lines, ducts, conduits, pipes, wires or fixtures, shall be added to the exterior of any Home without the prior written consent thereto by the Board or an architectural control committee appointed by the Board, which consent shall not be unreasonable withheld if such addition complies with all applicable ordinances, requirements, and regulations of governmental authorities and such additions cause no damage or impairment or additional costs and the use or aesthetic appearance of the Community or any part of parts thereof are not impaired.

Section 22. Casualties. In the event that a Home or any part thereof is destroyed by casualty or otherwise, or in the event any improvements upon the Common Areas are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and (subject to the duties and obligations of the Association) commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration.

Section 23. Reconstruction. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Common Areas or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or with new plans and specifications approved by the Board. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Home or any part or parts thereof shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or the new plans and specifications approved by the Board or the Committee, and the Owner of such Home.

Section 24. Rights of Developer. Notwithstanding any provisions in this Declaration to the contrary, including the provisions of this Article XII, the Developer shall have the right with respect to the development of the Community to construct buildings and other improvements, including landscaping in the Community, and to create, expand or reduce the recreational facilities. The construction of buildings and improvements including the creation and expansion of the recreational facilities shall be of such type, nature, design, size, shape, height, materials and location, including the landscaping, which term shall be defined in its broadest sense as including grass, hedges, vines, trees and the like, as Developer determines in its sole discretion without obtaining consent and approval of the Committee, the Association or its members, provided however, that same complies with the applicable building codes and zoning laws of the County or applicable government authority in force at that time.

Section 25. Disturbances. No owner shall make or permit any disturbing noises on any Lot or in any Home or do or permit anything to be done therein which will interfere with the rights, comfort or conveniences of other Owners.

Section 26. Fences and Walls. Except for walls constructed by Developer, there shall be no fence or wall permitted on any Lot unless it meets the requirements below and has been approved by the Committee as to height, design, material, color, location, etc. No chain link fences shall be permitted. Landscape buffers may be required by the Committee on the outside of any fences and walls. Except for walls and fences installed by Developer, no fence or wall may be constructed in the following areas of any Lot: (1) between the street along the front of the Home and a straight line being the extensions of the surface of the furthest set back portion of the front side of the Home to each of the two side lots lines; (2) between the street facing a side of the Home and a straight line being the extension of the surface of the furthest set back portion of the side of the Home to the rear lot line; or (3) in any drainage or landscape easement area shown on any plat of the Community. Also, except for fences and walls installed by the Developer, no fence or wall may be constructed which is higher than the plane of any wall which may be constructed along the perimeter of the Community. Notwithstanding anything herein to the contrary, so long as Developer or builders designated by Developer maintain any model homes within the Community, they shall have the right to fence all or any part of any Lots being used for parking for the term of such use.

Section 27. Home and Garages.

A. Garages shall not be permitted to be converted to living space, whether said space is heated or not.

B. No projections of any type other than chimneys, skylights and vent stacks shall be placed or permitted to remain above any roof of the Home.

C. No Home shall have exposed structural block on its front elevation.

D. All driveways shall be constructed of solid concrete or decorative pavers approved by the Committee.

E. All oil tanks, soft water tanks, wood piles, water softeners, well pumps, sprinkler pumps, pool and spa equipment and heaters, and other or similar mechanical fixtures and equipment, shall be screened in a manner approved by the Committee or located so as not to be visible from a street. This provision shall also apply to central air conditioning compressor units.

Section 28. Rental Agreements. The Owner of a Home shall be entitled to rent such Home only pursuant to a written lease agreement, which lease agreement shall provide that the tenant thereunder shall be subject to all provisions of this Declaration, and that a failure to comply with any provision of this Declaration shall constitute a default under said rental agreement.

Section 29. Home Business. No trade or business may be conducted or carried on out of a Home, except that an Owner or occupant residing in a Home may conduct business activities within the Home so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Home; (b) the business activity conforms to all zoning requirements for the Community; (c) the business activity does not involve persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community; and (d) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board.

The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

Section 30. Use. Lots shall be used for single family residential purposes only.

Section 31. Short Term Rental Agreements. Short term rentals (for a period of less than one (1) year) are prohibited within the Community, whether or not permitted by County zoning or regulations.

Section 32. Satellite Dishes. No satellite dishes shall be permitted within the Community except such satellite dishes as are required by law to be permitted in residential subdivisions without restriction.

Section 33. Flags. No flags shall be permitted to be flown within the Community except such flags shown in such manner as are required by law to be permitted in residential subdivisions without restriction.

Section 34. Access Ramps. Upon compliance with the provisions of Article IX and the relevant provisions of Chapter 720, Florida Statutes, any Owner may construct an access ramp if a

resident or occupant of the Home has a medical necessity or disability which requires a ramp for ingress and egress.

ARTICLE XIII **RIGHTS AND TRANSFER OF DEVELOPER'S INTEREST**

Section 1. Developer's Rights. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue within the Community, Developer shall have the following rights described in this Article, and the following restrictions described in this Article shall remain in effect:

A. **Marketing and Sales Activities.** The Developer and Builders authorized by Developer may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Developer, may be reasonably required, convenient, or incidental to the construction or sale of Homes, including, but not limited to, business offices, signs, model units, sales offices and parking areas. The Developer and authorized Builders shall have easements for access to and use of such facilities.

B. **Limitations on Association.** The Board or the Association shall have no authority to, and shall not, undertake any action which shall:

(1) Change the membership of the Architectural Review Committee or diminish its powers as stated herein;

(2) Alter or amend any Declaration, any subsequent amendment thereto, the Articles or By-Laws of the Association in such a way that would alter or amend the rights reserved to Developer herein or under the Articles or By-Laws of the Association;

(3) Modify, amend or alter the plat;

(4) Terminate or cancel any contracts of the Association entered into while the initial Board was in office;

(5) Restrict Developer's right of use, access and enjoyment of any of its Properties.

Any or all of the special rights and obligations of Developer may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right of Developer beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Developer and duly recorded in the Public Records of Orange County, Florida.

For so long as Developer owns any Lots, this Article may not be amended without the express written consent of Developer.

ARTICLE XIV **ENFORCEMENT**

Section 1. Compliance by Owners. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations adopted by the Board. No delay in enforcing these covenants and restrictions as to any breach or violation thereof shall impair, damage or

waive the right of the Association or other Owners to enforce the same, to obtain relief against or recovery for continuation or repetition of such breach or violation or of any similar breach or violation thereof at a later time or times.

Section 2. Enforcement.

A. **By the Association and Owners.** The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Court costs and reasonable attorneys fees for any proceeding to enforce this Declaration, including any appeal therefrom, shall be borne by the Owner(s) against whom the suit has been filed. The Association shall have the right to suspend voting rights and use of Common Areas for any Owner violating these covenants and restrictions for a period of time which is the longer of sixty (60) days or the term of continued violation. The Association shall have the right to enforce the provisions of this Declaration through eviction proceedings or other self-help procedures appropriate to the violation.

B. **By the District.** The District shall also have the right to enforce the provisions of this Declaration which relate to operation, maintenance and management of the Master Surface Water Management System for the Community pursuant to the rules, requirements and permit promulgated by the District.

C. **Dispute Resolution.** Notwithstanding any provision of this declaration to the contrary relative to enforcement rights or remedies of the Association, (a) any election dispute between a Member and the Association must be submitted to mandatory binding arbitration with the Division of Florida Land Sales, Condominiums, and Mobile Homes and (b) before the filing of a claim in a court of competent jurisdiction, the following disputes between the Association and an Owner shall be filed with the Department of Business and Professional Regulation for mandatory mediation; (i) disputes regarding the use of or changes to a Lot, a Home or the Common Property and other covenant enforcement disputes, (ii) disputes regarding amendments to the Governing Documents, (iii) disputes regarding meetings of the Board and any committees appointed by the Board, (iv) disputes regarding Member meetings (not including election meetings) and (v) disputes regarding access to the official records of the Association.

Section 3. Fines/Suspensions. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Association, fines or suspensions may be imposed (excluding fines or suspensions imposed upon any Member for failure to pay any Assessments or charges when due which may be imposed without following the procedures in this Section 3 upon an Owner for failure of an Owner or that Owner's tenants, licensees, invitees and guests to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

A. **Notice.** The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of an opportunity for a hearing before a committee appointed by the Board of Directors at which time the Owner shall present reasons why a fine(s) or suspension(s) should not be imposed. The committee appointed by the Board of Directors ("Hearing Committee") shall consist of at least three (3) members who are not officers, directors or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee of the Association. At least fourteen (14) days' notice of such hearing shall be given.

B. **Hearing.** The alleged non-compliance shall be presented to the Hearing Committee after which the Hearing Committee shall hear reasons why a fine(s) or suspension(s) should not be imposed. The Owner shall have a right to be represented by counsel and to cross examine witnesses. If the Hearing Committee, by majority vote, does not approve a proposed fine(s) or

suspension(s), it may not be imposed. A written decision of the Hearing Committee shall be submitted to the Owner not later than twenty-one (21) days after the hearing.

C. Amounts. The Board of Directors (if the Hearing Committee findings are made against the Owner) may impose a fine(s) against the Lot or Unit owned by the Owner as follows:

(i) For each violation, a fine not exceeding One Hundred Dollars (\$100.00).

(ii) For a violation or violations which are of a continuing nature after notice thereof (even if in the first instance), a fine not exceeding One Thousand Dollars (\$1,000.00).

D. Payment and Collection of Fines. Fines shall be payable within thirty (30) days after receipt of the notice from the Association ("Payment Date") to the Owner imposing the fine(s). In the event of non-payment, the fines shall bear interest at the rate of ten percent (10%) per annum from the Payment Date and the Association may proceed to collect the fine(s) and all accrued interest. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs. Fine(s) shall not become a lien against a Lot or Unit.

E. Application of Proceeds. All funds received from fines shall be allocated as directed by the Board of Directors.

F. Non-exclusive Remedy. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

ARTICLE XV INSURANCE

Section 1. Purchase, Custody and Payment of Policies.

A. Purchase. All insurance policies covering the Common Areas shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida which has an office or agent located in the vicinity of the Community.

B. Approval by Institutional Lenders. Each Institutional Lender will have the right upon reasonable notice to the Association to review and approve (which approval shall not be unreasonably withheld) the form, content, insurer, limited and coverage of all insurance purchased by the Association, and to require the Association to purchase insurance complying with the reasonable and customary requirements of the Institutional Lender. In the event of a conflict between Institutional Lenders, the decision of the Institutional Lender holding mortgages encumbering Homes which secure the largest aggregate indebtedness shall control.

Section 2. Coverage.

A. Casualty. All improvements upon the Common Areas and all personal property of the Association are to be insured in an amount equal to one hundred (100%) percent of the then current replacement cost, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the Association. Prior to obtaining any casualty insurance or

renewal thereof, the Association shall obtain an appraisal from a fire insurance company or otherwise of the full replacement cost of the improvements upon the Common Areas and all personal property of the Association, without deduction for depreciation, for the purposes of determining the amount of casualty insurance to be obtained pursuant to this Paragraph. Such coverage shall afford protection against:

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

(2) Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location and use, including, but not limited to vandalism and malicious mischief, and all other risks normally covered by a standard "All Risks" endorsement, where available.

B. Liability. Comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or occurrence on or about or in connection with the Common Areas, or any work, matters or things related to the Common Areas or this Declaration and its exhibits, with such coverage as shall be required by the Association but with a combined single limit liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury, death or property damage, arising out of a single occurrence, and with a cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

C. Worker's Compensation. As shall be required to meet the requirements of the law.

D. Insurance on Townhome Buildings. In addition to any and all other insurance which the Association may elect to obtain, the Association shall maintain hazard insurance on the Townhome Buildings in such amounts and with such companies as the association may determine in its reasonable discretion. Notwithstanding the foregoing or anything else in this Declaration to the contrary, each Owner, and any tenant of any such Owner, shall be solely responsible for obtaining (i) such liability insurance as may be necessary to protect such owner or tenant as the case may be) against claims typically covered by liability insurance and (ii) such other insurance as may be necessary to insure such Owner's or such tenant's personal property, as the case may be.

E. Other Insurance. Such other insurance as the Association shall determine from time to time to be desirable or as may reasonably be required by an Institutional Lender pursuant to this Article and as is customarily obtained with respect to improvements similar in construction, location and use to those contained within the Common Areas, such as, where applicable, contractual and all-written contract insurance, employer's liability insurance and comprehensive automobile liability insurance.

When appropriate and obtainable, each of the foregoing policies shall waive the co insurer's right to: (i) subrogation against the Association and against the Owners individually and as a group; (ii) any pro-rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; (iii) avoid liability for a loss that is caused by an act of one or more directors of the Association or by one or more Owners; and (iv) shall provide that such policies may not be canceled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the Association and to the holder of a first mortgage which is listed as a scheduled holder a first mortgage in the insurance policy.

Section 3. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums on insurance policies purchased by the

Association upon Townhome Buildings, however, shall be assessed only upon the Lots/Homes located within Townhome Buildings.

Section 4. Insurance Trustee. All casualty insurance policies purchased by the Association shall provide that all proceeds covering casualty losses in excess of \$25,000.00 shall, if designated by the Board, be paid to any national bank or trust company having trust powers and located in the vicinity of the Community as may be designated by the Association, as Trustee, which Trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Association. Notwithstanding the foregoing, unless the Board so determines or unless any Institutional Lender otherwise requires by written notice to the Association, no Insurance Trustee will be required, and all references in this Declaration to an Insurance Trustee shall refer to the Association where the context so requires proceeds on account of damage to Common Areas shall be held in as many individual shares as there are Lots, the share of each lot being equal.

Section 5. Distribution of Proceeds. Proceeds of the insurance policies received by the Insurance Trustee shall be distributed to, or for the benefit of, the beneficial owners in the following manner:

A. **Expense of the Trust.** All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

B. **Reconstruction or Repair.** The remaining proceeds shall be used to pay the cost of repair or reconstruction, as elsewhere provided. Any proceeds remaining after paying such costs shall be distributed to the Association.

C. **Inspection of Insurance Policies.** A copy of each insurance policy purchased by the Association shall be made available for inspection by any Owner or Institutional Lender at reasonable times.

ARTICLE XVI

RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 1. Determination to Reconstruct or Repair. If any part of the Common Areas is damaged or destroyed by casualty, the damaged property shall be reconstructed or repaired, unless two-thirds (2/3) of the Owners vote to the contrary.

Section 2. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements. Any reconstruction or repair must be in accordance with the ordinances of the controlling government authority, and must be approved by the controlling government authority or its appropriate review committee where required by such ordinances. Any reconstruction or repair must be in conformance with the requirements of any controlling government authority, and where required appropriate permits shall be obtained.

Section 3. Responsibility. The responsibility for reconstruction and repair after casualty shall be that of the Association.

Section 4. Estimates of Cost. Immediately after casualty damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and

detailed estimates of the cost to rebuild or repair from one or more qualified licensed contractors, and shall submit copies of all acceptable estimates to the Insurance Trustee.

Section 5. Assessments. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association, or if at any time during or after the reconstruction and repair the funds for the payment of the cost thereof are insufficient, a Special Assessment shall be made against all Lots equally, in sufficient amounts to provide funds to pay such costs. However, in the event any such reconstruction or repair shall be made to a Townhome Building, said Special Assessment shall be made equally against all Townhome Lots in said Townhome Building only.

Section 6. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Assessments against Owners, and shall be disbursed in payment of such costs in the following manner:

A. **Association.** If the total Assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair is more than Twenty-Five Thousand Dollars (\$25,000.00), then the sums paid upon such Assessment shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Assessments and disburse the same in payment of the costs of reconstruction and repair.

B. **Insurance Trustee.** The proceeds of insurance collected on account of a casualty and the sums deposited with the Insurance Trustee by the Association from collection of Assessments against Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of the Insurance Trustee and the costs of reconstruction and repair in the following manner and order:

(1) **Association Lesser Damage.** If the amount of the estimated costs of reconstruction and repair is less than Twenty-Five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs upon the order of the Association.

(2) **Association Major Damage.** If the amount of the estimated costs of reconstruction and repair is more than Twenty-Five Thousand Dollars (\$25,000.00), then the construction funds shall be disbursed in payment of such costs in the manner required by the Association and upon approval of an architect qualified to practice in the State of Florida and employed by the Association to supervise the work.

(3) **Surplus.** It shall be presumed that the first moneys disbursed in payment of the costs of the Insurance trustee, if any, and the costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in the construction fund after payment of all costs of the Insurance Trustee, if any, and reconstruction and repair for which the fund is established, such balance shall be distributed to the Association.

(4) **Certificate.** Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association executed by its President and Secretary as to any or all of such matters and stating that the

sums to be paid are due and properly payable, and stating the name of the payee and the amount to be paid; provided that when the Association so requires, the approval of an architect named by the Association shall first be obtained by the Association for disbursement in payment of costs of reconstruction and repair.

ARTICLE XVII **INDEMNIFICATION**

Section 1. Indemnification of Officers, Members of the Board or Agents. The Association shall indemnify any person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a member of the Committee, employee, Officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, if he did not have reasonable cause to believe his conduct was unlawful: or matter as to which such Person shall been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duties to the Association unless and only to extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement conviction, or upon a plea of nolo contendere or its equivalent shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

A. To the extent that a member of the Committee, Officer, employee or agent of the Association is entitled to indemnification by the Association in accordance with this Article XV, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith.

B. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member of the Board, Officer, employee or agent of the Association to repay such amount unless it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized in this Article.

C. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of Florida, any Bylaw, agreement, vote of Members otherwise. As to action taken in any official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the Board, Officer, employee or agent of the Association shall inure to the benefit of the heirs, executors and administrators of such a Person.

D. The Association shall have the power to purchase and maintain insurance on behalf of any Person who is or was a member of the Board, Officer, employee or agent of the Association, or is or was serving at the request of the Association as a member of the Board, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, as arising out of his status as such,

whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE XVIII **TURNOVER**

Section 1. Time of Turnover. Turnover of the Association shall, without limitation, constitute turnover of the subdivision infrastructure to the Members of the Association. Developer shall convey any such infrastructure owned by it to the Association at Turnover. The Turnover to the Members of the Association by Developer shall occur at the Turnover meeting described in Section 2 below which meeting shall take place within three (3) months of the occurrence of the following events, whichever occurs earliest:

- A. At such time when certificates of occupancy have been issued for ninety per cent (90%) of the Lots in the Community.
- B. Ten (10) years from the date of filing of this Declaration.
- C. At such time as the Class "B" member voluntarily relinquishes its right to nine (9) votes for each Lot.

Section 2. Procedure of Calling Turnover Meeting. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Class "A" and Class "B" Members of the date, location and purpose of the Turnover meeting.

Section 3. Procedure for Meeting. The Turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules or Order.

Section 4. Developer's Rights. Prior to Turnover, Developer shall have the right to appoint all members of the Board, and the rights described in Article XIV shall remain applicable.

ARTICLE XIX **SPECIAL PROVISIONS FOR TOWNHOMES**

Section 1. Party Walls.

A. **General Rules of Law to Apply.** To the extent not inconsistent with this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply concerning a Party Wall.

B. **Sharing of Repairs, Maintenance and Replacement.** Other than as specifically set forth in this Article below, the cost of reasonable repair, maintenance and replacement of a Party Wall shall be shared equally by the Owners who make use of the wall and shall be a lien against their respective Lots as provided hereafter.

C. **Repair and Restoration.** If a Party Wall is destroyed or damaged or requires structural repair, the Association in the exercise of its reasonable discretion, shall either restore, repair or replace said Party Wall, and each Owner sharing said Party Wall shall be jointly and severally liable to the Association for the cost thereof without prejudice, however, to the right to any such Owner to collect a larger contribution from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions. The Association shall have the right to enter on the property of any Owner sharing a

Party Wall during normal working hours and after reasonable notice to perform its obligations arising hereunder; provided, however, that in the event of an emergency, the Association or any Owner of a Residence sharing a Party Wall shall have the right to enter the Residence of another Owner sharing that Party Wall, without notice, to make emergency repairs. Any and all costs incurred by the Association pursuant to this Article for which an Owner is responsible for reimbursing the Association shall constitute an individual Assessment for which the Association shall have lien rights and all other enforcement rights in favor of the Association for enforcing the payment of other Assessments. No bids need to be obtained by the Association for any such work and the Association shall designate the contractor in its sole discretion. All sums due the Association pursuant to this Section shall be due and payable immediately upon demand by the Association.

D. Weatherproofing. Notwithstanding any other provision of this Section, any Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Easement for Repair, Maintenance and Replacement. Declarant hereby reserves unto itself and hereby further grants to the Association and to each Owner a nonexclusive easement and right of ingress and egress in, under, over and across any Lot and the improvements located thereon as may be reasonably necessary for the purpose of repairing, maintaining and replacing any Party Wall.

Section 2. Common Roofs.

A. General Rules of Law to Apply. To the extent not inconsistent with this Section, the general rules of law regarding liability for property damage due to negligence or willful acts or omissions shall apply concerning a Common Roof.

B. Sharing of Repairs, Maintenance and Replacement. Other than as specifically set forth in subsection (c) below, the cost of reasonable repair, maintenance and replacement of a Common Roof shall be shared equally by the Owners who make use of the Common Roof and shall be a lien against their respective Lots as provided hereafter.

C. Repair and Restoration. If a Common Roof is destroyed or damaged or requires repair, the Association shall either restore, repair or replace said Common Roof, as the case may be. The Association shall have the right to enter on the property of any Owner sharing a Common Roof during normal working hours and after reasonable notice to perform its obligations arising hereunder; provided, however, that in the event of an emergency, the Association shall have the right to enter the Residence without notice to make emergency repairs. To the extent that any damage to the Common Roof is not covered by insurance and has been caused by the affirmative, intentional act of an Owner or by the gross negligence of such Owner, then the Association, in its sole and absolute discretion may, but shall not be required to, recover the cost incurred by the Association in restoring, repairing and/or replacing such damaged Common Roof. Any and all costs described above which may be collected from an Owner in accordance with this paragraph shall constitute an individual Assessment for which the Association shall have lien rights and all other enforcement rights in favor of the Association for enforcing the payment of other Assessments. No bids need to be obtained by the Association for any such work and the Association shall designate the contractor in its sole discretion.

D. Easement for Repair, Maintenance and Replacement of Common Roof. Declarant hereby reserves unto itself and hereby grants to the Association and to each Owner a nonexclusive easement and right of ingress and egress in, under, over and across any Lot and the improvements located thereon as may be reasonably necessary for the purpose of repairing, maintaining and replacing the Common Roof.

Section 3. Common Footers.

A. **General Rules of Law to Apply.** To the extent not inconsistent with this Section, the general rules of law regarding liability for property damage due to negligence or willful acts or omissions shall apply concerning a Common Footer.

B. **Sharing of Repairs, Maintenance and Replacement.** Other than as specifically set forth in subsection (c) below, the cost of reasonable repair, maintenance and replacement of a Common Footer shall be shared equally by the Owners who make use of the Common Footers and shall be a lien against their respective Lots as provided hereafter.

C. **Repair and Restoration.** If a Common Footers are destroyed or damaged or requires repair, the Association shall either restore, repair or replace said Common Footers, as the case may be. The Association shall have the right to enter on the property of any Owner sharing a Common Footer during normal working hours and after reasonable notice to perform its obligations arising hereunder; provided, however, that in the event of an emergency, the Association shall have the right to enter the Residence without notice to make emergency repairs. To the extent that any damage to the Common Footers is not covered by insurance and has been caused by the affirmative, intentional act of an Owner or by the gross negligence of such Owner, then the Association, in its sole and absolute discretion may, but shall not be required to, recover the cost incurred by the Association in restoring, repairing and/or replacing such damaged Common Footers. Any and all costs described above which may be collected from an Owner in accordance with this paragraph shall constitute an individual Assessment for which the Association shall have lien rights and all other enforcement rights in favor of the Association for enforcing the payment of other Assessments. No bids need to be obtained by the Association for any such work and the Association shall designate the contractor in its sole discretion.

D. **Easement for Repair, Maintenance and Replacement of Common Footers.** Declarant hereby reserves unto itself and hereby grants to the Association and to each Owner a nonexclusive easement and right of ingress and egress in, under, over and across any Lot and the improvements located thereon as may be reasonably necessary for the purpose of repairing, maintaining and replacing the Common Footers.

ARTICLE XX
GENERAL PROVISIONS

Section 1. Execution of Documents Required by the County. The Developer's plan for the development of the Community may require from time to time the execution of certain documents required by the County. To the extent that said documents require the joinder of any or all Owners in the Community, each of said Owners, by virtue of his acceptance of a deed to his Lot, does irrevocably give and grant to the Developer, or any of its officers individually, full power of attorney to execute said documents as his agent and in his place and stead.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time, they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by the Owners of sixty-six and two-thirds percent (66 2/3%) or more of the Lots, or by a vote of ninety percent (90%) of a quorum of Owners present in

person or by proxy at a duly called regular or special meeting of the members of the Association. Notwithstanding the above, (i) there will be no amendment to the provision of this Declaration pertaining to the maintenance of Common Areas without the prior consent of the County; (ii) Developer will have the right to amend this Declaration pursuant to Article VII and Article VIII without the consent of any Owners and/or Mortgagees; and (iii) any amendment to these Covenants and Restrictions which alter any provision relating to the Master Surface Water Management System, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the District. Any amendment must be recorded.

Section 4. Developer Amendment Privilege. Notwithstanding anything to the contrary set forth above, Developer may amend any provision of this Declaration without the approval or joinder of the Owners or the Association, if required to do so by any local, state or federal governmental agency or to comply with the Rules and Regulations of the Federal National Mortgage Association, the Federal Housing Administration, the Veterans Administration or any other similar governmental institutional agency which desires to hold, insure or guaranty a mortgage on all or any part of the Community. In addition, Developer shall have the right, without the necessity of joinder by Owners or any other persons or entities, to make modifications to this Declaration that are non-substantial in nature and which do not materially or adversely affect Owners or other affected parties. No amendment required by any state, regional or local government agency shall be deemed to materially or adversely affect Owners or other affected parties.

Section 5. Damage or Destruction to Common Areas. Each Owner shall be liable to the Association for any damage to the Common Areas not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, guests and invitees, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge such Owner a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. The cost of correcting such damage shall be a Special Assessment against the Lot of such Owner and may be collected as provided herein for the collection of Assessments.

Section 6. Conflict: Reaffirmation. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles of Incorporation shall take precedence over the Bylaws.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has executed this Declaration this 5th day of July, 2005.

"DEVELOPER"

BEAZER HOMES CORP., a Tennessee corporation

By: 


Name: **DAVID G. BYRNES**

Title: **VICE PRESIDENT**

(CORPORATE SEAL)

**STATE OF FLORIDA
COUNTY OF ORANGE**

The foregoing instrument was acknowledged before me this 5th day of July, 2005, by **DAVID G. BYRNES**, as Vice President of **BEAZER HOMES CORP.**, a Tennessee corporation, who { ✓ } is personally known to me who or { } has produced _____ as identification.



NOTARY PUBLIC
Print Name: Roberta Rabatin
My Commission Expires: 10-10-2005
Commission #: DD 064065

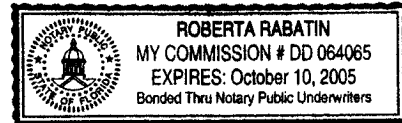


EXHIBIT "A"

Legal Description

A PORTION OF SECTIONS 10, 15 & 16, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 15; THENCE N 89°16'10" E ALONG THE NORTH LINE OF SAID SECTION 15, A DISTANCE OF 75.63 FEET TO THE POINT OF BEGINNING; THENCE N 66°50'17" E A DISTANCE OF 79.93 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF MOSS PARK ROAD; THENCE S 23°09'43" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 178.11 FEET TO A POINT ON THE VACATED WESTERLY RIGHT OF WAY LINE OF MOSS PARK ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 7176, PAGES 1526 THROUGH 1531, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE CONTINUE S 23°09'43" E ALONG SAID VACATED WESTERLY RIGHT OF WAY LINE A DISTANCE OF 170.72 FEET; THENCE DEPARTING SAID VACATED WESTERLY RIGHT OF WAY LINE S 47°32'35" E A DISTANCE OF 49.53 FEET; THENCE S 21°18'02" E A DISTANCE OF 190.46 FEET; THENCE S 05°15'12" W A DISTANCE OF 29.97 FEET TO A POINT ON SAID VACATED WESTERLY RIGHT OF WAY LINE; THENCE S 23°09'43" E ALONG SAID VACATED WESTERLY RIGHT OF WAY LINE A DISTANCE OF 376.16 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NEW MOSS PARK ROAD ALSO BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A CENTRAL ANGLE OF 10°41'09" AND A RADIUS OF 865.00 FEET; THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 161.33 FEET TO THE POINT OF TANGENCY OF SAID CURVE (CHORD BEARING AND DISTANCE BETWEEN SAID POINTS BEING S 17°38'04" E, 161.09 FEET); THENCE S 22°58'38" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 16.10 FEET; THENCE S 66°53'59" W ALONG A LINE THAT IS 252.88 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE NORTHEASTERLY PROJECTION OF THE SOUTHERLY LINE OF TRACT " C " AS SHOWN ON THE PLAT OF NORTH SHORE AT LAKE HART, PARCEL 3, PHASE 1 AS RECORDED IN PLAT BOOK 47, PAGE 144 - 146, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA A DISTANCE OF 625.13 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 15; THENCE N 00°46'15" W ALONG THE WEST LINE OF SAID SECTION 15 A DISTANCE OF 273.38 FEET TO A POINT ON THE EAST LINE OF SAID TRACT " C "; THENCE ALONG THE EAST LINE OF SAID TRACT " C " THE FOLLOWING COURSES AND DISTANCES: N 00°46'15" W A DISTANCE OF 114.46 FEET; THENCE N 09°00'35" E A DISTANCE OF 131.51 FEET; THENCE N 11°55'41" W A DISTANCE OF 66.01 FEET; THENCE N 01°01'30" E A DISTANCE OF 300.97 FEET; THENCE N 28°53'52" W A DISTANCE OF 73.30 FEET; THENCE N 16°50'59" W A DISTANCE OF 69.29 FEET; THENCE N 25°02'18" W A DISTANCE OF 189.66 FEET; THENCE N 14°14'00" W A DISTANCE OF 22.29 FEET; THENCE LEAVING SAID EAST LINE N 66°50'17" E A DISTANCE OF 209.29 FEET TO THE POINT OF BEGINNING.

EXHIBIT “B”

Articles of Incorporation

**ARTICLES OF INCORPORATION
OF
THE ENCLAVE AT MOSS PARK
HOMEOWNERS ASSOCIATION, INC.**

a corporation not for profit

Pursuant to the Florida Not for Profit Corporation Act, Chapter 617, Florida Statutes, the undersigned hereby delivers these Articles of Incorporation of The Enclave at Moss Park Homeowners Association, Inc.

ARTICLE I. NAME AND DURATION

The name of this corporation shall be THE ENCLAVE AT MOSS PARK HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association"). The existence of the Association shall commence with the filing of these Articles of Incorporation with the Florida Secretary of State in Tallahassee, Florida. The Association shall exist in perpetuity.

ARTICLE II. REGISTERED AGENT AND OFFICE

Mr. Don Danos, whose address is Beazer Homes Corp. 2600 Maitland Center Parkway, Suite 200, Maitland, Florida 32751 is hereby appointed the initial registered agent of this Association.

ARTICLE III. INITIAL PRINCIPAL OFFICE

The initial principal office of the Association shall be located at Beazer Homes Corp., 2600 Maitland Center Parkway, Suite 200, Maitland, Florida 32751. The Association may change its principal office from time to time without amendment of these Articles of Incorporation.

ARTICLE IV. PURPOSE AND POWERS OF THE ASSOCIATION

A. The purpose and object of the Association shall be to administer the operation and management of, a subdivision located in Orange County, Florida (hereinafter "Community") more fully described in Exhibit "A" attached hereto, (hereinafter "Property") according to the Declaration of Covenants and Restrictions which is to be recorded in the Public Records of Orange County, Florida ("Declaration"), and any additions thereto which may be brought into the jurisdiction of this Association by annexation under the terms and conditions as set forth in the Declaration by the Developer under the Declaration, its successors and assigns (the "Developer").

B. The Association does not contemplate pecuniary gain or profit to the Members thereof and shall undertake and perform all acts and duties incident to the

operation, management, preservation and architectural control of the Property in accordance with the terms, provisions and conditions of these Articles of Incorporation, the Bylaws of the Association and the Declaration. The Association shall further promote the health, safety and welfare of the Members of the Association in the Community.

C. The Association shall have the following powers:

1. All of the powers and privileges granted to corporations not for profit under the laws of the State of Florida as the same may be amended from time to time as therein provided;

2. All of the powers reasonably necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to undertake all powers and duties set forth in the Declaration, these Articles and Bylaws as same may be amended from time to time, the Declaration and Bylaws being incorporated herein as if set forth in full;

3. The right to tax, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

4. The right to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association and to annex such property owned by it to the Property under the Declaration;

5. The right to borrow money, and with the assent of two-thirds (2/3) of each class of Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

6. The right to dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of Members, agreeing to such dedication, sale or transfer, provided, however, the Association shall have the right to grant permits, easements or licenses to a public agency or utility company for utilities, roads, other purposes reasonably necessary or useful for the proper maintenance or operation of the Property, which grants shall not be deemed a dedication, sale or transfer requiring the consent of Members;

7. The right to participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidations or annexation shall have the consent of Members as required by the Declaration; and

8. The obligation to operate, maintain and manage the Master Surface Water Management System in a manner consistent with the South Florida Water Management District permit no. _____ requirements and applicable District rules,

and to assist in the enforcement of the Declaration which relate to the Master Surface Water Management System. The Association shall levy and collect adequate assessments against Members of the Association for the costs of maintenance and operation of the Master Surface Water Management System.

D. With respect to the Master Surface Water Management System, the Association shall have the following duties:

1. Each property owner shall be responsible for his pro rata share of the maintenance, operation and repair of the Master Surface Water Management System. "Master Surface Water Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the applicable provisions of the Florida Administrative Code.

2. The Association shall be responsible for the maintenance, operation and repair of the Master Surface Water Management System. Maintenance of the Master Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the South Florida Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Master Surface Water Management System shall be as permitted, or if modified, as approved by the South Florida Water Management District.

3. Any amendment to the Declaration which alters the Master Surface Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Area, must have the prior approval of the South Florida Water Management District.

4. The South Florida Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained herein which relate to the maintenance, operation, and repair of the Master Surface Water Management System.

5. To the extent it is impractical for an individual property owner to maintain, operate and repair the Master Surface Water Management System, or in any circumstance wherein the Association determines it to be in the best interest of the Association, the Association shall have all responsibility for maintenance, repair and operation of the Master Surface Water Management System.

ARTICLE V. QUALIFICATION OF MEMBERS

The qualification of Members, manner of their admission to and termination of membership shall be as follows:

A. Every person or entity who is a fee simple record owner of a fee interest in any Lot which is subject to the Declaration, including contract sellers, shall be a Member of

the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separate from ownership of any Lot which is subject to the Declaration.

B. The membership of any person or entity shall be automatically terminated upon his being divested of his title or interest in such Lot; provided that nothing herein contained shall be construed as terminating the membership of any person or entity owning fee title to or a fee ownership interest in two or more Lots at any time while such person or entity shall retain fee title to or a fee ownership interest in any Lot.

C. Transfer of membership shall be recognized by the Association upon its being provided with a copy of the recorded deed conveying such fee simple title to a Lot to the new Member.

D. Except as an appurtenance to his Lot, no Member can assign, hypothecate or transfer in any manner, his membership in the Association or his interest in the funds and assets of the Association. The funds and assets of the Association shall belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration, and the Bylaws hereof.

ARTICLE VI. VOTING RIGHTS

There shall be two classes of voting memberships:

CLASS A. The Class A Members shall be Owners of a Lot as such is defined in the Declaration, with the exception of Developer. A Class A Member shall be entitled to one vote for each Lot owned.

CLASS B. The Class B Members shall be the Developer, and the Developer shall be entitled to nine (9) votes for each Lot owned in the Community. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever first occurs:

- a. Three (3) months after the date when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- b. Ten (10) years from recording of the Declaration in the Public Records of Orange County, Florida.
- c. At such time as the Class B Member voluntarily relinquishes its right to nine (9) votes for each Lot.

When more than one person holds an interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one person as they determine, and such person shall be designated as the holder of the vote. If a corporation, partnership, joint venture or other entity is a fee simple title holder to a Lot, such entity shall designate

one person as the holder of the vote. In no event shall more than one vote be cast with respect to any Lot.

ARTICLE VII. BOARD OF DIRECTORS

A. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors who need not be members of the Association. The initial Board of Directors shall consist of three (3) Directors who shall be selected by the Developer. The Developer shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association so long as Developer shall own ten percent (10%) or more of the Lots in the Property. Within three (3) months after Developer owns less than ten percent (10%) of the Lots in the Property, the members of the Board shall be determined as set forth in Article VII herein. Developer shall be entitled to elect at least one member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Property.

B. The names and addresses of the persons who are to serve as the initial Board of Directors until their successors are appointed or chosen, are as follows:

<u>DIRECTOR:</u>	<u>ADDRESS:</u>
Mr. Don Danos	Beazer Homes Corp. 2600 Maitland Center Parkway, Suite 200 Maitland, Florida 32751
Mr. Peter N. Small	Beazer Homes Corp. 2600 Maitland Center Parkway, Suite 200 Maitland, Florida 32751
Mr. Nick Gargas	Beazer Homes Corp. 2600 Maitland Center Parkway, Suite 200 Maitland, Florida 32751

C. At the first annual meeting after termination of the Class B membership, there shall be elected one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the Members shall elect one or two directors (being the same number of directors as those whose terms have expired) for a term of three years.

ARTICLE VIII. OFFICERS

A. The officers of the Association shall be a President, one or more Vice Presidents, Secretary and Treasurer, and if any, the Assistant Secretaries and Assistant Treasurers, who shall perform the duties of such offices customarily performed by like officers of corporations in the State of Florida subject to the directions of the Board of Directors.

B. Officers of the Association may be compensated in the manner to be provided in the Bylaws. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel or entity to administer or assist in the administration of the operation and management of the Community and the affairs of the Association, and any and all such persons and/or entities must either be a Member, Director or officer of the Association or an officer, director or agent either of the Developer or of a general partner of Developer.

C. Election of Officers. The Developer shall have the sole right to appoint and remove any officer of the Association so long as Developer shall own ten percent (10%) or more of the total number of Lots in the Community. Thereafter, all officers shall hold office at the pleasure of the Board of Directors.

D. The persons who are to serve as officers of the Association until their successors are chosen are:

<u>OFFICE:</u>	<u>NAME:</u>
President	Mr. Don Danos
Vice President	Mr. Peter N. Small
Secretary	Mr. Nick Gargasz
Treasurer	Mr. Nick Gargasz

E. The officers shall be elected by the Board of Directors at their annual meeting as provided in the Bylaws. Any vacancies in any office shall be filled by the Board of Directors at any meeting duly held.

F. The President shall be elected from the membership of the Board, but no other officer need be a Director. The offices of Secretary and Treasurer may be held by the same person. Without the approval of the Directors, no person shall simultaneously hold more than one of any of the other offices except Secretary and Treasurer.

ARTICLE IX. BYLAWS

A. The Board of Directors shall adopt by a majority vote the original Bylaws of the Association.

B. The Bylaws shall be amended by the procedure more fully set forth in the Bylaws and shall be approved by at least a majority of each class of membership.

ARTICLE X. AMENDMENT OF ARTICLES

Amendment of these Articles shall require the assent of seventy-five percent (75%) of the votes of each class of Members. When the Class B membership ceases and is converted to Class A membership, amendment of these Articles shall require the assent of seventy-five percent (75%) of only the votes of such Class A membership.

ARTICLE XI. INDEMNITY

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer at the time such expenses are incurred, except in such cases where the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or other officer may be entitled.

ARTICLE XII. NON-PROFIT STATUS

No part of the income of this corporation shall be distributed to the Members except upon the dissolution or final liquidation and as permitted by the court having jurisdiction thereof.

ARTICLE XIII. MERGER AND DISSOLUTION

The Association shall have the right to participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided such merger or consolidation shall have the assent of two-thirds (2/3) of each class of Members.

The Association may be dissolved by the approval of two-thirds of the votes of each class of Members given in person, by proxy or by written consent. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created, including without limitation, the assignment of all the Association's obligations concerning the drainage facilities to an entity which would comply with the applicable provisions of the Florida Administrative Code, and be approved by South Florida Water Management District prior to such termination. dissolution or liquidation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non profit corporation, association, trust or other organization to be devoted to such similar purposes. This procedure shall be subject to court approval on dissolution pursuant to Florida Statutes, Chapter 617.

ARTICLE XIV. SUBSCRIBER

The name and address of the subscriber to these Articles is

Name: Mr. Don Danos
Address: Beazer Homes Corp.
2600 Maitland Center Parkway, Suite 200
Maitland, Florida 32751

IN WITNESS WHEREOF, the undersigned subscriber has executed the foregoing Articles of Incorporation this _____ day of _____, 2005.

Name: Don Danos

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing Articles of Incorporation were acknowledged before me this ____ day of _____, 2005 by Don Danos, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

Commission #: _____

**CERTIFICATE DESIGNATING PLACE OF REGISTERED OFFICE
FOR SERVICE OF PROCESS WITHIN THIS STATE,
NAMING REGISTERED AGENT UPON WHICH
PROCESS MAY BE SERVED**

PURSUANT to Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

THAT, THE ENCLAVE AT MOSS PARK HOMEOWNERS ASSOCIATION, INC., desiring to organize under the laws of the State of Florida, with the principal office of the Association located at: Beazer Homes Corp., 2600 Maitland Center Parkway, Suite 200, Maitland, Florida 32751, as indicated in the Articles of Incorporation in the City of Altamonte Springs, County of Seminole, State of Florida, has named as its Registered Agent Don Danos, 2600 Maitland Center Parkway, Suite 200, Maitland, Florida 32751, Seminole County, State of Florida, to accept service of process within this State.

ACKNOWLEDGMENT

Having been named to accept service of process for the above stated corporation, at the place designated in this Certificate, I hereby agree to act in this capacity and agree to comply with the provisions of said Act relative to keeping open said office.

Name: Don Danos

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF SECTIONS 10, 15 & 16, TOWNSHIP 24 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 15; THENCE N 89°16'10" E ALONG THE NORTH LINE OF SAID SECTION 15, A DISTANCE OF 75.63 FEET TO THE POINT OF BEGINNING; THENCE N 66°50'17" E A DISTANCE OF 79.93 FEET TO A POINT ON THE EXISTING WESTERLY RIGHT-OF-WAY LINE OF MOSS PARK ROAD; THENCE S 23°09'43" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 178.11 FEET TO A POINT ON THE VACATED WESTERLY RIGHT OF WAY LINE OF MOSS PARK ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 7176, PAGES 1526 THROUGH 1531, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE CONTINUE S 23°09'43" E ALONG SAID VACATED WESTERLY RIGHT OF WAY LINE A DISTANCE OF 170.72 FEET; THENCE DEPARTING SAID VACATED WESTERLY RIGHT OF WAY LINE S 47°32'35" E A DISTANCE OF 49.53 FEET; THENCE S 21°18'02" E A DISTANCE OF 190.46 FEET; THENCE S 05°15'12" W A DISTANCE OF 29.97 FEET TO A POINT ON SAID VACATED WESTERLY RIGHT OF WAY LINE; THENCE S 23°09'43" E ALONG SAID VACATED WESTERLY RIGHT OF WAY LINE A DISTANCE OF 376.16 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NEW MOSS PARK ROAD ALSO BEING A NON-TANGENT CURVE, CONCAVE SOUTHEASTERLY, HAVING A CENTRAL ANGLE OF 10°41'09" AND A RADIUS OF 865.00 FEET; THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 161.33 FEET TO THE POINT OF TANGENCY OF SAID CURVE (CHORD BEARING AND DISTANCE BETWEEN SAID POINTS BEING S 17°38'04" E, 161.09 FEET); THENCE S 22°58'38" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE A DISTANCE OF 16.10 FEET; THENCE S 66°53'59" W ALONG A LINE THAT IS 252.88 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE NORTHEASTERLY PROJECTION OF THE SOUTHERLY LINE OF TRACT " C " AS SHOWN ON THE PLAT OF NORTH SHORE AT LAKE HART, PARCEL 3, PHASE 1 AS RECORDED IN PLAT BOOK 47, PAGE 144 - 146, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA A DISTANCE OF 625.13 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 15; THENCE N 00°46'15" W ALONG THE WEST LINE OF SAID SECTION 15 A DISTANCE OF 273.38 FEET TO A POINT ON THE EAST LINE OF SAID TRACT " C "; THENCE ALONG THE EAST LINE OF SAID TRACT " C " THE FOLLOWING COURSES AND DISTANCES: N 00°46'15" W A DISTANCE OF 114.46 FEET; THENCE N 09°00'35" E A DISTANCE OF 131.51 FEET; THENCE N 11°55'41" W A DISTANCE OF 66.01 FEET; THENCE N 01°01'30" E A DISTANCE OF 300.97 FEET; THENCE N 28°53'52" W A DISTANCE OF 73.30 FEET; THENCE N 16°50'59" W A DISTANCE OF 69.29 FEET; THENCE N 25°02'18" W A DISTANCE OF 189.66 FEET; THENCE N 14°14'00" W A DISTANCE OF 22.29 FEET; THENCE LEAVING SAID EAST LINE N 66°50'17" E A DISTANCE OF 209.29 FEET TO THE POINT OF BEGINNING.

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EXHIBIT “C”

Bylaws

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**BY-LAWS
OF
THE ENCLAVE AT MOSS PARK
HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I. IDENTITY AND LOCATION

These are the By-Laws of **THE ENCLAVE AT MOSS PARK HOMEOWNERS ASSOCIATION, INC.**, herein called the Association, a corporation not for profit organized and existing under Chapter 617, Florida Statutes, for the purpose of administering the Community, as defined in and in accordance with the terms and conditions of that certain Declaration of Covenants, Conditions and Restrictions for The Enclave at Moss Park (the "Declaration"). The principal office of the Association shall be located at 215 N. Westmonte Drive, Altamonte Springs, Florida 32714, but meetings of the Board of Directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

ARTICLE II. GENERAL

Section 1. Incorporation of Declaration. As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration, as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

Section 2. Definitions. The definitions set out in the Declaration are incorporated herein by reference.

ARTICLE III. ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration and Articles, including, without limitation, the following:

- (a) to own, operate and maintain the Common Areas and to operate and maintain Public Area, including but not limited to the Master Surface Water Management System, and any personal property owned by the Association;
- (b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Common Area and the Public Area;

- (c) to fix assessments to be levied against the Lots in the Community;
- (d) to enforce any and all covenants and agreements contained in the Declaration; and
- (e) to pay taxes and insurance, if any, on the Common Area.

Section 2. Records of the Association. The Association shall maintain each of the following items, when applicable, which constitute the official records of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Area or Public Area;
- (b) A copy of these By-Laws and of each amendment thereto;
- (c) A copy of the Articles of Incorporation of the Association and of each amendment thereto;
- (d) A copy of the Declaration and each amendment thereto;
- (e) A copy of the current rules of the Association;
- (f) The minutes of all meetings of the Board of Directors;
- (g) All of the Association's insurance policies or copies thereof;
- (h) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility;
- (i) The financial and accounting records of the Association, kept according to good accounting practices, which financial and accounting records shall be maintained for a period of at least seven (7) years. The financial and accounting records shall include: (1) accurate, itemized, and detailed records of all receipts and expenditures, (2) a current account and a periodic statement of Assessments or other charges, the due date and amount of each Assessment or other charge, the date and amount of each payment on the account, and the balance due, (3) all tax returns, financial statements, and financial reports of the Association, and (4) any other records that identify, measure, record, or communicate financial information;
- (j) A copy of the Disclosure Summary described in Chapter 720, Florida Statutes, required to be given to a prospective purchaser in a community where association membership is mandatory; and

- (k) All other written records of the Association not specifically included in the foregoing which are related to the operation of the Association.

Section 3. Inspection of Records. The official records of the Association shall be maintained within the state and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of written request for access. This Section may be complied with by having a copy of the records available for inspection or copying in the community. If the Association has a photocopy machine available where the records are maintained, it must provide Owners with copies on request during the inspection if the entire request is limited to no more than twenty-five (25) pages.

ARTICLE IV. MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Association shall be held within one year from the date of incorporation of the Association and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Business transacted at the Annual Meeting shall include the election of directors of the Association.

Section 2. Special Meeting. Special meetings of the Members may be called at any time by the president or by the Board of Directors, and shall be called upon written request of Members entitled to vote one-fourth (1/4) of all votes in the Association.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by delivery or by mailing a copy of such notice, postage prepaid, at least fourteen (14) days before such meeting to each Member entitled to vote there at, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed upon execution among the official records of the Association. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature thereof.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the

Declaration, or these By-Laws. If such quorum is not present or represented at any meeting, the Members entitled to vote there at shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of title to that Member's Lot.

ARTICLE V. BOARD OF DIRECTORS

Section 1. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors who need not be Members of the Association. The initial Board of Directors shall consist of three (3) Directors who shall be selected by the Developer. The Developer shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to Article II of the Declaration so long as Developer shall own ten percent (10%) or more of the Lots in the Property. Within three (3) months after Developer owns less than ten percent (10%) of the Lots in the Property, the members of the Board shall be determined as set forth in Article VI herein. Developer shall be entitled to elect at least one member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in the Property.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Developer until Developer has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor.

ARTICLE VI. NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. At such time as the Developer owns less than 10% of the Lots in the Property (and with the exception of the one (1) Director Developer is entitled to elect as set forth in Article V, Section 1 above), nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Association prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Section 2. Election. When the Board of Directors is chosen by the Nominating Committee, said election to the Board of Directors shall be by secret written ballot. At such election the Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted and votes must be made in person at a Members' meeting or by ballots the Members personally cast.

ARTICLE VII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors' Powers. The Board of Directors shall have power:

- (a) to call special meetings of the Board;
- (b) subject to Article VI herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any Officer or Director of the Association in any capacity whatsoever;
- (c) to establish, levy and assess, and collect assessments or charges in accordance with the Declaration;
- (d) to adopt and publish rules and regulations governing the use of the Common Area and Public Area;

- (e) to exercise for the Association all powers, duties and authority vested in or delegated to the Association;
- (f) to fill vacancies on the Board of Directors pursuant to Article VI above;
- (g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law;
- (h) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; and
- (i) to take such other action as provided in the Declaration.

Section 2. Board of Directors' Duties. It shall be the duty of the Board of Directors:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by at least one-fourth (1/4) of the Class "A" Members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration, to:
 - 1. fix the amount of the annual assessment against each Lot;
 - 2. send written notice of each assessment to every Owner subject thereto in advance of each annual assessment period; and
 - 3. foreclose the lien against any Lot for which assessments are not paid or to bring an action at law against the Owner personally obligated to pay same.
- (d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment as against third parties relying thereon;
- (e) procure and maintain adequate liability, hazard and other insurance on any Common Area;

- (f) cause all officers or employees having fiscal responsibilities to be bonded, if the Board deems appropriate;
- (g) cause the Common Area, Public Area, and the Master Surface Water Management System for the Property, to be maintained.
- (h) to prepare the annual budget in accordance with the Declaration;
- (i) to prepare a roster of the Owners and Lots and the assessments applicable thereto, which roster shall be kept in the office of the Association;
- (j) to send written notice of each assessment to each Owner as provided in the Declaration; and
- (k) to prepare annual financial reports as required by law.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. So long as Developer shall own ten percent (10%) or more of the Lots in the Property, any Director may only be removed, with or without cause, by the Developer. Thereafter, any Director may be removed, with or without cause, in the manner provided by law, by a majority vote of the total voting interest of the members of the Association.

Section 5. Directors' Fees. There shall be no Directors fees paid to members of the Board of Directors, except that Directors shall be entitled to reimbursement of out-of-pocket costs authorized by the Board of Directors.

ARTICLE VIII. DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each member.

Section 2. Notice of Annual Meeting. Not less than ten (10) days written notice of such annual meeting shall be given to each Director.

Section 3. Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and at such place and hour as may be fixed from time to time by a majority of the Board. Should said meeting fall upon a legal holiday, then

that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 4. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days notice to each Director.

Section 5. Waiver of Notice. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 4, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Action Upon Written Consent Without a Meeting. Action of the Board of Directors may be taken without a meeting upon the written consent signed by all members of the Board. Any such action without a meeting shall be effective on the date the last Board member signs the consent or on such date as is specified in the consent. Any such action by written consent shall have the same effect as a vote taken at a meeting of the Board of Directors.

Section 7. Notice of All Board Meetings. Notwithstanding any other provision of this Article to the contrary, notices of all Board meetings must be posted in a conspicuous place in the Community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Community, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency.

Section 8. Notice of Certain Meetings. An assessment may not be levied at a Board meeting unless a written notice of the meeting is provided to all members at least fourteen (14) days before the meeting which notice includes a statement that assessments will be considered at the meeting and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or which rules that regulate the use of common areas or other parcels in the Community may be adopted, amended or revoked, must be mailed or delivered to the Members and posted in a conspicuous place in the Community not less than

fourteen (14) days before the meeting. A written notice concerning changes to the rules that regulate the use of common areas or other parcels in the Community must include a statement that changes to the rules regarding the use of common areas will be considered at the meeting.

Section 9. Board Quorum and Voting. The Majority of the Board of Directors shall constitute a quorum thereof. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers.

ARTICLE IX. OFFICERS

Section 1. Association Officers. The Officers shall be a President, a Vice-President, a Secretary and a Treasurer. The officers may be, but shall not be required to be, members of the Board of Directors. However, each officer must be either a Member of the Association or an officer, director or agent either of Developer or of a general partner of Developer.

Section 2. Election of Officers. The Developer shall have the sole right to appoint and remove any officer of the Association so long as Developer shall own ten percent (10%) or more of the total number of Lots in the Community. Thereafter, all officers shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officer. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine. When a final decision regarding an expenditure of association funds is to be made by such special appointment, no vote may be made by proxy or secret ballot.

Section 5. Multiple Offices. The holding of multiple offices shall be permitted.

Section 6. Duties. The duties of the officers are as follows:

- (a) President. The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Members and of the Board of Directors. Except where otherwise provided by law or these By-Laws, the president shall have the general

powers and duties of supervision and management of the Association, shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments, shall co-sign all promissory notes, and shall perform all such other duties as are incidental to his or her office or as are required by the Board.

- (b) Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or the president.
- (c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- (d) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE X. LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Member. No Board Member or Officer of the Association shall be liable to any Owner for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.

Section 2. Indemnification. To the fullest extent allowed by Section 617.0831, Florida Statutes, as same may be amended, and subject to any limitations set forth in the Declaration or Articles, the Association shall indemnify the Directors, Officers, employees, agents and other persons specifically designated from time to time by the Board of Directors whom it may indemnify pursuant to law. In this connection, the Association is authorized to take out such insurance as it may deem necessary or desirable consistent with such indemnification.

ARTICLE XI. INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for improvements to the Common Area and Public Area and a broad form public liability policy covering all Common Open Space and Public Area and all damage or injury caused by negligence of the Association or any of its agents as more fully described in the Declaration.

ARTICLE XII. AMENDMENTS

These By-Laws may be amended or repealed and new By-Laws adopted by the Directors so long as Developer has the authority to appoint the Directors and thereafter by a majority vote of the Board of Directors present, in person or by proxy, and entitled to vote at a regular or special meeting of the Board; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

ARTICLE XIII. COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XIV. BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XV. ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual, special and individual assessments which are secured by a lien upon the property against which the assessment is made.

ARTICLE XVI. CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: "The Enclave at Moss Park Homeowners Association, Inc., a Florida not for profit corporation", and the year of incorporation in the center of that circle.

ARTICLE XVII. GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these By-Laws which are not contained in the Declaration, shall operate as the By-Laws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these By-Laws, the Declaration shall control.

Section 2. Waiver. No provision of these By-Laws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and the plural shall include the singular whenever the context requires or permits.

Section 6. Roberts Rules. Except as otherwise may be provided by law, all meetings of the membership of the Board of Directors shall be conducted in accordance with *Roberts Rules of Orders Revised*.

Section 7. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

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IN WITNESS WHEREOF, we, being all of the directors of The Enclave at Moss Park Homeowners Association, Inc., have adopted these By-Laws as the By-Laws of the Association this _____ day of _____, 2005

Don Danos, Director

Peter N. Small, Director

Nick Gargasz, Director

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