

DECLARATION OF COVENANTS, RESTRICTIONS  
AND ASSESSMENTS FOR  
GLENBROOK EAST, A PRIVATE SUBDIVISION

P R E A M B L E

WHEREAS, WESTFIELD DEVELOPMENT CORPORATION, a Florida corporation, and WESTFIELD DEVELOPMENT CORP. OF FLORIDA, a Florida corporation (hereinafter collectively referred to as "Developer") has designed this Declaration of Covenants, Restrictions and Assessments (the "Declaration") to protect and maintain the integrity of GLENBROOK EAST (the "Subdivision"), and

WHEREAS, Developer will incorporate under the laws of the State of Florida The Townhomes at Glenbrook Homeowners' Association, Inc., as a non-profit association (the "Association") to be governed by the property Owners, which shall be entrusted with the responsibility to implement and enforce this Declaration in the best interest of all property Owners of the Subdivision in keeping with the purposes expressed herein; and

WHEREAS, WESTFIELD DEVELOPMENT CORPORATION and WESTFIELD DEVELOPMENT CORP. OF FLORIDA, as Developer and Owner of the lands described herein, has deemed it desirable for the preservation, protection and enhancement of the values and amenities in the Subdivision and to insure the residents' enjoyment of specific rights, privileges and easements in the community properties and facilities that this Declaration be executed and recorded in the public records;

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NOW, THEREFORE, Developer declares that the real property located in Pinellas County, Florida, more particularly described in Exhibit "A" attached hereto and incorporated by reference herein ("Property") and such additions thereto as may hereafter be made pursuant to Article II is and shall be conveyed and occupied subject to this Declaration as a covenant running with the land.

ARTICLE 1.

Definitions

The following words when used in this Declaration or any Supplemental Declaration shall have the following meanings.

1.1 Association shall mean The Townhomes at Glenbrook Homeowners' Association, Inc., its successors and assigns.

1.2 Architectural and Landscaping Review Committee shall mean and refer to a standing committee of the Association.

1.3 Board, or Board of Directors shall mean the Board of Directors of the Townhomes at Glenbrook Homeowners' Association, Inc. as constituted from time to time.

1.4 Builder shall mean any person or entity who acquires a Lot from Developer for the purposes of constructing thereon a single-family residence and appurtenances, for resale in the ordinary course of the business of such person or entity.

1.5 Common Area shall mean all real property, including any improvements thereto, which shall from time to time be designated by Developer for the common use and enjoyment of the Owners, or conveyed to the Association in fee simple, including, without

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RECORDING 1 \$132.00

KARLEEN F. DEBLAKER, CLERK  
RECORD VERIFIED BY: *LL*

TOTAL: \$132.00  
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CHANGE: \$0.00

limitation to the foregoing, any areas designated as "Private Streets" on the Plat, together with all appurtenant, improvements, and hereditaments described in this Declaration and of the easement rights dedicated to the Association, pursuant to the terms of the Plat, including any off-site easements which are not located on the Property, but which are appurtenant to the Property.

1.6 Townhomes, Glenbrook East, or Subdivision shall mean and refer to the Property and additions thereto which are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

1.7 Developer shall mean Westfield Development Corporation and Westfield Development Corp. of Florida, their respective successors and assigns.

1.8 Homeowners' Association means any non-profit membership corporation created by Developer with membership limited to and required of, those persons who collectively own an identified group of residential Lots within the Subdivision.

1.9 Lot or Townhome Lot shall mean and include each lot or unit of land upon which a Townhome is located as shown on the subdivision plan attached hereto as Exhibit "B."

1.10 Member shall mean and refer to members of The Townhomes at Glenbrook Homeowners' Association, Inc.

1.11 Owner shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title or beneficial use of any Lot situated within the Subdivision, but shall not include mortgagees unless the mortgagor has acquired title by foreclosure or deed in lieu of foreclosure.

1.12 Parking Parcels means such parcels as may be designated by Developer or the Association, from time to time, to serve as parking spaces for automobiles, trucks, vans, trailers, motor homes/campers, inc. This area will be a Common Area.

1.13 Plat shall mean that certain plat entitled Glenbrook East, recorded or to be recorded in the Public Records of Pinellas County, Florida, as well as all future recorded plats, if any, describing the Property and any other parcels annexed, as described thereon, and made subject to this Declaration by amendment hereto.

1.14 Pool means the Pool and facilities maintained on the real property designated as the "Recreation Parcel" on the Plat of the Property, which Pool shall be owned, administered, operated and maintained by the Association as part of the Common area pursuant to Sections 6.1 and 6.2 hereof.

1.15 Road shall include all real property shown on the Plat as roads, streets, boulevards, avenues, courts, drives, and like designations.

1.16 Supplemental Declaration means any declaration of covenants, conditions, restrictions, or easements that may be recorded by Developer for the purpose of supplementing or amending this Declaration.

1.17 Townhome means any attached dwelling unit situated upon a Lot within the Subdivision.

## ARTICLE 2.

### Property Owner's Rights

2.1 Title and Rights. Each Owner shall have all rights and title to any Lot owned and may exercise full proprietary interest

therein subject only to the covenants contained in this Declaration and any other conditions voluntarily contracted. All easements hereafter granted and amendments to this Declaration and to the Supplemental Declarations, as well as provisions of the Association's Articles of Incorporation and By-Laws, shall be construed to be "other conditions voluntarily contracted."

**2.2 Common Area Rights.** All Common Areas shall be owned in fee simple by the Association, prior to the first sale in the Subdivision. Each member of the Association shall have a nonexclusive right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

b. The right of the Association to suspend the voting and user rights to recreational facilities of any Owner for any period during which any assessment against the Owner's Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Rules and Regulations of the Association. Notwithstanding any other provisions of this Declaration, the Association shall not have the power to suspend or impair any of the easements over the roads in the Subdivision, which easements are intended to be permanent rights in real property appurtenant to each Lot in the Subdivision.

c. The right of Developer and the Association to dedicate and transfer all or any portion of the Common Areas to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members of the Association, and to grant easements in and to the Common Area for utility and cable vision services and other public uses which benefit the Subdivision as a whole. No such dedication, transfer or grant shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members of the Association has been recorded in the local public records.

d. The right of the Association to borrow money for the purpose of improving the Common Area or acquiring additional Common Areas or selling or conveying Common Areas or for constructing, repairing, or improving facilities located thereon and to give as security for the payment of any such loans a mortgage conveying all or any portion of the Common Area except streets, provided further that the lien and encumbrance of any such mortgage shall be subordinate to the rights of the Owners under this Declaration. No such encumbrance, transfer or sale of any Common Area shall be effective unless an instrument agreeing to such encumbrance, sale or transfer signed by members representing two-thirds (2/3) of each class of members of the Association has been recorded in the local public records.

e. Access afforded to police, fire and other public vehicles.

f. The right of Developer, and Developer's sales agents, customers, representatives, and designated assigns, to the nonexclusive use of the Common Areas and the improvements thereon and facilities thereof, without charge, for sales, display, access, signage, construction, ingress, egress, and exhibit purposes.

**2.3 Access.** Each owner shall have the right to ingress and egress over and across the Common Areas necessary for access to the Owner's Lot and shall have the right to lateral support for the Owner's Lot. Rights of ingress and egress shall consist of a right of access by each Lot Owner to its own Lot and to all other Lots in the subdivision (including future additions thereto). In addition,

all lawful emergency vehicles and equipment shall have the right to pass over and across all portions of the Property to protect the health, welfare and property of the Owners. It is the intent hereof that every Owner and all members of the Owner's household as well as the Owner's licensees and invitees shall have the full use of the roads in the Subdivision (including future additions thereto).

2.4 Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two automobile parking spaces in a Parking Parcel, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said Parking Parcel. The Association may permanently assign one vehicle parking space for each Lot.

2.5 Limitations upon Use of Lot and Common Areas. No Lot Owner may plant, garden or erect or maintain fences, hedges, walls or other improvements upon any portion of the Property, including the Lot owned by the Owner, which has been designated as Common Area and/or dedicated as an easement area in favor of the Association, the Developer, public agencies or utility companies pursuant to the Plat. It is understood and acknowledged that Developer hereby reserves unto itself, for so long as Developer owns at least one Lot in the Subdivision, and hereby grants to the Association, a perpetual non-exclusive easement on, under, across and through each Lot and other areas in the subdivision, for the purposes of construction, maintenance, operation, repair and replacement of project signage, mailboxes, parking, drainage, landscaping, and other subdivision facilities; however, excluded from this grant and reservation of the easement such portion of the Lots as are covered by and contained within the perimetrical boundaries of the residential dwelling structures, as originally constructed by the Developer or its assigns. It is understood and acknowledged that the above-described easement area is a Common Area. In addition, the Developer reserves and grants to the Association as part of the Common Area, an easement for access and maintenance over and on any sidewalks constructed in the subdivision. Each Owner shall have a cross easement appurtenant for use of the sidewalks. The Association's Board of Directors may establish reasonable rules and regulations concerning the use of the Common Areas and facilities. These regulations shall be binding upon Owner, and the Association may impose reasonable monetary fines and other sanctions for violation of the rules which may be collected by lien and foreclosure as provided hereinafter.

2.6 Property. The real property which is and shall be held, conveyed and occupied subject to this Declaration, is located in Pinellas County, Florida and is more particularly described in Exhibit "A" attached hereto and made a part hereof ("Property").

2.7 Easements. Developer reserves the unrestricted right to grant easements for utilities to utility companies and public bodies for public utility services.

Developer intends to execute conveyances of Lots in the Subdivision to members of the public who may purchase same from Developer. Every deed from Developer of any Lot in the Subdivision shall automatically carry with it as an appurtenance to said Lot the perpetual, non-exclusive easement hereby created, whether or not specifically mentioned in said deed, and this easement shall thereafter run with the title to said Lot in perpetuity.

### ARTICLE 3.

#### Association

3.1 Membership. Any person or entity who is the Owner of record of any Lot and entitled to the beneficial enjoyment thereof

shall be a member of The Townhomes at Glenbrook Homeowners' Association. Ownership of a Lot shall be sole qualification for membership and membership shall not run to persons who hold an interest in a Lot merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

3.2 Voting. The Association shall have two classes of voting membership:

a. Class A. Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one (1) 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

b. Class B. The sole Class B voting member of the Association shall be Developer, who shall be entitled to five (5) votes for each Lot owned. The Class B voting membership shall cease and be converted to Class A membership upon the happening of any one of the following events, whichever first occurs:

(i) Developer elects in writing to terminate the Class B Voting Membership; or

(ii) Five (5) years from the date that this Declaration is recorded in the Public Records of Pinellas County, Florida; or

(iii) when seventy-five percent (75%) of the Lots are deeded or conveyed to homeowners.

Upon termination of the Class B voting membership, all provisions of this Declaration, the Articles of Incorporation, and the By-Laws of the Association referring to Class B voting membership shall be obsolete and without further force or effect.

3.3 Powers. The Association shall have such general powers as are necessary to perform the obligations and duties set out in this Declaration, including, but not limited to the power to buy and convey real property (upon prior written approval of any conveyance of any Common Area by members representing two-thirds (2/3) of each class of members of the Association), enter into contracts, adopt rules and regulations for the general well being of the subdivision, penalize delinquent members, obtain and maintain such policies of insurance as required by this Declaration and such other policies as the Board deems necessary and desirable for the protection of the Association and its members. The Association may maintain a working capital and contingency fund and pay taxes and other obligations of the Association and may segregate funds to maintain reserve, trust, or escrow accounts for the members to accumulate and preserve funds for anticipated improvements.

3.4 Annual Meeting. The date and time of the annual meeting of the Association shall be established yearly by the Board of Directors.

#### ARTICLE 4.

##### Rights and Obligations of the Association

4.1 Maintenance. The purpose of the Association shall be to operate, maintain and repair the Common Area, and any improvement thereon or thereunder, as originally improved by Developer or as modified with the consent of the Architectural and Landscaping

Review Committee and shall keep all common facilities in good repair; to operate, maintain and repair any off-site easements which are not located on the Property, but which are appurtenant to the Property; to maintain entranceways to the subdivision, sidewalks and landscape the Common Areas; to maintain and repair any irrigation facilities servicing the Common Area which the Association is obligated to maintain; to pay for the costs of street lighting, if any, for the Common Areas, or other areas designated by the Board of Directors, and take such other action as the Association is authorized to take with regard to the Property pursuant to its Articles of Incorporation and By-laws, or this Declaration. The Association, or its authorized agents, shall have the right at any time, from time to time, without any liability to the Owner for trespass or otherwise, to enter any Lot for the purpose of maintenance of the Common Areas and such common facilities and enforcing any of the restrictions as set forth as part of this Declaration. The Association shall maintain and keep in good repair the Common Area and shall perform such other duties as provided in this Declaration and for these purposes may levy the assessments described hereinafter.

**4.2 Exterior Maintenance.** In addition to maintenance upon the Common Areas, the Association shall provide exterior maintenance upon each Townhome Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, termite treatment and repair of termite damage to any siding or exterior structural portions of the Townhome, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needed such maintenance or repair, the cost of such exterior maintenance shall be added to become part of the assessment to which such Lot is subject. Notwithstanding anything herein to the contrary, in the event that the Association fails to undertake its obligations with respect to any items of repair pertaining to a Townhome Lot within thirty (30) days after written notice to the Association from the Owner specifying in detail the necessity of such repair (or, in the event of an emergency, where such repair is necessary to prevent further waste to the Townhome, within 24 hours following written notice to the Association) then, and in such event, the Owner shall have the right to undertake such repair, whereupon the Association shall reimburse Owner for the reasonable cost of such repair upon presentation of evidence of full payment by Owner of such repair work.

**4.3 Easements for Drainage and Utilities.** Owners within the Subdivision shall receive the non-exclusive benefit of certain easements, to-wit:

- A. A drainage pipe easement;
- B. A sewer pipe easement; and
- C. A water retention area easement;

all subject to and in accordance with the conditions and provisions of a certain Covenants, Easements and Restrictions Agreement ("Easement Agreement") dated November 5, 1993, and recorded in Official Records Book 8470, Page 276 of the Public Records of Pinellas County, Florida. Unless the foregoing easements are conveyed or dedicated to and accepted by Pinellas County, for operation and maintenance of the easements as set forth in the Easement Agreement, the Developer shall cause its rights in and to the easements under the Easement Agreement to be transferred to the Association, in which case the Association shall undertake and the benefits and burdens of the operation and maintenance of the

easements in accordance with the terms and conditions of the Easement Agreement. All costs for such operation and maintenance assumed and undertaken by the Association shall be assessed as part of the annual or special assessments to Owners levied and assessed in accordance with Article 7 hereof.

4.4 Utilities. An easement is hereby reserved and otherwise conveyed in favor of the Association, the Owners, the Developer, its assignees, grantees, and licensees and successors, an easement for utilities, including, but not limited to, drainage, electricity, water, waste and irrigation systems, cable and other public services for the Association and its members a set forth in any plat or any declaration filed as to all or any part of the Property or as may be required for utility services including the maintenance, operation and repair of all systems for drainage, effluents, irrigation, as required to protect the health and property of any or all of the Owners. The Association shall obtain all water, electric services, street lights and refuse collections for the Common Area. It shall provide an irrigation water system for the Common Areas. The enumeration of the foregoing rights in the Association is not intended to preclude or obligate Developer from arranging for the utility services described herein.

4.5 Encroachment Easement. There is also appurtenant to each of the Lots, easements, as needed, for encroachments of improvements, benefiting such Lot, resulting from construction deviations or variations, and shifting and settling processes, and such easements shall exist so long as the encroachment exists.

4.6 Granting of Easements. The Association may grant easements when necessary for utilities and sewer services and for cable vision over the Common Area and any portion thereof to serve the Subdivision and any portion thereof.

4.7 Damage to Common Property. In the event the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly its obligations with respect to the maintenance, repair or replacement of any items for which an Owner is responsible or finds that any Owner is responsible for damage to the Common Areas, the Association shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair or replacement at the Owner's sole cost and expense which notice shall set forth with particularity the maintenance, repairs and replacement deemed necessary. The Owner shall have fifteen (15) days from the date of mailing the notice by Certified United States Mail to complete the maintenance, repair or replacement or appear before the Board of Directors to contest its determination. If the Owner fails in this obligation the Association may provide such maintenance, repair and replacement at the Owner's sole cost and expense and the cost shall be added to and become part of the assessment for which the Owner is responsible and shall become a lien against the Lot of the Owner enforceable by the Association plus all costs of collection including reasonable attorneys' fee. Notwithstanding any other provision of this Declaration, the duties of the Association with respect to levying assessments efficient to perform its duties and the duty of the Association to provide maintenance of the Common Areas and also to provide security and to enforce the provisions of this Declaration and of its charter and By-Laws and to enforce any other duties devolving upon it by law or contract, are mandatory contractual duties which shall be specifically enforceable by injunction and by other remedies in legal proceedings which may be brought by any Lot Owner or by Developer. Further, in the event Developer should perform certain of the obligations of the Association, this shall not constitute a waiver with respect to the Association's obligation to perform such duties and with respect to the right of Developer and Lot Owners to bring legal proceedings to compel the Association to perform its duties.

4.8 Architectural and Landscaping Review Committee. The Board shall have the right, power, authority, and obligation to establish an Architectural and Landscaping Review Committee ("ALRC") as a standing committee of the Association, consisting of three members so appointed by the Board, or, in the Board's discretion, the Board from time to time may constitute itself the ALRC. No member of the ALRC shall be entitled to compensation for services performed; but the Board may employ independent professional advisors to the ALRC and allow reasonable compensation to such advisors from Association funds. The ALRC has full power and authority to regulate the use and appearance of all landscaping, fences, walls, and signs and all buildings, improvements, and structures on the Property to: (i) assure harmony of external design and location in relation to surrounding buildings, landscaping, and topography; and (ii) to protect and conserve the value and desirability of the Property as a residential community. The power to regulate includes the power to prohibit those uses or activities inconsistent with the provisions of the Declaration or any applicable Supplemental Declaration, or contrary to the best interests of other residents of the Property in maintaining the value and desirability of the Property as a residential community. The ALRC may adopt, promulgate, rescind, amend, and revise reasonable rules and regulations in connection with the foregoing, provided, however, that such rules and regulations are: (i) consistent with the provisions of this Declaration and any applicable Supplemental Declaration; and, (ii) if the Board has not constituted itself as the ALRC, approved by the Board prior to taking effect. The ALRC's rules and regulations shall be enforced by the Board in the name of the Association.

4.9 Rules. The Association from time to time may adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of the Lots, Common Areas, or any combination thereof, by a vote of members representing two-thirds (2/3) of the total votes entitled to be voted by members of both classes of the Association present and entitled to vote at any regular or special meeting convened for such purposes, which rules and regulations shall be consistent with the rights and duties established by this Declaration. These regulations shall be binding upon Owners and the Association may impose reasonable monetary fines and other sanctions for violations of the rules which may be collected by lien and foreclosure as provided herein. Notwithstanding the foregoing, all rules and regulations initially may be promulgated by the Board. The Association's procedures for enforcing its rules and regulations at all time shall provide the affected owner with reasonable prior notice and a reasonable opportunity to be heard, in person and through representatives of such Owner's choosing.

#### ARTICLE 5.

##### Restrictions Upon Individual Use For the Common Good

5.1 Residential Use. All Lots within the Subdivision are restricted to use for the construction and maintenance of single family attached-residences. No other use shall be permitted. No building, structure, or improvement shall be constructed, erected, altered, placed or permitted to remain on any of the Lots within the Subdivision other than residential dwellings and appurtenant decks or patios, and parking structures, with or without screened or glass enclosures, approved subject to the terms of Section 5.5, below. Developer shall be exempt from the provisions of this section until two (2) years after the last Lot, or other parcel of land within the Subdivision expected by Developer to be developed or improved has been developed, improved, and conveyed to a person or entity other than Developer.

5.2 Lawful Use. No residential Lots may be used for any purpose tending to injure the reputation of the Subdivision, nor to

disturb the neighborhood, nor occupants of adjoining property within the Subdivision, nor to constitute a nuisance, nor in violation of any public law, ordinance or regulation in any way applicable thereto.

5.3 Maintenance. No windows shall be covered with aluminum foil and other materials not designed for such purpose. All drapes and shades installed by Owner must be lined in white to present a uniform appearance. All landscaping of every kind and character, including shrubs, trees, grass and other plantings, located in the easement areas in favor of the Association, shall be subject to control by the Association, and the Owner shall not have the right to trim, cultivate, alter or relocate such landscaping and the Owner shall not place any ornaments or obstructions in such easement areas.

5.4 Parcelizing. No Lot shall be divided so as to accommodate more than one single-family residence per Lot; however, a single-family Lot may be combined with an adjacent single-family Lot or Lots or with portions of adjacent single-family Lots in order to create a home site larger than one single-family Lot on which only one home shall be constructed.

5.5 Design. No building, structure, deck, patio or other improvement (including landscaping) shall be erected, painted, constructed, placed or altered on any Lot, nor shall any addition, awning, canopy, or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the Owner of the Lot shall submit to the Architectural and Landscaping Review Committee, in triplicate, complete Plans and Specifications for such building, structure and/or improvement and a detailed Site Plan showing its proposed location, and the Plan and Specifications and detailed Site Plan have been approved in writing by the Architectural and Landscaping Review Committee. (Notwithstanding the foregoing, the aforesaid right of approval of improvements by the Architectural and Landscaping Review Committee shall not apply to any initial construction and erection by Developer, it being understood that Developer shall have the right to erect, construct, or place any improvement on any Lot without obtaining any consent of the Architectural and Landscaping Review Committee, to the extent such improvements are to be located on Lots then owned by Developer and to the extent such improvements shall substantially conform to the standards and design of construction as set forth in Exhibit "C" attached hereto and incorporated by reference herein). The approval of said Plans and Specifications may be withheld by the Architectural and Landscaping Review Committee not only because of noncompliance with any of the specific easements, covenants, conditions and restrictions of this Declaration, but also by reason of the reasonable dissatisfaction with the landscaping or grading plan, the proposed location of the structure with respect to common areas, easement facilities, topography and finished grade elevation, the quality of workmanship and materials, the type or use of materials, the color scheme, finished design, proportions, architecture, style, shape, height, size, style or appropriateness of external design with the existing or proposed buildings, structure or improvements located or to be located upon the Subdivision, including the heights, kinds and appearances of fences, walls, any excavation or fill, change in drainage or terrain, planting, utility installation, and any other physical change or improvement to any Lot, the size, location and materials to be used in the construction of the walks and drives, and the sizes and species of landscaping materials, all of which are included within the definition of "improvements" as such word is used herein. One set of Plans and Specifications and a detailed Site Plan as finally approved may be retained by Developer or the Association for their permanent records.

It is the intention of this provision to vest in Developer for a limited time and the Association permanently thereafter the power to regulate the exterior appearance of buildings, and improvements

to be located upon each Lot, for the purposes herein set forth. Upon completion of any building, structure or improvement in accordance with approved Plans and Specifications and detailed Site Plan, no changes, alterations, additions, reconstruction, or attachments of any nature whatsoever shall be made to the exterior of the building, structure and/or improvement or to the Lot, including that portion thereof not actually occupied by the improvements thereon, unless the same are identical to the original work, without prior written approval in the manner above provided.

All of the foregoing approvals shall not be unreasonably withheld so long as such original Plans, Specifications and detailed Site Plan of such change, alterations, addition, reconstruction or attachment, as the case may be, conforms substantially to, and is in harmony with, the creation and preservation of the general plan of development intended to be created and preserved by this Declaration.

Developer or Architectural and Landscaping Review Committee's approval, disapproval or conditional approval shall be endorsed upon the Plans and Specifications submitted by the Owner, and shall be further evidenced by a written instrument executed and acknowledged by the approver. Such written instrument shall be returned to the applicant accompanied by one set of the submitted documents within fifteen (15) days after submission.

The Architectural and Landscaping Review Committee may provide guidelines as a summary of the basic standards required for the necessary approvals; however, even the adherence to these standards does not obligate the Architectural and Landscaping Review Committee to grant approval. Therefore, all applicants, homebuilders, subcontractors, etc., are urged not to make final pricing decisions prior to obtaining Final Approval. The Architectural and Landscaping Review committee will not be responsible for any changes in prices resulting from required modifications.

Developer and Architectural and Landscaping Review Committee cannot and shall not be held responsible, for any loss or damages to any person arising out of the approval or disapproval of plans, designs or construction errors. Nor shall Developer or Architectural and Landscaping Review Committee be held responsible for loss or damages to any person arising out of noncompliance with governmental land use and building regulations. Failure of the Architectural and Landscaping Review Committee to act within fifteen (15) days from receipt of definitive plans of the proposed improvement shall result in the plans being deemed approved provided that the design of the proposed building is in harmony with the existing structures in the Subdivision and the Owner maintains proof that a complete set of plans and specifications were delivered to the Architectural and Landscaping Review Committee. Developer shall be exempt from the provisions of this Section until such time as the last Lot, or other parcel of land within the Subdivision expected by Developer to be developed or improved has been developed, improved, and conveyed to a person or entity other than Developer.

Approval by the Architectural and Landscaping Review Committee shall not take the place of or eliminate the necessity of obtaining any approval required by or from any governmental authorities having jurisdiction.

*S* 5.6 Roofs. No projections of any type shall be placed or permitted to remain above the roof of the building with the exception of one or more chimneys or vent stacks. No outside television or radio pole or antenna, satellite dish, or solar energy collectors or other electronic device shall be constructed, erected or maintained on any building nor on any property within the Subdivision or connected in such manner as to be visible from

the outside of any building unless and until it has been approved by the Architectural and Landscaping Review Committee.

5.7 Ancillary Equipment. No air conditioning equipment, bottle tank, clothes lines, condenser, pump, water tank, wood pile or other appurtenance which projects from or is a part of or is used in conjunction with a residence shall be placed or maintained except as approved by the ALRC.

5.8 Temporary Buildings and Building Materials.

a. No shed, tent or temporary building shall be erected, maintained or used on any property within the Subdivision; provided, however, that temporary buildings for use and used for a reasonable time only for purposes incidental to the initial construction of dwellings on any property may be erected, maintained and used, provided that such erection, maintenance and use has been approved by the Architectural and Landscaping Review Committee, and provided further that said temporary buildings shall be promptly removed upon the completion of such construction work and issuance of a certificate of occupancy.

b. No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot, except for the purpose of construction on such Lot, and shall not be stored on such Lot for longer than the length of time reasonably necessary for the construction to completion of the improvement in which said is to be used.

5.9 Vehicles. No mobile home, boat, commercial truck, trailer or recreational vehicle of any kind shall be kept, stored, parked, maintained, constructed or repaired, on any property within the Subdivision. Owner shall keep its driveways and parking areas reasonably clean from any oil residue or leaks. No vehicles shall be repaired on any property within the Subdivision. No owner, guest, invitee or other person shall park any vehicle on any grassy area or area intended for cultivation of plant life of any kind; and parking shall only be allowed on paved surfaces provided for parking purposes.

5.10 Rubbish. No weeds, rubbish, debris, objects or materials of any kind shall be placed or permitted to accumulate upon any property within the Subdivision if it renders the property unsanitary, unsightly, offensive or detrimental to any other property in the vicinity. Trash, garbage, rubbish and other waste shall be kept only in sanitary containers maintained in garages, closed storage areas or screened areas approved by the Architectural and Landscaping Review Committee. Sanitary containers and bundled trash may be set out not more than twelve (12) hours before scheduled pick-up times, and must be returned to an approved sequestered area not more than twelve (12) hours after scheduled trash pick-up times.

5.11 Animals. No animals, fowl, reptiles or poultry shall be kept within the Subdivision, except not more than two domestic dogs, cats, or birds (cumulatively) may be kept as household pets provided they are not kept, bred or raised thereon for commercial purposes. All animals permitted to be kept by this section shall be kept on a leash (but not tied to any object outside of the dwelling unit) within the subdivision when not within an enclosed area of a Lot, and the Owner shall be responsible for properly curbing such animals and any necessary clean-up. The Association may in its sole discretion demand and cause the removal of any animal which is repeatedly the cause of a nuisance, unreasonable noise or hazard.

5.12 Mail. Mail boxes shall be approved by the Architectural and Landscaping Review Committee and be of a type consistent with

the character of the Subdivision and shall be placed and maintained to complement the houses in the neighborhood.

5.13 Signs. After original occupancy no signs are permitted in the Subdivision except address and name identification signs meeting the approval of the Architectural and Landscaping Review Committee. No "for sale" signs shall be permitted to be displayed in the windows of any Townhome, on the exterior of any Townhome, in any of the Common Areas, upon any Lot or anywhere within the Subdivision. Developer shall be exempt from the provisions of this section until two (2) years after the last Lot, or other parcel of land within the Subdivision expected by Developer to be developed or improved has been developed, improved, and conveyed to a person or entity other than Developer. Two years after the Developer has sold the last Lot or other parcel of land within the Subdivision expected by Developer to be developed or improved, has been developed, improved and conveyed to a person or entity other than Developer, "for sale" signs meeting the approval of the Architectural and Landscaping Review Committee shall also be permitted.

5.14 Damaged Structures. The erection of a new dwelling or structure, or the repair of any dwelling or structure damaged by fire or otherwise on any Lot shall be completed without unreasonable delay. Should the Owner leave a dwelling or structure in an incomplete condition for a period of more than six months the Association, after reasonable notice to the Owner by registered mail, giving an opportunity to be heard, may remove the structure from the premises or complete and repair it in a manner deemed proper in the discretion of the Architectural and Landscaping Review Committee. In either event the expense so incurred shall be a lien against the Lot enforceable in the same manner as other liens.

5.15 Fences, Hedges and Landscaping. Owner shall not be permitted to erect or maintain any fences or walls or other exterior partitions, without the approval of the ALRC.

5.16 Decks and Patios. Owner shall not be permitted to erect or maintain any decks, patios and screened-enclosed or glass-enclosed areas without the approval of the ALRC.

5.17 Hardship Waiver. The Architectural and Landscaping Review Committee is authorized to grant hardship waivers to Lot Owners in the event the strict application of these restrictions presents a bona fide hardship.

5.18 Noise. Between the hours of 9:00 P.M. and 9:00 A.M. of the following day, no Owner shall play musical instruments, radios, stereos, tapes decks, compact disk players, or other similar devises which produce music, sound or noise, so that the same may be heard by other Owners in the Subdivision, other than within the perimetrical boundaries of the Owner's Townhome.

## ARTICLE 6.

### The Pool Facility

6.1 The Pool Facility; Relationship to Subdivision. The Pool and related structures and the land upon which the Pool is constructed ("Recreation Parcel") will be a part of the Common Area upon the conveyance thereof by the Developer to the Association.

6.2 Conveyance of Pool. The Developer shall convey to the Association the Common Area upon which the Pool is located prior to the sale of the first Lot in the Subdivision for the common use and enjoyment of the Owners and others, subject to this Declaration. The Association hereby covenants and agrees to accept from the Developer title to such conveyance subject to the terms and

conditions of this Declaration and the obligations set forth herein.

6.3 Owners' Easements of Enjoyment. Every Owner shall have a nonexclusive right of membership for the use and enjoyment in and to the swimming pool recreational facility located on the Recreation Parcel which shall be appurtenant to and shall pass with the title to every Lot; provided, however, that no Owner shall do any act which interferes with the use and enjoyment of the Common Area by all other Owners and designated third parties; and provided further, said membership right of use and enjoyment shall be subject to the following rights, title and interest:

(a) The right of the Association to charge reasonable admission and other fees to non-residents of the Subdivision for the use of any recreational facility situated upon the Recreation Parcel and to impose reasonable limits upon the number of guests who may use these facilities.

(b) The right of the Association to suspend the voting rights and right to the use of any recreational facility by an Owner for any period during which any Assessment, as defined herein, against its Lot remains unpaid, and for a period not to exceed 60 days for any other infraction of this Declaration, the Association documents or the rules and regulations promulgated, from time to time, by the Association.

(c) The right of Developer and the Association to grant easements in and to the Recreation Parcel for all utility services, including cable television and other public uses which benefit the subdivision as a whole.

(d) The right of the Association to borrow money for the purpose of improving or repairing the Recreation Parcel.

(e) The right of the Association to dedicate, transfer and convey all or any part of its right, title and interest in the Common Area to any public agency, authority, or utility; or, other person for such purposes.

6.4 Responsibilities of the Association. Upon conveyance, the Association shall be responsible for the Recreation Parcel, including but not limited to, its operation, management, care, restoration, insurance, renovation, alteration, reconstruction, repair, maintenance, rebuilding, replacement, improvement, taxes and utilities.

6.5 Delegation of Use. Any Owner may delegate, in accordance with the rules and regulations promulgated by the Association, its right of enjoyment of the Recreation Parcel and facilities to members of its family, tenants, social and business invitees or contract purchasers who reside on the property.

## ARTICLE 7.

### Property Owners Assessments

7.1 Purpose. Assessments for common expenses provided for herein shall be used for the general purposes of promoting recreation, welfare and common benefit and enjoyment of the Owners and occupants of Lots, operating and maintaining the Common Areas and maintaining the Lots in the fashion that may be specifically authorized from time to time by the Board of Directors of the Association.

7.2 Creation of Lien and Personal Obligation. The Developer, Owner of any Lot by acceptance of a deed, whether or not it is

expressed in the deed, covenants and agrees to pay to the Association:

a. Annual assessments and charges;

b. Special assessments for capital improvements, repairs and replacements, to be established and collected as hereinafter provided;

c. Special assessments against particular Owners, as monetary fines or penalties for violation of the covenants of this Declaration, or for non-compliance with the rules and regulations, enacted, adopted or promulgated by the Board of Directors; and

d. Special assessment against any particular Lot for non-compliance with the regulations for the Architectural and Landscaping Review Committee which are established pursuant to the terms of this Declaration and the regulations of the Architectural and Landscaping Review Committee, including but not limited to reasonable fines that may be imposed.

Both annual and special assessments for capital improvements must be fixed at a uniform rate for all Lots. All assessments and costs of collection for delinquent assessments along with interest on the delinquent assessments and reasonable attorney fees shall be a charge on the land and shall be a continuing lien upon the Lot against which the assessment is made. Each assessment together with interest, cost and a reasonable attorney fee shall also be the personal obligation of each person who is the Owner of the Lot at the time the assessment is levied. The personal obligation for delinquent assessments shall not pass to the successors in title of such Owner unless it is expressly assumed by them. Assessments shall be paid in the manner and upon the date specified by the Board of Directors and unless otherwise provided by the Board of Directors shall be paid in monthly installments.

7.3 Method of Setting Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment per Lot shall be determined by the Board of Directors and shall be, payable in monthly, quarterly, or yearly installments, as directed by the Board of Directors. The Board of Directors may fix the annual assessment at least thirty (30) days in advance of each annual assessment period, or January 1. The annual assessment may include a capital contribution or reserve in accordance with the capital budget separately prepared. Written notice of the amount of the proposed annual assessment shall be given to every Lot Owner; but the failure to give or receive such notice, or both, does not invalidate any otherwise valid assessment. In the absence of valid action by the Board of Directors or the voting members of the Association to the contrary prior to the commencement of any fiscal year, the annual assessment then in effect automatically shall continue for the ensuing fiscal year, unless such action is thereafter taken by the Board of Directors or the voting members of the Association. Each Owner shall pay the annual assessment relating to such Owner's Lot in equal installments as directed by the Board of Directors. Notwithstanding the foregoing, each owner shall pay its water and sewer assessment on a monthly basis. 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.

7.4 Special Assessments. In addition to the annual assessments authorized above, the Board of Directors may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a

capital improvements upon a Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the total number of Board members.

Special assessments, if any, shall be levied, as provided in Section 7.2 (d) of this Declaration, by the Board of Directors of the Association, on any Lot Owner, other than the Developer, for non-adherence of the regulations established by the Architectural and Landscaping Review Committee in order to recover any expenses associated with such non-adherence, or for any damage to the Common Areas caused by such Lot Owner, provided that any such assessment shall have the assent of a majority of the total number of Board members. Such special assessments shall be determined by the Architectural and Landscaping Review Committee and delivered to the Association and shall be secured by a lien upon such Lot of the Owner in favor of the Association as provided in Section 7.5 of this Declaration. If a Lot Owner does not adhere to the regulations set forth, the Architectural and Landscaping Review Committee shall provide a written "Notice to Correct" such non-adherence. If the Lot Owner fails to notify the Architectural and Landscaping Review committee of such intention to begin the removal and/or repair of such non-adherence within fifteen (15) working days from the date of mailing the "Notice to Correct" by Certified United States Mail, the Association shall remedy such non-adherence including, but not limited to, repairing and/or removing the structure(s) not in accordance with the regulations stipulated by the Architectural and Landscaping Review Committee, the cost of which shall become a special assessment. After the Lot Owner has provided notification to the Architectural and Landscaping Review Committee, the Lot Owner shall have an additional fifteen (15) working days in which to begin the repair and/or removal, at his own expense, of such non-adherence. The completion of the repair and/or removal of such non-adherence shall be as soon as is reasonably possible. The Architectural and Landscaping Review Committee has the right to grant hardship waivers in the event the strict application of the aforementioned timing schedule presents a bona fide hardship. If the Lot Owner fails, at his own expense, to repair or remove such non-adherence within fifteen (15) days from the date of mailing the "Notice to Correct" by Certified United States mail, the Association shall remedy such non-adherence, including but not limited to repairing or removing the structure(s) not in accordance with the regulations stipulated by the Architectural and Landscaping Review Committee, the cost of which shall become a Special Assessment.

7.5 Liens of Assessments and Subordination to Mortgages. All sums assessed against any Lot pursuant to this Declaration together with interest as provided herein shall be secured by a lien upon such Lot in favor of the Association. The lien shall be superior to all other liens and encumbrances on the Lot except for liens of ad valorem taxes and first mortgages held by any bank, savings and loan association, FNMA, GNMA, FHLBC, insurance company, mortgage company, or other institutional lending institutions. Persons other than lending institutions placing or acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in the public records and shall be deemed to consent to the liens and assessments of the Association, and the subsequent lien shall be inferior to future liens for assessments of the Association whether or not prior consent be specifically set forth in the instruments creating such liens or encumbrances. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of an institutional mortgage having priority over the assessment lien, or any transfer or other proceeding in lieu of such foreclosure, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

7.6 Remedies of the Association to Enforce Assessments. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in the amount the Board of Directors may determine from time to time. If the assessment has not been paid within thirty (30) days, the Association may file a Claim of Lien in the Public Records of the County where the Lot is located, in substantially the same form as provided in the Florida Statutes for mechanics' or construction liens; and the assessment lien shall commence to include interest on the principal amount plus the late charge at a rate of ten percent (10%) per annum from the date first due and payable plus the costs of collection including a reasonable attorney's fee. In the event that the assessment remains unpaid after sixty (60) days, the Association may commence legal action to collect the assessments or to foreclose its lien. Each Owner, and the spouse thereof if married, by his or her acceptance of a deed to a Lot, shall be deemed to: (i) have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provision of Florida law, if for any reason such are applicable, and (ii) have vested in the Association or its agents the right and power to bring all actions against him or her personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as liens for mortgages on real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all Owners. Notwithstanding any other provisions of Article VII of this Declaration, it is agreed that an institutional mortgagee acquiring title by acceptance of a deed in lieu of foreclosure shall not be liable for unpaid Association assessments which become due prior to acquisition of the title by such mortgagee.

7.7 The Date of Commencement of Annual Assessments.

a. Annual assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot by Developer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The assessments shall be due and payable in the manner and on the schedule the Board of Directors may provide.

b. For so long as Developer meets or causes to be performed the level of services called for in the budget and funds any deficiency that may arise between the actual service expense and assessments paid by Owners other than Developer it shall not be required to pay any assessment upon unsold Lots. This shall be reviewed annually by Developer, and it may elect to pay the annual Lot assessment for the Lots it owns rather than subsidize the Association. Notwithstanding anything herein contained to the contrary, the Developer shall not be responsible for any reserve for replacements, operating reserves, depreciation reserves, capital expenditures, special assessments or any assessment or contribution if there is no shortfall in the Association's capital budget. Annual assessments allocated to unsold Lots owned by the Developer may, at the Developer's discretion, be paid in equal quarterly installments, on or before the first day of each month, in advance.

7.8 Start-up Assessment. Upon the initial sale or transfer of any Lot by the Developer to another Owner, such Owner, upon acquisition shall automatically and without further Board action, be assessed and shall pay a one-time start-up assessment for the capitalization of the Association. This initial assessment shall serve as a cash fund, to be applied as a reserve for cash flow difficulties. It may be used when amounts due the Association have not been received at the time a debt, financial obligation or expense of the Association is due. This fund is intended to be used only as a stop-gap resource, and the fund shall not be used to cover a shortfall in amounts available to pay the common expenses

of the Association in accordance with its regular capital budget. Unless otherwise specified by the Board of Directors the reserve account shall be replenished by collection of the amounts due. If the amounts due to replenish the reserve account are determined to be uncollectible, the Board of Directors shall include an amount sufficient to replenish the uncollectible portion as part of the next annual assessment; or, if necessary, the Board of Directors may make provision for replenishment in the same manner as provided above for Special Assessments. The Board of Directors may adjust the amount of the start-up assessment in the same manner as provided above for setting Special Assessments. The initial start-up assessment shall be \$75.00.

7.9 Exempt Property. The assessments, charges and liens created under this Article shall not apply to the Common Areas nor shall the assessments apply to land or easements dedicated to and accepted by local public authority or any land used by a utility company or the Association.

## ARTICLE 8.

### Party Walls

8.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Townhome upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

8.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

8.4 Weatherproofing. Notwithstanding any other provision of this Article, an 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.

8.5 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title.

8.6 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the parties to such dispute shall abide by a decision determined by a majority of all the arbitrators.

## ARTICLE 9.

### General Provisions

9.1 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and

charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

9.2 Declaration. This Declaration is to run with the land and shall be binding on all parties and persons claiming under it for a period of thirty years from the date it is recorded after which time it shall be extended automatically for successive periods of ten years, unless an instrument signed by two-thirds of the Owners of the Lots agree to change the covenants in whole or in part as recorded.

9.3 Amendments. The covenants and restrictions of this Declaration may be amended by an instrument signed by the Board of Directors of the Association with an attached certification that the amendments have been approved by members representing two-thirds (2/3) of each class of members of the Association. In addition, so long as there exists a Class B. membership, such instrument shall include a consent by the Federal Housing Administration of the Department of Housing and Urban Development, executed by an appropriate, authorized agent.

9.4 Liability. The officers and directors shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or nonfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association). The Association shall as a common expense maintain adequate general liability and officers', directors' liability insurance to fund the

9.5 Eminent Domain. In the event of a threatened taking of the Common Area, the Association shall have a power coupled with an interest. The Board of Directors may act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to voluntarily sell to the condemnor in lieu of engaging in a condemnation action. The Association shall be the sole representative of the Lot Owners in any condemnation proceedings, or in any negotiations, settlements and agreements with the condemning authority for the acquisition of the Common Areas or any part thereof. The taking of all or any of the Property by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Association, even though the awards may be payable to Lot Owners. If a Lot Owner fails to do so, in the discretion of the Board of Directors of the Association, a special assessment shall be made against a defaulting Lot Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

a. Continuation of Association. Whether the Association will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty.

b. Termination of Association. If the Association is to be terminated after condemnation, such termination shall not occur until the proceeds of the awards and special assessments have been received and distributed. If the Association is not terminated after condemnation, the size of the Subdivision will be reduced, the Owners and mortgagees of condemned Lots will be made whole and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty.

c. Reduction of Lot. If the taking reduces the size of a Lot and the remaining portion of the Lot can be made tenantable, the award for the taking of a portion of the Lot shall be used for the following purposes in the order stated and the following changes shall be effected in the Subdivision:

(1) The Lot and any improvements existing as of the date of the taking shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Lot.

(2) The balance of the award, if any, shall be distributed to the Owner of the Lot or to each mortgagee of the Lot, as the mortgage documents of such mortgagee may direct.

d. Taking of Entire Lot. If the taking is of an entire Lot or so reduces the size of a Lot that it cannot be made tenantable, the award for the taking shall be distributed to the Owner of the Lot or to each mortgagee of the Lot, as the mortgage documents of such mortgagee may direct, and said Owners shall convey all their interest in the Subdivision to the Association and the Common Areas appurtenant to the Lots that remain shall be adjusted to include such interests. The area of the Subdivision property on which the portion of the Lot or building not taken was located prior to the taking shall become a part of the Common Areas and shall be placed in condition for use by all of the Lot Owners in the manner approved by the Board of Directors of the Association, and the expense related to such work shall be approved by members representing two-thirds (2/3) of the total votes entitled to be voted by members of both classes of the Association and by filing of record a Supplement to this Declaration with respect to the additional land.

e. Application of Condemnation Awards. Awards for the taking of Common Areas shall be used to make the remaining portion of the Common Areas usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved by members representing two-thirds (2/3) of the total votes entitled to be voted by members of both classes of the Association, and by the ALRC. The balance of the awards for the taking of Common Areas, if any, shall be distributed to the Association.

f. Amendment to Declaration. The changes in Lots, in the Common Areas and in the ownership of the Common Areas that are affected by condemnation shall be evidenced by an amendment to the Declaration that need be approved only by a majority of all of the Board of Directors of the Association, subject however to the rights of institutional mortgagees herein set forth. Said Amendment shall be recorded among the Public Records of Pinellas County, Florida.

9.6 Insurance. The Association shall obtain, to the extent reasonably available, insurance it deems necessary, including, but not limited to, the following policies of insurance: (a) fire and extended coverage insurance on all improvements upon the Common Area in the amount of 100% of the full insurance replacement cost value of the improvements; (b) general comprehensive public liability insurance against liability to and claims of the public, a member of the Association and any other person with respect to liability occurring upon the Common Areas based upon or arising out of the Association's ownership or use of the Common Area. The limits of liability shall not be less than \$500,000/person and \$1,000,000/occurrence with respect to property damage. The liability insurance shall name as separately protected insured's Developer, the Association, the Board of Directors, the Architectural and Landscaping Review Committee and their respective members, employees, officers, agents and representatives.

9.7 Contracts with Developer. The Association and Developer are authorized to enter into mutual contracts for any services Developer is capable of providing to the Association. The contract shall be an arm's length transaction subject to such terms and conditions as the parties may agree.

9.8 Survival of Declaration. Notwithstanding any other provisions of this Declaration or any amendments thereto, no easements in the Common Area for ingress and egress may be terminated, said easements being intended to be perpetual; this will apply regardless of the termination of the restrictive covenants contained in this Declaration and regardless of the termination of the Declaration itself. Furthermore, notwithstanding the termination of this Declaration, the Association's power to make assessments and its duties to maintain the Common Areas shall survive the termination of this Declaration unless the instrument of termination specifically provides otherwise.

9.9 Annexation. Additional property and Common Area may be annexed to the Property with the consent of members representing two-thirds (2/3) of the total votes entitled to be voted by members of both classes of the Association and by filing of record a Supplement to this Declaration with respect to the additional land extending the scheme of the covenants and restrictions of this Declaration to such land. Notwithstanding the foregoing, so long as the Developer owns at least one Lot within the Property, the Developer, its successors or assigns, may annex additional property or Common Areas to the Property without the assent of the members of the Association. However, the Developer is not bound to annex any property.

9.10 Developer's Rights. Subject to the restrictions set forth in Section 9.11 below, the Developer hereby reserves to itself, and the grantee of any Lot hereby agrees by acceptance of the deed of conveyance thereto that the Developer shall have the following rights so long as the Developer owns any property in the subdivision:

a. The right to replat any part or all of any platted area from the property subject to this Declaration provided that the Developer owns the property which is subject to the plat and provided that any such action shall not be in violation of the laws of Florida and shall not, in and of itself, cause an increase in the assessments to the Owners, and shall not impair or reduce the interest of any institutional lending first mortgagees or Owner of a Lot unless said mortgagee and Owner shall consent in writing to such modification or revision of their rights and interests. Such consent shall be filed with such action.

b. The right to convey to the Association in whole or in part any easement granted in favor of Developer.

c. The right to maintain lots if the Association fails to do so.

d. The right to erect and right to grant to a Builder the right to erect buildings in the Subdivision on any property which is owned by Developer or title to which has been granted by Developer to a Builder for the purpose of storage, and to maintain a sales office, construction office, model home, and/or signage. Such right shall continue so long as the Developer owns or leases any lot or other property within the subdivision, notwithstanding the provisions of Section 5.8(a). The right to maintain an office, model home or signage shall include the right of the Developer to display market, sell and otherwise trade in other properties, lots or homes which are not part of the Subdivision.

e. The right to erect and the right to grant to a Builder the right to erect permanent buildings, including without

limitation model homes, to be used as business offices for the Developer or Builder.

f. The right to construct parking areas for the Developer's or Builder's business offices or model homes, and the right to place parking signs within the rights-of-ways and within the common areas.

g. The right to alter, amend, approve, dispose of and designate the plan and facilities which provide water and irrigation services to the subdivision providing that safe potable water service at a reasonable rate to each Owner shall not be interrupted for any extended period of time, and that approval from all governmental agencies having jurisdiction over the same has been obtained.

h. In addition to this Declaration, the Developer may record for portions of the Property, specific deed restrictions applicable thereto either by master instrument or by individually recorded instruments. Such restrictions may vary as to different parts of the Property in accordance with the Developer's development plan and the location, topography and intended use of the land made subject thereto. Nothing contained herein shall require the Developer to impose uniform deed restrictions, or to impose deed restrictions of any kind on all or any part of the Properties.

i. The right to dedicate to public use or to governmental agencies having jurisdiction, all or any portion of the Common Areas for utility easements or public road right of way.

j. The right to use any Common Area for the purpose of erecting, installing and maintaining signs and related advertising media for the subdivision and for the benefit of the Developer.

9.11 FHA Approval. As long as there is a Class B. membership, the following actions will require the prior approval of the Federal Housing Administration:

- a. annexation of additional properties;
- b. dedication of Common Areas; and
- c. amendment of this Declaration.

9.12 Southwest Florida Water Management District. No amendment to any provision of this Declaration affecting the stormwater management system or the conservation of the easements provided for stormwater management, and no termination of this Declaration shall be effective without the consent of the Southwest Florida Water Management District.

9.13 Information. The Association shall make available to all Owners and to lenders, holders, insurers or guarantors of any first mortgage encumbering a Lot, upon reasonable notice and for a reasonable charge not to exceed the cost of photocopying, current copies of this Declaration, the Articles and By-Laws, and any rules and regulations enforce from time to time, and/or the most recent annual financial statement of the Association. Copies of any of the foregoing, and the books and records of the Association shall be available for inspection, upon request, during normal business hours.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Developer has caused this Declaration of Covenants, Conditions and Restrictions to be executed by its duly authorized officers this 3rd day of June, 1994.

Signed, sealed and delivered in the presence of:

Billa K. Bolek  
(please sign your name above and print it below)

Billa K. Bolek

Mary C. Glass  
(please sign your name above and print it below)

Mary C. Glass

WESTFIELD DEVELOPMENT CORPORATION  
a Florida corporation

By:

R. B. Gatewood  
ROGER B. GATEWOOD  
Its: President

(AFFIX CORPORATE SEAL)

Address: 107 Dunbar Ave, Suite I  
Oldsmar, FL 34677

WESTFIELD DEVELOPMENT CORP. OF FLORIDA, a Florida corporation

By:

RICHARD H. TURK  
RICHARD H. TURK  
Its: President

(AFFIX CORPORATE SEAL)

Address: 107 Dunbar Ave, Suite I  
Oldsmar, FL 34677

STATE OF Florida  
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me this 3rd day of June, 1994, by ROGER B. GATEWOOD, President of WESTFIELD DEVELOPMENT CORPORATION, a Florida corporation, on behalf of the corporation. He is personally known to me or has produced as identification. CYMR



My commission expires:

Gail M. Hidalgo  
(please sign your name above and print it below)

GAIL M. HIDALGO  
NOTARY PUBLIC IN AND FOR THE  
STATE OF FLORIDA

STATE OF FLORIDA

COUNTY OF Pinellas

(NOTARY SEAL)

*Paul M. Her*  
(please sign your name above and print it below)

GAIL M HIDALGO  
NOTARY PUBLIC IN AND FOR THE  
STATE OF FLORIDA

My commission expires.

