

Richard KERN ✓
4900 N. HARBOR CITY Blvd.
Melbourne, FL 32935

DECLARATION

County Clerk Circuit Court
Recorded in _____
Pages 46 Book 2
Trust Fund 2350 Rec Fee 185.00
Stamp-Dues _____ Expire Th _____
Stamp-Reg _____ Int To _____
Service Chg _____ Refund _____

THIS DECLARATION, made on the date hereinafter set forth by Lennar Homes, Inc. a Florida corporation, hereinafter referred to as "Developer";

WITNESSETH:

WHEREAS, Developer is the owner of certain property more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as "the Project"); and

WHEREAS, Developer has established a land use plan for the Project and desires to provide for the preservation of the values and amenities hereby established and as may be established for the Project hereafter committed to a land use plan and to this end does hereby subject the Project to use covenants, restrictions, easements, reservations, regulations, burdens and liens 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 COPPERFIELD PROPERTY OWNERS ASSOCIATION, INC. 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 Project shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Copperfield Property Owners Association, Inc., a Florida corporation not-for-profit, its successors and assigns. Attached hereto and made a part hereof by this reference as Exhibits "B" and "C" is a copy of the Articles of Incorporation and By-Laws, respectively, for the Association.

Section 2. "Board" shall mean and refer to the Board of Directors of the Association.

Section 3. "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.

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Section 4. "The Project" 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 5. "Common Open Space" shall mean all real property owned, or to be owned by the Association for the common use and enjoyment of the Owners.

Section 6. "Surface Water" or "Stormwater Management System" shall mean a system which is designated and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or re-use water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Florida Administrative Code Chapters 40C-4, 40C-40, or 40C-42.

Section 7. "Lot" shall mean and refer to those Lots shown upon the recorded subdivision Plat or Plats of the Project on which is or shall be built Homes.

Section 8. "Undeveloped Lot" shall mean and refer to those Lots on which a Home has not yet been built.

Section 9. "Home" shall mean a completely constructed 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, improvements and other property appurtenant to the Home.

Section 10. "Model Home" shall mean 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 they are purchasing.

Section 11. "Developer" shall mean and refer to Lennar Homes, Inc. its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from Developer for the purpose of development.

Section 12. "Institutional Mortgagee" means 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 or Homes.

Section 13. "Common Expenses" means 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 Open Space, 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 Open Space 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 Common Open Space.

(e) Expenses declared to be Common Expenses by the provisions of this Declaration, or by the Articles or By-Laws.

Section 14. "Undeveloped Property" means to the real property described in Exhibit "D" herein, which is presently an unimproved parcel of land which Developer may, but is not obligated to develop, and which, by annexation, may be made subject to this Declaration.

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 Open Space which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

A. All provisions of this Declaration, the plat or plats of the Project, 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 Open Space;

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 Open Spaces;

D. The right of the Association to suspend the voting rights of any Owner for any period during which any assessment against his Lot 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 Open Space 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 said instrument has been recorded. In addition, so long as there is a Class B membership, such dedication, sale or transfer shall require the approval of HUD/VA.

F. The right of the Association to borrow money, and with the consent of two-thirds (2/3) of each class of members, and so long as there is a Class B membership, the approval of HUD/VA, to mortgage, pledge, deed in trust, 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 Open Space, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however, that the approval of two-thirds (2/3) of the votes 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 of the Members, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum equal to two (2) months' 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 Open Space, or any existing improvements or personal property associated therewith. The cost and expense of any such additions, alterations or improvements to the Common Open Space, or the purchase of any personal property, shall be a Common Expense. In addition, so long as Developer owns any portion of the subject Property, Developer shall have the right to make any additions, alterations or improvements to the Common Open Space as may be desired by Developer in its sole discretion from time to time, at Developer's expense.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the appropriate By-Laws, his right of enjoyment to the Common Open Space, to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Permitted Uses. The Common Open Space shall be restricted to the following uses:

A. The Common Open Space, now and forever, shall be restricted hereby such that it shall be maintained as open space 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 other purpose as herein described.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of an Undeveloped Lot or Home which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Undeveloped 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 Undeveloped Lot or Home owned. When more than one person holds an interest in any Undeveloped Lot or Home, all such persons shall be members. The vote for such Undeveloped Lot or Home 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 three (3) votes for each Undeveloped Lot or Home owned. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of any of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or
- (b) Six (6) years from the date of filing of this Declaration; or
- (c) At such time as the Class "B" Member voluntarily relinquishes its right to vote as a Class "B" Member.

ARTICLE IV

COVENANT FOR MAINTENANCE

Section 1. Common Open Space. The Association shall be vested with ownership of all Common Open Space. The Association shall own said premises for the purpose of preservation of existing vegetation, supplemental plantings, drainage, and retention. The Association has the right to impose reasonable rules and regulations concerning the use of Common Open Space and may use the Common Open Space for ingress-egress, drainage and retention, and maintains the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action

reasonably necessary to provide safe drainage and retention as well as to maintain reasonable standards of health, safety, welfare and appearance.

Section 2. Duty to Maintain Entrance Way. The Association shall have the duty to maintain the entrance way to the Project the landscaped median on Abbeyridge Road, and other related property, whether Common Open Space or in a dedicated right-of-way. The Entrance way to the Project consists of a sign, landscaping and any other improvements that Developer may construct thereon, at its sole option ("Entranceway"). Said duty shall include the obligation to cut grass, trim shrubbery and otherwise keep said property in a safe and attractive condition and maintain reasonable standards of safety and appearance. This obligation shall include the maintenance of any and all structures erected on said tracts keeping any painted surfaces clean and attractive and keeping any and all irrigation systems and fixtures in a safe and working condition.

Section 3. Duty to Maintain Stormwater Management System.

The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance thereof 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 St. Johns River Water Management District. The 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 the St. Johns River Water Management District.

Section 4. Access - For the purpose of performing the maintenance authorized by this Article IV hereof, the Association, through its duly authorized agents or employees, shall have the right to enter upon any Lot(s) 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 the Lien and Personal Obligation of Assessments.

The Developer, for each Undeveloped Lot or Home owned within the Project, hereby covenants, and each Owner of any Undeveloped Lot or Home 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, and (2)

special assessments to be established and collected as hereinafter provided. The annual and special 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 Undeveloped Lot or Home 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. The Board shall then establish the assessment for Common Expenses for each Home 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 is required in addition to funds produced by assessments 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 periodic 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 or the payment of the specified 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.

The assessments per Lot for a Class B Member shall be 50% of the amount assessed to a Class A Member. The assessment shall commence upon the closing of the first Lot to a Class A Member.

Section 3. Working Capital Contribution. In addition to assessments for Common Expenses, the first Owner acquiring title from Developer to a Home shall

pay to the Association a contribution to a working capital fund of the Association in an amount equal to two (2) months' assessments for Common Expenses, 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 start-up expenses or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

Section 4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Project and for the improvement and maintenance of the Common Open Space, the Entrance Way and the Stormwater Management System.

Section 5. Developer's Assessment Guaranty. The Developer guarantees to initial purchasers of Homes in the Project that the assessments due from such purchasers as Owners of Homes in the Project for items of common expense of the Association will not exceed the amount therefore reflected in the initial budget for the Association which is provided to such purchasers by the Developer during the calendar year in which the Developer conveys the first Home in the Project. During the period of time this guaranty is in force and effect, the Developer shall be relieved from the obligation of paying its pro rata share of assessments for common expenses of the Association, but instead shall be obligated to pay to the Association all sums in excess of sums collected by the Association from all sources, which are necessary to pay the actual expenses of the Association. The actual expenses of the Association shall not include reserves. Developer may extend this Guaranty from year to year, at its sole option and notwithstanding the above, after the first calendar year in which the Developer conveys the first Home, the assessments may be increased a maximum of fifteen (15%) percent per year even though the Developer is still guarantying the assessments.

Section 6. Special Assessment for Capital Improvement. 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 (i) defraying, in whole or in part, the cost of any construction, reconstruction, repaving, repair or replacement of a capital improvement upon the Common Open Space, including fixtures and personal property related thereto, if any, or (ii) the costs of work performed by the Association in accordance with Article X hereof. 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 7. 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 Undeveloped Lot or Home 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 would 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 Undeveloped Lot or Home has been paid. A properly executed certificate of the Association as to the status of assessments on a Undeveloped Lot or Home is binding upon the Association as of the date of its issuance. The Association may delegate to a mortgage company, financial institution or property management company responsibility for collection of assessments.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following conveyance by the Developer of the first Home in the Project. 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 assessment during said time period shall not preclude the Board from fixing the assessment at a later date. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The assessments, at the election of the Association, may be collected 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.

Section 9. Effect of Non-Payment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days of the due date shall bear interest from the due date at the highest rate allowable by law, per annum. The Association may, at its election, bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Undeveloped Lot or Home. No

owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Open Space or abandonment of his Undeveloped Lot or Home.

Section 10. 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 tax liens and mortgage liens, provided said mortgage liens are first liens against the property encumbered thereby, subject only to 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 Undeveloped Lot or Home 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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All 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.

ARTICLE VI

ANNEXATION OF PROPERTY

Section 1. Annexation and Development. Additional Property, which is legally described in Exhibit "D" attached hereto, may be annexed by the Developer in whole or in part without the consent of members within five (5) years of the date of this instrument. Such annexations, if they are made, will subject the annexed property to these Covenants and Restrictions.

Annexations, if any, shall become effective upon the recording of an amendment to this Declaration in the Public Records of Brevard County, Florida.

Section 2. Other Annexation of Property. Except as set forth in Section 1 above, residential property and Common Open Space may be annexed to the property with the consent of two-thirds (2/3) of each class of members of the Association. Such annexation shall become effective upon the recording of an amendment to this Declaration in the Public Records of Brevard County, Florida. As long as there is a Class "B" membership or as long as either the Federal Housing Administration or the Veterans Administration has an interest in The Project, the annexation of properties

to The Project will require the prior approval of either the Federal Housing Administration or the Veterans Administration.

ARTICLE VII

WITHDRAWAL OF PROPERTY

Anything herein to the contrary notwithstanding, Developer reserves the absolute right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Project from the provisions of this Declaration, so long as a Home has not been constructed on said land to be withdrawn, and so long as the land to be withdrawn has not been conveyed to the Association as Common Open Space

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 Project, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portion(s) of the Project without the consent or approval of Owners.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Project, nor shall any exterior addition or change or alteration therein, including a change of the building exterior paint color, be made within the Project 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 plan 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.

If an Owner is to construct a home within the Community which is not constructed by the Developer, the Owner must submit plans and specifications to the Committee for approval before the commencement of any construction.

Section 2. 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 3. Notwithstanding the foregoing, so long as Developer owns any Undeveloped Lot, Home, or any portion of the Project, architectural control shall be vested in Developer and not the Association, and during such period all references contained in the subparagraph to the Association 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.

ARTICLE X

MAINTENANCE OF EXTERIOR OF OWNERS PROPERTY

In the event an Owner of any Undeveloped Lot, Home in the Project shall fail to maintain the exterior of his Home in a manner satisfactory to the Association, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees to enter upon said Lot and to repair, maintain and restore the exterior of the buildings and any other improvements erected thereon.

The cost of such exterior maintenance shall be assessed against the subject Home(s) and such assessment shall be a charge on the land and shall be a continuing lien upon the Lot(s). Non-payment of such assessment within thirty (30) days from the due date may result in foreclosure of the lien or an action at law against the Owner(s) of the Lot(s).

ARTICLE XI

EASEMENTS

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

Section 2. 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:

(i) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under and across the streets, roads and walks within the Common Open Space (as they may be built or relocated in the future), (ii) 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 Open Space.

Section 3. Developer reserves to itself, its designees, successors and assigns the easements, licenses, rights and privileges of a right-of way in, through, over, under and across the Project for the construction, maintenance and repair of utility lines, wires, pipes, conduits, cable television, sewers, and drainage lines which may from time to time be in or along the streets and roads of other areas of the Common Open Space. Developer also reserves the right for itself, its designees, successors and assigns to continue to use the Project, and any Common Open Space, roadways, sales offices, model homes, signs, flags, promotional material and parking spaces located on the Project, in its efforts to market Lots, land, and Homes in the Project. This paragraph may not be amended without the prior written consent of the Developer.

Section 4. The Association and the Developer, by their execution of this Declaration, hereby grants to each Lot 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 Open Space.

Section 5. Developer hereby grants to delivery, pickup and fire protection services, police, 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 Project, and to such other persons as the Developer from time to time

may designated, the non-exclusive, perpetual right of ingress and egress over and across the Common Open Space for the purposes of performing their authorized services and investigation.

Section 6. Drainage flow shall not be obstructed or diverted from drainage easements. Developer may, but shall not be required to, cut drainways for surface water wherever and whenever necessary to maintain reasonable standards of health, safety and appearance. Except as provided in this Section, existing drainage shall not be altered so as to divert the flow of water on an adjacent Lot or into the sanitary sewer lines.

Section 7. Developer reserves the right to authorize and approve the construction and maintenance of temporary dwellings, model houses, and/or other structures upon Lots as approved by the Developer and to erect and maintain or to permit commercial and display signs as Developer, in its sole discretion, deems advisable. Developer reserves the right to do all acts necessary in connection with the construction of improvements on the Lots. Nothing contained in these covenants shall be construed to restrict the foregoing rights of the Developer.

Section 8. 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 Open Space, it shall be deemed that the Owner of such Lot or Common Open Space has granted a perpetual easement to the Owner of the adjoining Lot or Common Open Space, 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. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

ARTICLE XII

CONVEYANCE OF COMMON OPEN SPACE TO ASSOCIATION

At such time that Developer closes title to the first Home in a phase of the Project in which Homes are then being built, Developer shall be obligated to convey

title to all of the Common Open Space located in such phase of the Project to the Association, which shall be obligated to accept such conveyance.

ARTICLE XIII

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 directed 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 within this Project. Notwithstanding the foregoing, deep ^{OR SHALLOW} wells for irrigation purposes will be permitted upon the approval of the Architectural Review Board. 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 said Project in accordance with the standard requirements as provided for by the State Board of Health Regulations.

Section 3. Nuisances. No noxious or offensive activity shall be carried on upon any lands within the Project, 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, garage, barn or other building shall be moved to, erected on, or used on any of the lands within the Project at any time for a residence, workshop, office, storage room, either permanently or temporarily, provided, however, that Developer may place on the Project construction sheds, trailers or temporary sales offices or sales trailers used to facilitate the construction and sale of land and Homes in the Project. No canvas, pipe, or other type of carport shall be placed between the sidewalk and the front building line on any Lot. Except during the delivery to homes, no commercial vehicles shall be parked in areas zoned for residential uses, including the streets adjacent to the residential Lots. No business,

service repair, or maintenance for the general public 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 Project, 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 Project 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 of the Project lands. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any of the Project lands.

Section 6. Pets. No animals, livestock, or poultry of any kind, other than common, traditional house pets shall be kept by an Owner or his family members, guests, invitees or lessees, provided, however, that (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 Project 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 Open Space 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. Notwithstanding anything to the contrary set forth herein for the safety of the Owners within the Project, no pit bull dogs shall be permitted to be housed on any Lot or within any Home. 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 the Department of Public Works.

Section 8. Clotheslines. No clotheslines shall be placed and no outdoor clothes drying shall be undertaken or permitted upon the Project.

Section 9. Sprinkler Systems. No sprinkler system may be installed which will draw upon retention pond water.

Section 10. Barbecues. Barbecues may be located or permitted only upon the back yard of a Home and upon such portions of the Common Open Space 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 11. Parking. No truck or van with more than a three-quarter ton capacity or any truck with other than standard size tires, no commercial vehicles, no house or travel trailer, motor home, camper, boat or boat trailer shall be parked in the Project, except that it may be parked in the garage with the garage door closed, or in a fenced-in side or back yard as long as the yard is fenced and the vehicle is not visible to the public. Motorcycles and motor scooters may be kept in the project so long as they are kept in a fenced-in back yard or driveway appurtenant to the Home. The term "commercial vehicle" shall include but not be limited to all automobiles, trucks and vehicular equipment including station wagons, which bear signs or shall have printed on the sides of same reference to any commercial undertaking or enterprise. Commercial vehicles in the process of loading or unloading shall not be considered parked so long as they are not kept in the Project overnight. However, a public utility or government vehicle may be parked in the driveway or garage of a Home if the keeping of the vehicle is a condition of employment. Except as set forth above, no vehicle of any kind shall be parked in the Common Open Space other than that portion of the Common Open Space designated for parking by the Association or on any part of any Lot.

Section 12. Antenna and Aerials. No antenna or aerial of any type shall be placed upon a Home or within a Lot without the approval of the architectural review committee.

Section 13. Litter and Garbage Collection. No articles of personal property shall be hung from the doors or windows of any Home. No Owner shall sweep or throw from his Home any dirt or other materials or litter in any way upon the Project. No garbage, trash, refuse or rubbish shall be deposited, dumped, or kept on any part of the Project except in closed containers in the storage areas or patio area in rear of Home prior to the ultimate disposal in the dumpster facilities in closed plastic bags.

Section 14. Personal Property. No articles of personal property of Owners shall be placed on any portion of the Project lands 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 15. Removal of Sod and Shrubbery. No sod, topsoil, trees or shrubbery shall be removed from the Project, no change in the elevation of such

areas shall be made and no change in the condition of the soil or the level of the land of such areas shall be made which results in any permanent change in the flow and drainage of surface water which the Board, in its sole discretion, considers detrimental.

Section 16. Increases 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 Project.

Section 17. 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 his 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.

Section 18. 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 service 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 unreasonably 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 of aesthetic appearance of the Project or any part or parts thereof are not impaired.

Section 19. 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 Open Space 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 20. Reconstruction. Any repair, rebuilding or reconstruction account of casualty or other damage to any Common Open Space 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 or Committee. 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 21. Rights of Developer. Notwithstanding any provisions in this Declaration to the contrary, including the provisions of this Article XIII, the Developer shall have the right with respect to the development of the Project to construct buildings and Homes and other improvements, including landscaping on the Project. The construction of buildings, Homes and improvements, 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 Brevard County, Florida, in force at that time.

Section 22. 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, comforts or conveniences of other Owners.

ARTICLE XIV

INSURANCE

Section 1. Purchase, Custody and Payment of Policies.

A. Purchase. All insurance policies covering the Common Open Space 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 Project.

B. Named Insured. The named insured on all policies purchased by the Association shall be the Association, individually and as agent for all Owners covered by the policy, without naming them, and as agent for their mortgagees, without naming them.

C. Personal Property and Liability. It shall be the Owners' obligation to obtain insurance at their own expense and at their own discretion for their Undeveloped Lot or Home, their personal property; personal liability, living expenses, and for improvements made to their Lot or Home. The Association shall not be responsible to purchase personal property and person liability insurance on behalf of any Home Owner.

Section 2. Coverage.

A. Casualty. All improvements upon the Common Open Space 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 Open Space 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. Homeowners are required to purchase casualty insurance for their Home.

B. Liability. Comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or occurrences on or about or in connection with the Common Open Space, or any work, matters or things related to the Common Open Space 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 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. 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 Section 1B of this Article XIV and as is customarily obtained with respect to improvements similar in construction, location and use to those contained within the Common Open Space, 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 insurer's right to: (i) subrogation against the Association and against the owners individually and as a group, (ii) any prorata 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, and (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 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 of 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, except that any increase in any insurance premium occasioned by misuse, occupancy or abandonment of a Home by a particular Owner, or by a resident of any Home, or by a member of their families or their guests or invitees, shall be assessed against and paid by that Owner.

Section 4. Distribution of Proceeds. Proceeds of the insurance policies received by the Association shall be distributed to, or for the benefit of, the beneficial owners in the following manner:

A. Expense of the Association. All expenses of the Association shall be first paid or provisions made therefor.

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

C. Notice of Possible Inadequate Insurance Coverage. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Home Owners, the Association shall give notice of any excess exposure within a reasonable time to all Home Owners who may be exposed to the liability and they shall have the right to intervene and defend.

D. 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 XV

RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 1. Determination to Reconstruct or Repair. If any part of the Project is damaged or destroyed by casualty, whether or not the damage will be repaired shall be determined in the following manner:

A. Common Open Space. If the damaged improvement is contained within a Common Open Space, the damaged property shall be reconstructed or repaired, unless 2/3 of the Owners vote to the contrary.

B. Homes. In the event of damage to or destruction of any Homes as a result of fire or other casualty, the Owner thereof shall arrange for the prompt repair and restoration thereof (including any damaged bathroom and kitchen fixtures) at least equivalent in value to that initially installed by the Developer.

Section 2. Plans and Specification. 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 governmental authority, and must be approved by the controlling governmental 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 governmental authority, and where required appropriate permits for same shall be obtained.

Section 3. 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 reliable licensed contractors, and shall submit copies of all acceptable estimates to the Association. If the amount of damages is in excess of \$1,000.00, the Association shall obtain three (3) bids for estimates of the cost to rebuild or repair.

Section 4. Assessments. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association, or if 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 of the Owners of the Homes equally, in sufficient amounts to provide funds to pay such costs.

Section 5. Construction Funds. The funds for payment for costs of reconstruction and repair after casualty which shall consist of proceeds of insurance held by

the Association and funds collected by the Association from Assessments against Home Owners shall be disbursed in payment of such costs 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 which is the responsibility of the Association is more than Twenty-five Thousand (\$25,000.00) Dollars, then the sums paid upon such Assessment shall be deposited in an interest bearing account by the Association. 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. Proceeds of Insurance. The proceeds of insurance collected on account of a casualty and the sums deposited by the Association from collections of Assessments against Home Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of the Association 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 which is the responsibility of the Association 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 which is the responsibility of the Association is more than Twenty-five Thousand (\$25,000.00) Dollars, 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 or engineer 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 Association, if any, and the costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the Association, 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 Association shall not be required to determine whether or not sums paid by Home Owners upon Assessments shall be deposited by the Association, 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 Association may rely upon a certificate of the Board of Directors 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, however, that when a mortgagee is herein required to be named as payee, the Association shall also name the mortgagee as payee of any distribution of insurance proceeds to the Association and further provided that when the Association or a mortgagee which is the beneficiary of any insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of an architect or engineer named by the Association shall first be obtained by the Association for disbursements in payment of costs of reconstruction and repair.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Execution of Documents Required by Brevard County, Florida. The Developer's plan for the development of the Project may require from time to time the execution of certain documents required by Brevard County, Florida. To the extent that said documents require the joinder of any or all property owners in the Project, each of said Owners, by virtue of his acceptance of a deed to his Home, 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. Enforcement. 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 a proceeding at law to enforce this Declaration, including any appeal thereof, shall be borne by the Owner(s) against whom the suit has been filed. 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.

Section 3. Enforcement of Stormwater Management System. The St. Johns River 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 or Stormwater Management System.

Section 4. 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 5. 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 (66 2/3%) percent or more of the Undeveloped Lots and Homes. Notwithstanding the above, (i) there will be no amendment to the provisions of this Declaration pertaining to the maintenance of Common Open Space without the prior consent of Brevard County, Florida; and (ii) Developer will have the right to amend this Declaration pursuant to Article II and Article VIII without the consent of any Owners and/or Mortgagees. Any Amendment must be recorded.

Notwithstanding the above, any amendment to this Declaration which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Open Space, must have the prior approval of the St. Johns River Water Management District.

Section 6. Developer Amendment Privilege. Notwithstanding anything to the contrary set forth above, the Developer may amend any provision of this Declaration without the approval or joinder of the Owners or the Association, if required to do so 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 Project.

Section 7. Damage or Destruction to Common Open Space. Each Owner shall be liable to the Association for any damage to the Common Open Space 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 Home and may be collected as provided herein for the collection of Assessments.

Section 8. HUD/VA Approval. Notwithstanding anything to the contrary set forth in this Declaration, so long as there is a Class "B" member, the prior approval of HUD/VA shall be required for (i) annexation of property; (ii) Amendments to this Declaration; or (iii) dissolution, merger or consolidation of the Association.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto executed this Declaration this 11th day of February, 1994.

By: LENNAR HOMES, INC.



Morris J. Watsky
Assistant Secretary

By:

M. E. Saleda

M. E. Saleda
Vice President

STATE OF FLORIDA
COUNTY OF DADE

The foregoing Declaration was acknowledged before me this 11th day of February, 1994, by M. E. Saleda and MORRIS J. Watsky, the Vice President and Assistant Secretary, respectively, of Lennar Homes, Inc., a Florida corporation, on behalf of the corporation.

Janet S English
Notary Public, State of Florida
My Commission Expires:

