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Prepared by and return to:
Mark C. Dearing, Esq.
9456 Philips Highway, Suite 1
Jacksonville, Florida 32256

**AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
THE GABLES AT WINGFIELD TOWNHOMES**

THIS AMENDMENT is made this 10th day of March **2005**, by
MHK OF VOLUSIA COUNTY, INC., a Florida corporation, hereinafter referred to as
"Developer", who recites and provides:

RECITALS

A. Developer subjected certain lands to the terms and conditions of the Declaration of Covenants and Restrictions for The Gables at Wingfield Townhomes, dated June 28, 2004 and recorded on June 30, 2004 at Book 2232, page 509 of the official records of St. Johns County Florida (the "Declaration").

B. Developer is the owner of certain lands subject to the terms of the Declaration.

C. Pursuant to the terms of Section 14.5 of the Declaration, Developer has the unilateral right to amend the Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot or other building parcel located within the Property (as defined in the Declaration).

D. Developer desires to amend the Declaration as hereinafter provided.

E. The terms of this Amendment shall not materially or adversely affect the value of any Lot or other building parcel located within the Property (as defined in the Declaration).

NOW, THEREFORE, in consideration of the premises the Developer hereby declares:

1. All recitals hereinabove are true and correct.
2. Section 9.1 of the Declaration is hereby amended to add the following sentence at the end of said Section 9.1:

Notwithstanding the foregoing, Owners shall only be responsible for routine maintenance and upkeep of the exterior of their Unit; except as otherwise caused by any act, omission or negligence of any Owner or any of an Owner's guests, licensees or invitees, Owners shall not be responsible for any significant repair, replacement or repainting of any exterior portion

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ENV*

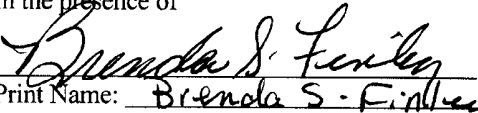
of the Unit, including but not limited to the roof, gutters, downspouts, exterior building surfaces and their replacements, electric and plumbing equipment, air conditioner and heating units, parking areas and any other equipment, structures, improvement, additions or attachments located on the Lot as installed by Developer as part of the Work. For purposes of the preceding sentence, the term "significant" shall refer to any repair, replacement or repainting in excess of One Hundred and No/100 Dollars (\$100.00).

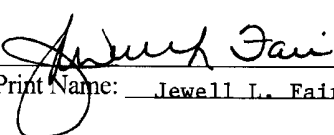
3. Except as set forth herein, all terms and conditions of the Declaration remain in full force and effect.

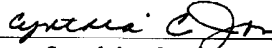
IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed in its name, the day and year first above written.

Signed, sealed and delivered
In the presence of

MHK OF VOLUSIA COUNTY, INC.



Print Name: Brenda S. Finley


Print Name: Jewell L. Fair

By: 
Print: Cynthia C. Jones
Its: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th day of March, 2005 by Cynthia C. Jones, as the President of MHK OF VOLUSIA COUNTY, INC., a Florida corporation, on behalf of the corporation, and who X is personally known to me or has provided as identification.


Notary Public, State of Florida
Print Name: Brenda S. Finley
My commission expires:
Commission No.:



Brenda S. Finley
Commission #DD343029
Expires: Sep 17, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

Public Records of
St. Johns County, FL
Clerk# 04-049501
O.R. 2232 PG 509
12:35PM 06/30/2004
REC \$273.00 SUR \$17.50

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE GABLES AT WINGFIELD TOWNHOMES

THIS DOCUMENT PREPARED BY:

Thomas M. Jenks, Esq.
Pappas Metcalf Jenks & Miller, P.A.
245 Riverside Avenue - Suite 400
Jacksonville, Florida 32202

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**DECLARATION
OF
COVENANTS AND RESTRICTIONS
FOR
THE GABLES AT WINGFIELD TOWNHOMES**

THIS DECLARATION is made this 28 day of JUNE, 2004, by **MHK OF VOLUSIA COUNTY, INC.**, a Florida corporation (the "Developer"), which declares that the real property described on Exhibit A attached hereto and made a part hereof (the "Property"), which is owned by the Developer, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Developer and all parties having or acquiring any right, title or interest in the Property or any part thereof.

**ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION**

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

**ARTICLE II
DEFINITIONS**

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. The Gables at Wingfield Townhomes Owners Association, Inc., a Florida corporation not-for-profit.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which is owned by the Developer or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section 2.3 or by recording a Supplementary Declaration, pursuant to the terms of Section 5.3 hereof. The Common Area initially designated by the Developer shall consist of the real property (and interests therein) more particularly described on

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Exhibit B attached hereto and made a part hereof together with all improvements constructed therein by Developer, but not owned or maintained by a public or private utility company.

Section 2.4 **Developer.** MHK of Volusia County, Inc. and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to MHK of Volusia County, Inc. as the Developer of the Property is not intended and shall not be construed, to impose upon MHK of Volusia County, Inc. any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from MHK of Volusia County, Inc. and develop and resell the same.

Section 2.5 **Limited Common Area.** The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) and between the rear Lot line and the nearest shore line of any lake contiguous to or within forty (40) feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a limited common area shall be determined by the Board of Directors of the Association.

Section 2.6 **Lot.** Any platted Lot or any other parcel of real property located within the Property, on which one or more residential dwellings have been or could be constructed.

Section 2.7 **Owner.** The record owner or owners of any Lot.

Section 2.8 **Property or Subdivision.** The real property described on the attached Exhibit A and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.9 **Surface Water or Stormwater Management System.** A system which is designed and constructed or implemented within the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C. or regulations of similar import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area.

Section 2.10 **Unit.** A single family townhome dwelling located on a Lot as part of a multifamily building.

Section 2.11 **The Work.** The initial development of all or any portion of the Property as a residential community by the construction and installation of streets, buildings, and other improvements, and the sale, lease, or other disposition of the Property in parcels. Such term is to be {00079881.DOC.4}

broadly construed to include any and all activities, uses, structures, and improvements necessary, convenient, or desirable to accomplish such construction and disposition.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 **No Implied Extension of Covenants.** Each Owner and each tenant of any improvements constructed on any Lot, by becoming an Owner or tenant, shall be deemed to have agreed that (a) the Property described on Exhibit A and such additional property as may be annexed pursuant to Section 3.2 hereof shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 **Additional Lands.** Developer may, but shall not be obligated to, subject additional land to this Declaration from time to time provided only that (a) any additional land subjected to this Declaration shall be located within the development area generally known as Wingfield Glen; and (b) the Owners of property within additional lands made subject to this Declaration shall be and become subject to this Declaration, and shall be responsible for their pro rata share of common expenses for which assessments may be levied pursuant to the terms of the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3.3 **Withdrawal of Lands.** The Developer reserves the right to withdraw at any time, or from time to time, portions of the Property owned by it from the terms and effect of this Declaration, without the consent or joinder of any other party. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS

Section 4.1 **Membership.** Every Owner of a Lot is a member of the Association. An Owner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot whereupon the membership of the previous Owner automatically terminates. Except for the Developer, no person other than an Owner may be a member of the Association, and a

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membership in the Association may not be transferred or encumbered except by the transfer of title to a Lot.

Section 4.2 **Classification.** The Association has two classes of voting membership:

(a) **Class A.** So long as there is Class B membership, Class A members are all Owners except the Developer and are entitled to one vote for each Lot owned. Upon termination of Class B membership, Class A members are all Owners, including Developer so long as Developer is an Owner.

(b) **Class B.** The Class B member is the Developer and is entitled to three (3) votes for each Class A vote. The Class B membership will cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs first: (i) when the total number of votes allocated to the Class A members equals the total number of votes allocated to the Class B member; (ii) December 31, 2009; (iii) three months after ninety percent (90%) of the Lots have been conveyed by Developer to members of the Association; or (iv) when the Developer waives in writing the Class B votes and membership.

Section 4.3 **Co-Ownership.** If more than one person holds the record title to any Lot, all such Persons are members but there may be only one vote cast with respect to such Lot. Such vote may be exercised as the co-owners determine among themselves but no split vote is permitted.

ARTICLE V **COMMON AREA RIGHTS**

Section 5.1 **Conveyance of Common Area.** Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, before the date which is ninety (90) days following the conveyance of the last Lot owned by the Developer to any party. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 5.2 **Owners' Easement of Enjoyment.** Each Owner shall have a right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

(a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility; provided however, the Common Area may not be mortgaged or conveyed free and clear of the provisions of this Declaration without the approval of Members holding two-thirds (2/3) of the total votes that are allocated to the Association's members;

(b) All provisions of this Declaration, any plat of all or any parts of the Property, governmental restrictions, including the provisions of the PUD;

(c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;

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(d) The rights of the Developer under Section 5.3 to add to or withdraw land from the Common Area;

(e) Easements, restrictions, agreements and other matters of record.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such portions of the Common Area. For example, the creation of each Owner's right to drain such Owner's Lot into the portions of the Common Area included within the Surface Water or Stormwater Management System, does not create any right of access by any Owner to such portions of the Common Area over any other Owner's Lot or other privately owned portions of the Subdivision.

Section 5.3 Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area. Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this Section 5.3, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous). For so long as the Developer shall own any Lot, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot, or materially and adversely affect access, visibility, or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of St. Johns County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.3 hereof, or subsequently designated as such by the Developer pursuant to Section 2.3 hereof and this Section 5.3, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights, or personal property owned by the Association shall be withdrawn from the Common Area pursuant to this Section 5.3, upon the Developer's written request, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 5.4 Maintenance of Common Area and Compliance with Applicable Permits. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Area and any improvements and landscaping (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Area, if any. The Association shall maintain all lakes,

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drainage areas, drainage easements, and control structures, and shall preserve and protect all designated conservation areas and littoral zones located within, adjacent, or in near proximity to the Property, in accordance with all permit requirements and conditions contained in applicable dredge fill, consumptive use, surface water permits, or any other applicable permits issued by the United States Army Corps of Engineers ("ACOE"), Florida Department of Environmental Protection ("FDEP"), St. Johns River Water Management District ("SJRWMD"), and St. Johns County, Florida and all statutes, rules, regulations and requirements pertaining to surface water management, drainage and water quality promulgated by the SJRWMD, the FDEP, and all other local, state and federal authorities having jurisdiction. The Association shall maintain those portions of the Common Area designated by applicable permit as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance of other surface water, or stormwater management capabilities as permitted by the SJRWMD. 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 SJRWMD. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 5.5 **Easement for Maintenance Purposes.** The Developer hereby grants to the Association and its successors, assigns, agents, and contractors, an easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights granted hereby, such portions of the Property shall be immediately restored to the condition that existed immediately prior to such damage or alteration by the party exercising such rights.

ARTICLE VI

PROPERTY RIGHTS AND USE RESTRICTIONS

Section 6.1 **Residential Use.** The Lots subject to this Declaration may be used for residential dwellings and associated uses, and for such other purposes as may be permitted under this Section 6.1. Such Lots may be used for model homes during the development and sale of Lots within the Property. No Lot shall be divided, subdivided or reduced in size without the prior written consent of the Developer. Assessments for common expenses attributable to any Lot which may be subdivided pursuant to this Section 6.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer.

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Section 6.2 **No Detached Buildings.** No garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the prior written consent of the Developer.

Section 6.3 **Nuisances.** Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Association's Board of Directors, whose decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of any portion of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with.

Section 6.4 **Antenna.** The installation of all aerials, antennae or satellite dishes shall be subject to the approval of the Developer in accordance with architectural criteria imposed by the Developer or the Association from time to time.

Section 6.5 **Lakes.** Only the Developer and the Association shall have the right to pump or otherwise remove any water from any lake adjacent to or near to the Subdivision for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Developer and the Association shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No gas or diesel driven boat shall be permitted to be operated on any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake (the "lake parcels") shall be maintained so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Association. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments unless and until same shall have been approved by the Developer. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Subdivision. The Association shall have the right to deny such use to any person who in the opinion of the Association may create or participate in the disturbance or nuisance on any part of the surface waters of any such lake. The use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

Section 6.6 **Insurance and Casualty Damages.** Each Owner shall be required to obtain and maintain in force and effect a policy of fire and other casualty insurance with coverage adequate to cover the full replacement cost of the dwelling and other improvements located on the Owner's Lot. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner shall commence reconstruction of the improvements within six (6) months from date of casualty and shall repair or rebuild such damaged or destroyed improvements in a good workmanlike manner, within a reasonable time not to exceed one year and in accordance with the provisions of this Declaration. The improvements shall be reconstructed in accordance with the original plans and specifications including color scheme, placement on Lot and materials. All debris must be removed

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immediately and the Lot shall be restored to an orderly condition within a reasonable time not to exceed sixty (60) days from the date of such damage or destruction.

Section 6.7 **Trees**. No tree or shrub, the trunk of which exceeds six (6) inches in diameter one (1) foot above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Developer.

Section 6.8 **Artificial Vegetation**. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the Developer.

Section 6.9 **Signs**. No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the Developer.

Section 6.10 **Lighting**. No lighting shall be permitted which alters the residential character of the Subdivision.

Section 6.11 **Animals**. Dogs shall be kept under control by each Owner at all times and leashed when outside the boundaries of the Owner's Lot. Animals shall be kept for the pleasure of Owners only and not for any commercial or breeding use or purposes. If, in the discretion of the Board, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot, or to take such other remedial action as the Board shall specify.

Section 6.12 **Maintenance of Driveways**. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

Section 6.13 **Reciprocal Easements**. There are hereby granted reciprocal appurtenant easements between adjacent Lots for (i) the maintenance, repair, and reconstruction of any roofs, exterior walls or party walls, as provided in this Declaration for the benefit of those persons, including the Association, responsible for or permitted to perform such maintenance, repair and reconstruction; (ii) lateral and subjacent support; (iii) overhanging roofs, eaves, pull-off parking spaces and sidewalks (and the use thereof for permitted parking purposes and pedestrian access respectively), and for maintenance thereof and trees, if any, installed by Developer as part of the Work, and their replacements; (iv) encroachments caused by the placement, settling, or shifting of any improvements constructed, reconstructed, or altered thereon in accordance with the provisions of this Declaration; (v) common water, sewer, electrical, telephone, and other utility lines providing utility service to adjacent Lots and for maintenance and repair of such utility lines and (vi) the drainage of ground and surface waters in the manner established by Developer as part of the Work. To the extent not inconsistent with this Declaration, the general rules of law apply to the foregoing easements. The extent of such easements for maintenance, drainage, support, and overhangs is that reasonably necessary to effectuate their respective purposes of and such easements for encroachment {00079881.DOC.4}

extend to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point. There is no easement for overhangs or encroachments caused by the willful or intentional misconduct of any Owner. There are also reciprocal appurtenant easements between Lots for the installation, maintenance, repair, and replacement of any utility installations (including any television, radio cables or utility metering devices and appurtenances) servicing more than one Lot but such easements must be exercised in a reasonable manner so as not to cause any permanent, material injury to any Lot, and entry into any improvement upon a Lot is authorized only with the consent of its Owner and occupant, which consent may not be unreasonably withheld so long as such entry is at a reasonable time, in a reasonable manner, and upon reasonable prior notice whenever circumstances permit.

Section 6.14 **Side and Rear Lot Line Easements.** As the nature of townhouse development necessitates the entry onto adjacent Lots for the purpose of maintaining residences and landscaping improvements, each Owner, by acceptance of his deed, grants to each adjacent abutting Lot Owner, as to the side of each Lot and rear of interior Lots, and the Association an easement for ingress and egress over his Lot where necessary or desirable to permit the maintenance and repair of the Unit upon such adjacent Lot to the landscaping improvements upon the adjacent Lot.

Section 6.15 **All Rights and Easements Appurtenant.** The benefit of all rights and easements granted by this Article constitute a permanent appurtenance to, and pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as nonexclusive by this Article, its benefit nevertheless is exclusive to all Lots granted such benefit by this Article, unless this Article expressly grants such benefit to additional Persons. In no event does the benefit of any such easement extend to the general public.

Section 6.16 **Utility and Drainage Easements.** The Developer hereby reserves for the benefit of itself and utility companies designated by Developer to service the Property, easements over, upon and under the Property for the purposes described in this Section 6.16. The Developer shall have the unrestricted right, without the approval or joinder of any other person or entity, to designate the use and to alienate, release or otherwise assign the easements reserved hereby, except to the extent such easements have been dedicated to governmental authorities or public utility companies. These easements may be used to construct, maintain and operate water mains, drainage ditches, sewer lines and other suitable installations for drainage and sewage disposal, and for the installation, maintenance, transmission and use of electricity, gas, telephone, water and other utilities, provided such use of these easements shall not unreasonably interfere with continued use and occupancy of any Unit by an Owner.

Section 6.17 **Parking Restrictions.** Unless and until the Association promulgates rules and regulations expressly authorizing the parking, storage, keeping, repair, or restoration of boats, trailers, or additional vehicles, no vehicle, boat, or trailer may be parked, stored, kept, repaired, or restored anywhere within the property except functional passenger automobiles, vans, motorcycles, and trucks of one-half ton capacity or less (collectively, "Permitted Vehicles"). No Owner or occupant of any Lot, nor any guest or invitee of the Owner or occupant of any Lot, may regularly park a Permitted Vehicle anywhere within the Property except within the driveway or the pull-off parking space constructed on Lots as a part of the work. The foregoing shall not be deemed to prohibit guests or invitees of an Owner or occupant of a Lot from parking in the streets located on the Property while visiting such Owner or occupant, provided that normal traffic flow is not

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impeded. The Association may enforce the foregoing restrictions in any lawful manner, including the imposition of reasonable, uniform fines for willful or repeated violations. Nothing in this paragraph prohibits the emergency repair or servicing of Permitted Vehicles, so long as such repair or servicing is completed within 48 hours.

Section 6.18 **Unit and Lot Restrictions.** Following completion of the Work, an Owner may not cause or permit any alteration or modification to be made to the structural components, roof, or exterior appearance of his Unit (except as authorized or required by this Declaration), including without limitation, the installation of window air conditioners, nor make any additions to the exterior of his Unit without the prior written approval of the Association, except that an Owner shall replace broken windows and doors with windows or doors of the same style and equal or greater quality as originally installed as part of the Work. Since the routine landscaping maintenance for the Lot shall be the responsibility of the Association, no material modifications shall be made to the landscaping plan established by the Developer without the prior written approval of the Association.

Section 6.19 **Use of Lots.** Each Lot shall be improved and used for single family residential purposes only and no trade, business, or profession of any kind may be conducted in, on, or from any Lot. Notwithstanding the foregoing, the letting, renting, or leasing of Lots does not constitute a trade of business prohibited by this Article.

Section 6.20 **Front Yard Restrictions.** Within the area of each Lot between the front lot line and the exterior front wall of the building in which the Unit is located (the "Front Yard"), no fence, walls, storage areas, or structures of any type may be erected, except a mailbox, the size, location, design and type of which have been approved by the Association and driveways installed as part of the Work. No additional parking spaces shall be constructed nor any other area used as a parking space within a Front Yard.

Section 6.21 **Rear Yard Restrictions.** The area of each lot between the rear lot line and the exterior rear wall of the building in which the Unit is located (the "Rear Yard") is subject in all respects to the same restrictions as the Front Yard, and the following restrictions:

(a) Except fences, walls and structures constructed as part of the Work, no fence, walls, storage areas or structures of any type may be erected in any Rear Yard, without the prior approval of the Association pursuant to Article X hereof.

(b) No fence, wall or hedge may exceed six (6) feet in height. No chain link, barbed wire or other forms of wire or steel fences are permitted. All fences must be constructed and painted or stained in a manner compatible with the Work, as determined in the sole discretion of the Association, and must be maintained to preserve harmony with the Work and an attractive appearance from the exterior of each Lot. It is the intention of the Association to select one or more fence type(s) compatible with the Work and to require uniform use of these fence type(s).

Section 6.22 **Side Yard Restrictions.** The area of each Lot, if any, between the side lot line and the exterior side wall of the building in which the Unit is located and bounded by the extensions of the front and rear walls of the Unit (the "Side Yard") is subject in all respects to the same restrictions as the Rear Yard.

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Section 6.23 **Rubbish.** Except for regular collection and disposal, no rubbish, trash, garbage, or other waste material or accumulations shall be kept, stored, or permitted anywhere within the Property, except inside the Unit on each Lot, or in sanitary containers concealed from view, and in accordance with the Association's rules and regulations, if any.

Section 6.24 **Reservation of Right to Release Restrictions.** In addition to the easement rights granted by this Declaration, in each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon any Lot boundary or easement area, Developer reserves for itself the right to release the Lot from the encroachment and to grant an exception to permit the encroachment by the structure over the Lot line, or in the easement area without the consent or joinder of any person, irrespective of who owns the burdened Lot or easement area, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and the overall appearance of the Property. Upon the granting of such a release to an Owner, copies of such grants shall be forwarded to adjacent Owners and shall be binding upon all subsequent Owners of each of the affected Lots.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 7.1 **Landscaping and Yard Maintenance.** The Association shall provide routine maintenance of building surfaces, roofs, gutters and landscaping for each Lot in a manner and with such frequency as is consistent with good property management, the cost of which shall be included in the Annual Assessments described in Article VIII hereof. Such maintenance shall include maintenance and care of exterior building surfaces (which shall be limited to painting, caulking, cleaning and replacement as necessary), roofs (including re-roofing as necessary), gutters, trees, shrubs, grass, and other landscaped areas lying within each Lot. Such maintenance shall not include any items not specifically mentioned herein, including, without limitation, doors, glass surfaces on doors, windows, shutters, screens and screen doors, door and window fixtures, and fences. Further, the Association shall have no obligation to maintain any yard area within a Lot that is enclosed by any fence, wall or similar structure or landscaping designed to restrict access to such portion of the Lot. Except as otherwise provided in Article IX hereof, nothing contained herein shall require the Association to perform any maintenance, repair or restoration due to fire or other casualty occurring to any Unit or on any Lot.

Section 7.2 **Services.** The Association may obtain and pay for the services of any person or entity to manage its affairs to the extent it deems advisable and may contract for such other personnel as the Association determines are necessary, convenient, or desirable for the proper operation of the Property or the performance of the Association's responsibilities hereunder, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. Without limitation, the Association may obtain and pay for legal and accounting services necessary, convenient, or desirable in connection with the operation of the Property or the enforcement of this Declaration or the Association's Articles, Bylaws or rules and regulations. The Association may contract with others to furnish trash collection, insurance coverage, building maintenance, or other services or materials, to all of the Lots. Nothing herein shall be deemed to require the Association to provide such services.

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Section 7.3 **Personal Property.** The Association may acquire, hold, and dispose of tangible and intangible personal property, subject to such restrictions as from time to time may be contained in the Association's Articles and Bylaws.

Section 7.4 **Rules and Regulations.** The Association from time to time may adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of the Lots and any Common Area, or any combination, so long as such rules and regulations are consistent with the rights and duties established by this Declaration, the Articles and Bylaws as they from time to time may be amended. The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The rules and regulations initially shall be promulgated by the Board of Directors and may be amended by a majority vote of the Board of Directors, provided that no rule, regulation, decision, or other action that reasonably may have the effect of waiving, lessening, impairing, or otherwise interfering with the scope or enforcement, or both, of any restriction imposed upon the property by this Declaration shall be effective.

Section 7.5 **Implied Rights.** The Association may exercise any other right, power, or privilege given to it expressly by this Declaration, the Articles or Bylaws and every other right, power, or privilege so granted or reasonably necessary, convenient, or desirable to effectuate the exercise of any right, power, or privilege so granted.

Section 7.6 **Access by Association.** The Association has a right of entry onto the exterior of each Lot located thereon to the extent reasonably necessary to discharge its rights of exterior maintenance, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever circumstances permit. Entry into a Unit may not be made without the consent of its Owner or occupant, except pursuant to court order or other authority granted by law except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage to the Common Area or any Unit. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right of exterior maintenance if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees, contractors, and managers, and by the agents, or employees of any such contractor or manager.

Section 7.7 **Termite and Pest Protection.** The Association shall annually cause each Unit to be inspected by a certified pest control operator for termites and other wood destroying insects, and shall maintain a termite and wood destroying insect repair and treatment bond with respect to each Unit. The Association shall provide each Owner with a copy of each annual inspection and evidence that the bond is in full force and effect. The cost of these services shall be included in the Annual Assessments described in Article VII hereof.

ARTICLE VIII
COVENANTS FOR ASSESSMENTS

Section 8.1 **Assessments Established.** For each Lot owned within the Property, Developer covenants, and each Owner of any Lot by acceptance of a deed or other conveyance of record title to such Lot, whether or not it is so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments, as defined in Section 8.2 of this Article;
- (b) Special assessments, as defined in Section 8.4 of this Article;
- (c) Specific assessments against any particular Lot that is established pursuant to any provisions of this Declaration; and
- (d) All excise or sales taxes, if any, that from time to time may be imposed upon all or any portion of the assessments authorized by this Declaration.

All of the foregoing, together with interest and all costs and expenses of collection, including reasonable attorneys' fees for pretrial preparation, trial and appeal, are a continuing charge on the land secured by a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest and all costs and expenses of collection, including reasonable attorneys fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment fell due. Such personal obligation for delinquent assessments does not pass to an Owner's successors in title, however, unless assumed expressly in writing.

Section 8.2 **Purpose of Assessments.** The annual assessments ("Annual Assessments") levied by the Association must be used exclusively to promote the recreation, health, safety, and welfare of the residents and occupants within the Property and for the operation, management, maintenance, and repair of the landscaping improvements as described herein attributable to all Lots. To effectuate the foregoing, the Association shall levy an Annual Assessment and shall maintain adequate reserves to provide and be used for:

- (a) to the extent Common Area is conveyed to the Association, the operation, management, maintenance, repair, servicing, renewal, replacement, and improvement of the property, services, and facilities related to the use and enjoyment of the Common Area, including the payment of taxes and insurance on the Common Area and the cost of labor, equipment, materials, management, and supervision thereof;
- (b) to provide common landscaping maintenance, the termite bond and other services described in Article VII hereof; and
- (c) all general activities and expenses of the Association incurred in the administration of the powers and duties granted hereunder and pursuant to law.

The maintenance responsibilities of the Association payable through assessment of the Owners shall specifically include, but not be limited to, the perpetual maintenance of all retention ponds, drainage swales and other drainage and stormwater management improvements lying within the Property, and all other such improvements constituting a part of the Surface Water or Stormwater Management

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System permitted by the St. Johns River Water Management District under Permit No. 40-109-87712-2 (the "Surface Water Permit") including operation, sampling, testing and maintenance of monitoring wells as required by the Surface Water Permit.

Section 8.3 Amount.

(a) Until December 31 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be _____ and No/100 Dollars (\$_____) per Lot. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(b) Commencing with the fiscal year beginning January 1 of the year immediately following the conveyance of the first Lot to an Owner and each year thereafter, the Board of Directors, at its annual meeting next preceding such date, and each respective January 1 thereafter, may set the amount of the maximum Annual Assessment for the following year for each Lot, provided that the maximum annual assessment may not be increased more than ten percent (10%) above the maximum Annual Assessment for the previous year unless otherwise approved by a unanimous vote of the Board of Directors.

(c) The amount of the Annual Assessment shall be fixed by the Board of Directors at least 30 days before the beginning of each fiscal year and shall be payable in one or more installments as determined by the Board of Directors without interest so long as not more than fifteen (15) days delinquent. Written notice of such assessment shall be given to every Owner; but the failure to give such notice will not invalidate any otherwise proper assessment. In the absence of Board action to the contrary at least 30 days before the beginning of any fiscal year, the Annual Assessment then in effect will continue for such fiscal year.

Section 8.4 Special Assessments for Capital Improvements. In addition to the Annual Assessment, the Association may levy in any assessment year a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any purchase of additional real property for the use and benefit of Owners, or construction, reconstruction, maintenance, renewal, repair, or replacement of personal property or capital improvements within the Property; provided that such assessment is approved the Board of Directors.

Section 8.5 Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration, the Articles or Bylaws, including any indemnity, or by contract express or implied, or because of any act or omission of any Owner or occupant of such Owner's Lot or arising by reason of any Owner's failure to properly maintain the exterior of his Unit, or failure to maintain adequate insurance as required herein, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay it when due and such default continues for thirty (30) days after written notice.

Section 8.6 Commencement of Annual Assessment. Annual Assessments shall commence as to all Lots within the Property on the first day of the month following the recording of the first deed of a Unit from the Developer to an Owner other than Developer. The first Annual Assessment against any Lot shall be prorated according to the number of months then remaining in the fiscal year. The Association shall furnish to any interested person a certificate signed by an

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officer of the Association setting forth whether the Annual Assessment against a specific Lot has been paid and, if not, its unpaid balance. To defray its costs, the Association may impose a reasonable, uniform charge for issuing such certificates. A properly executed certificate of the Association as to the status of assessments on a Lot is binding on the Association as of the date of issuance. Annual Assessments and all other assessments against a Lot shall be collected monthly, quarterly or annually as determined by the Board of Directors.

Section 8.7 **Lien for Assessment.** All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any first mortgage held by an institutional lender ("First Mortgage") encumbering such Lot. Except for liens for all sums secured by such First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Declaration, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority. The Association may, but is not required to, record a notice of lien to further evidence the lien established by this Declaration as to any Lot against which the Annual Assessment is more than thirty (30) days delinquent.

Section 8.8 **Remedies of the Association.** Any assessment not paid within thirty (30) days after its due date bears interest at the rate of eighteen (18%) per annum, not to exceed the maximum rate from time to time permitted under the laws of the State of Florida. The Association may bring an action at law against any Owner personally obligated to pay such assessment, or foreclose its lien against such Owner's Lot. No Owner may waive or otherwise escape liability for the Association's assessments by non-use of the Common Area, or common services provided by the Association or by abandonment of such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien, or its priority.

Section 8.9 **Foreclosure.** The liens for sums assessed pursuant to this Article may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees for pretrial preparation, trial and appeal. All such costs and expenses are secured by the lien foreclosed. Such Owner also is required to pay to the Association any assessments against the Lot that become due during the period of foreclosure, which also are secured by the lien foreclosed and shall be accounted and paid as of the date the Owner's title is divested for foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding or conveyance in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as an owner, but for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner or such deficiency, in its sound judicial discretion.

Section 8.10 **Homesteads.** By acceptance of a deed or other conveyance of title to any Lot, the Owner of each Lot is deemed to acknowledge conclusively that the Annual Assessment

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established by this Article is for the improving and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 8.11 **Subordination of Lien**. The lien for the assessments provided in this Article is subordinate to the lien of any First Mortgage. Sale or transfer of any Lot does not affect the assessment lien, except that the sale or transfer pursuant to a mortgage foreclosure or any proceeding or conveyance in lieu thereof, extinguishes the assessment lien as to payment that becomes due before such sale or transfer. No such sale or transfer relieves such Lot from liability for assessment thereafter becoming due, or from the Association's lien. The Association shall report to the holder of any First Mortgage encumbering a Lot, any assessments remaining unpaid for more than 30 days and shall give such holder thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against such Lot, provided such First Mortgage holder has previously given the Association written notice of its mortgage, designating the Lot encumbered by a proper legal description and stating the address to which notices shall be given.

Section 8.12 **Developer's Assessments**. Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) the Lots and other portions of the Property owned by the Developer shall not be subject to any assessments of any description levied by the Association or to any lien for such assessments. During the Development Period, and in lieu of payment of any assessments to the Association, the Developer shall pay the balance of the actual operating expenses of the Association (excluding the cost of funding deferred maintenance and reserve accounts) remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board of Directors pursuant to this Declaration. The Developer shall be obligated to fund such balance only as the expenses are actually incurred by the Association during the Development Period. The Development Period shall begin upon the conveyance of the first Lot in the Property to an Owner other than the Developer and shall continue until the Developer shall notify the Association that it will no longer pay for operating deficits of the Association. Upon termination of the Developer's agreement to pay operating deficits, the Developer shall become obligated to pay assessments on Lots owned by it within the Property on the same basis as other Owners. In no event shall the Developer be obligated to pay for operating deficits of the Association after the Developer no longer owns any Lots within the Property.

ARTICLE IX **OBLIGATIONS OF OWNERS**

Section 9.1 **Exterior Unit Maintenance and Alterations**. Subject to the provisions of Section 7.1 of this Declaration, each Owner shall, at his expense, maintain, repair and replace all portions of the exterior of his Unit, including without limitation the roof, gutters, downspouts and exterior building surfaces and their replacements, all glass surfaces and screening, doors, electric and plumbing equipment, air conditioner and heating units, parking areas and any other equipment, structures, improvements, additions, or attachments, located on the Lot by Owner or installed by Developer as part of the Work. The foregoing obligation includes any maintenance, repair, or replacement required because of the occurrence of any fire, wind, vandalism, theft, or other casualty. All maintenance and repair shall be performed by each Owner at regular intervals as shall be necessary to keep his Lot and Unit in an attractive condition and in substantially the same condition and appearance as existed at the time of completion of the work, subject to normal wear and tear that

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cannot be avoided by normal maintenance. As to maintenance items requiring normal periodic maintenance, such as painting and staining, all Owners within a building shall perform such maintenance at substantially the same time, except to the extent more frequent maintenance or portions of a building may be required due to exposure to the sun or other conditions causing accelerated weathering. Each Owner shall promptly perform any maintenance or repair requested to prevent any damage or loss to other Lots or Units and shall be liable to all loss or damage sustained by other Owners or the Association caused by reason of his failure to promptly perform such maintenance and repair following written notice to such Owner specifying the items of maintenance or repair. If any Owner refuses to fails to timely maintain, repair, or replace, as the case may be, any exterior portion of his Lot or Unit after fifteen (15) days prior written notice from the Association specifying the required maintenance or repair items, then the Association may maintain, repair, or replace the portion of the Lot or Unit specified in the notice from the Association at such Owner's expense and the cost thereof shall be specifically assessed against such Owner's Lot as provided in Article VIII of this Declaration.

Section 9.2 **Alterations.** Owner may not cause or permit any material alteration in the exterior appearance of their Lots and Units, including the color of exterior surfaces of the Unit, without the prior written approval of the Association. Owners shall use only roof material, paint, and stain colors approved by the Association when performing repair and maintenance, or when repainting or staining the exterior of their Units.

Section 9.3 **Insurance and Casualties.** The following insurance requirements and provisions for casualties shall apply to each of the Units:

(a) Each Owner shall keep his Unit insured to the maximum insurable replacement value, excluding foundation and excavation costs against loss or damage by fire or other hazards covered by a standard extended coverage endorsement and such other risks as from time to time are customarily covered with respect to improvements similar in construction, location and use as his Unit. Each Owner shall provide the Association with a certificate of insurance within fifteen (15) days of the issuance of the policy and within fifteen (15) days of each renewal thereof. Failure of an Owner to carry the insurance required herein shall permit the Association, following ten (10) days notice to the Owner, to obtain the required insurance coverage and to specifically assess the Owner for the cost thereof, including a reasonable fee for placing the insurance. An Owner may join with other Owners of Units within his building to purchase one insurance policy covering the entire building, or may authorize the Association to purchase insurance covering his Unit and other Units in the Property, provided however, nothing herein shall be deemed to require the Association to provide such service.

(b) Such policies shall provide that insurance proceeds payable on account of loss of, or damage to a Unit shall be payable solely to the owner's mortgagee, if any, and the Owner except in the case of damage to more than one (1) contiguous unit(s) in which case the damage shall be adjusted with the carrier by the Association and the proceeds shall be payable to the Association, as trustee for the Owner(s) of the Units damaged and the Owner's mortgagee, if any. Such insurance proceeds shall be applied to repair or restoration of the Property as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled by the carrier without first giving the Association, and Unit mortgagee, if any, ten (10) days written notice of cancellation. All such policies shall contain, if obtainable without an increase in cost, a waiver of the right of subrogation

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against any Lot Owner, members of the Lot Owners family, the Association, its officers, agents and employees, as well as a waiver of the pro rata clause and no other insurance clause.

(c) In the event of damage or destruction by fire or other casualty to any portion of the Property covered by insurance payable to the Association as trustee for the Owners, the Board of Directors shall, with the concurrence of applicable holders of First Mortgages, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as existed immediately prior to the casualty. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance and payment bond for the repair, construction or rebuilding of such building or buildings. In the event that insurance proceeds are insufficient to pay all the costs of so repairing or rebuilding the affected buildings, the Board of Directors shall levy a special assessment for the deficiency amount against all Owners of the damaged Units in such proportions as the Board of Directors shall deem fair and equitable. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners in such proportion as the Board of Directors deem fair and equitable in the light of the damage sustained by such residences. Such payments shall be made to all such owners and their mortgagees as their interests may appear.

(d) In the event of damage or destruction to a Unit by fire or other casualty, the proceeds of which are payable to a Unit Owner and applicable mortgagee, the damaged Unit shall be repaired or restored to its pre-existing condition as soon as reasonably practical. The affected Lot shall be promptly restored to a clean and orderly condition subsequent to any such damage or destruction.

Section 9.4 **Sanitary Sewage Line.** The Association shall be responsible for maintenance of and repair to any portion of the sanitary sewer system lying within each Owner's Lot boundary from the clean out structure adjacent to each Unit (or the exterior wall of the applicable Unit if no such clean out structure exists) to the point of connection with the distribution line which is to be maintained by the utility provider. Each Owner shall be responsible for maintenance of and repair to all other portions of the sanitary sewer system lying within such Owner's Lot boundary. In the event the damage or stoppage of any portion of the sanitary sewer system which is the responsibility of the Association shall be the result of negligence of an Owner, the Association shall be entitled to charge the cost of such maintenance and repair against the negligent Owner and such charge shall constitute a lien against the applicable Lot which may be enforced and collected as provided in Article VIII hereof.

ARTICLE X **ARCHITECTURAL CONTROL**

Section 10.1 **Architectural Review and Approval.** No landscaping, improvement or structure of any kind, including without limitation, any building, fence, wall, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot or Building Site, or upon the Common Area, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same have been submitted to, and approved in writing by the

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Developer or the Developer's designee. All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other natural vegetation and as to specific conformance with architectural criteria which may be imposed from time to time by the Developer. It shall be the burden of each Owner to supply two (2) sets of completed plans and specifications to the Developer and no plan or specification shall be deemed approved unless a written approval is granted by the Developer to the Owner submitting same. The Developer shall approve or disapprove plans and specifications properly submitted within thirty (30) days of each submission. Any change or modification to an approved plan shall not be deemed approved unless a written approval is granted by the Developer to the Owner submitting same.

Section 10.2 **Review Procedures.** The Developer shall have the following rights with respect to architectural review and approval conducted in accordance with this Article :

(a) To promulgate, amend, eliminate or replace architectural criteria applicable to architectural review to be conducted by the Developer which shall be applicable to all or any portions of Wingfield Glen. Any amendment of the architectural criteria shall be consistent with the provisions of this Declaration. Notice of any amendment to the architectural criteria, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the architectural criteria shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the architectural criteria, or any amendment thereto, to be recorded.

(b) To require submission of two (2) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval pursuant to this Article. The Developer may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the Developer to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable architectural criteria.

(c) To approve or disapprove in accordance with the provisions of this Article, any improvements or structures of any kind, or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon.

(d) To adopt a schedule of reasonable fees for processing requests for architectural approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the Developer.

(e) To require each Owner to deposit a reasonable sum (the "Construction Deposit") with the Association to secure such Owner's compliance with the terms of this Declaration and all plans and specifications approved in accordance with this Article X.

(f) To assign to the Association, all or any portion of Developer's rights of architectural

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review as reserved by this Article X.

Section 10.3 **Variance**. The Developer may authorize variances from compliance with any architectural provisions of this Declaration or applicable architectural criteria when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by an authorized representative of the Developer and no such variance shall be deemed approved or otherwise implied unless and until such written evidence shall have been delivered to the applicable Owner. If such a variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance is granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot or Building Site and particular provisions of this Declaration or applicable architectural criteria covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

Section 10.4 **Assignment**. The Developer reserves the right to assign its reserved rights under this Article to the Association, who upon such assignment shall automatically assume all of the Developer's obligations under this Article. Upon such assignment, the Association shall be authorized to form an Architectural Review Board ("ARB"), who shall serve at the pleasure of the Association's Board of Directors. The ARB shall thereafter be authorized to exercise all rights of architectural control authorized by this Article.

Section 10.5 **Limited Liability**. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer as contemplated by this Article, the Developer, the ARB and the Association shall not be liable to any Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by the Developer, the ARB or the Association.

ARTICLE XI **PARTY WALLS**

Section 11.1 **General Rules of Law to Apply**. Each wall or fence built as a part of the Work upon the Property and placed on the dividing line between Lots is 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 caused by intentional, willful, or negligent acts or omissions apply.

Section 11.2 **Sharing of Repair and Maintenance**. The cost of reasonable repair, maintenance and replacement of a party wall and the foundation or footing supporting any party wall shall be shared by the Owners who make use of the wall or foundation in proportion to such use. In the event that any Owners should fail to refuse or perform or pay for any maintenance, repairs, or

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restorations as required by this Article, the adjoining party wall Owner shall have the following remedy, in addition to any other remedies provided by the laws of the State of Florida:

(a) The affected Owner may serve written demand upon the delinquent Owner, demanding that the maintenance, repairs, or restoration be made within thirty (30) days after service of the demand. The demand shall be deemed to have been served if it is hand delivered to the delinquent Owner, or mailed to the delinquent Owner at the mailing address of the Lot owned by the delinquent Owner, by certified or registered mail, postage prepaid, and deposited in the United States Mail.

(b) After expiration of the thirty (30) days following service of the demand if the delinquent Owner has failed or refused to make the demanded maintenance, repairs or restorations, the affected Owner may cause such maintenance, repairs or restorations to be made. In such event the delinquent Owner shall be indebted to the affected Owner, for the expense of the maintenance, repairs or restorations, and any damage sustained by the Unit or loss or expense incurred by the affected Owner by reason of such failure to timely maintain or restore and such affected Owner shall have a lien against the delinquent Owner's Lot for the full amount of such indebtedness, together with interest at the maximum rate allowed by the laws of the State of Florida. No lien under this provision shall be acquired until a claim of lien is recorded. The form and substance of the claim of lien shall be as similar, as practicable as that provided by the Florida Construction Lien Law. Thereafter, the rights and duties and remedies of the respective Owners shall be those as provided to an Owner and a lien claimant under the Florida Construction Lien Law, including but not limited to the rules contained in the statute for discharge of liens, duration of liens, and transfer of liens to security. No lien acquired under the provisions shall be superior to or effective against any bona fide purchaser or mortgagee who shall have acquired their interest of record prior to the recordation of a claim of lien in accordance with this provision.

Section 11.3 **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty and is not repaired by the Owner as required herein, any Owner of a Lot abutting the wall may restore it; and, if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to their use, all without prejudice to the right of any such Owner to call for larger contribution from the others under any rule of law regarding liability for negligent, willful, or intentional act or omissions.

Section 11.4 **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent, willful, or intentional act causes any other Unit or party wall to be exposed to the elements, or to infestation by termites or other injurious agencies, shall bear the whole cost of furnishing the necessary protection against such elements or agencies and of repairing all resulting damage.

Section 11.5 **Right to Contributions Runs with Land.** The right of any Owner to contribution from any other Owner under this Article is appurtenant to the Lots affected and shall pass to and bind each such Owner's successors in title.

Section 11.6 **Easement.** In the event that there shall be located within any party walls pipes, vents, outlets, or other structures having one or more Lot or Units, the Owner of each Lot so

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served shall have and enjoy a perpetual easement for the maintenance and use of any such pipe, vent, outlet or other structure.

ARTICLE XII

UTILITY PROVISIONS

Section 12.1 **Water System.** The central water supply system provided for the service of the Property shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located within the Property. Each Owner shall pay water meter charges of the supplier thereof and shall maintain and repair all portions of the water lines which are located within, or which serve, the portions of the Property owned by such Owners. No individual potable water supply system or well for consumptive purposes shall be permitted on any Lot, without the prior written consent of the Association.

Section 12.2 **Sewage System.** The central sewage system provided for the service of the Property shall be used as the sole sewage system for all buildings and improvements located within the Property. Each Owner shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal services made by the operator thereof. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within the Property.

Section 12.3 **Solid Waste Recycling.** Each Owner shall participate in any available solid waste recycling program instituted by the Developer, St. Johns County, Florida, or the solid waste collection provider. Solid waste collection receptacle pads constructed within the Property shall be designed so as to include space for recycling bins compatible with the applicable recycling program collection equipment.

Section 12.4 **Utility Services.** It shall be the responsibility of each Owner to make direct arrangements with the suppliers of electricity, water, sewer, and any other utility services for service to the portions of the Property owned by such Owner.

Section 12.5 **Cable Television, Radio or Other Communication Lines.** The Developer reserves for itself, and its successors and assigns, a perpetual, exclusive easement for the installation, maintenance and operation of cables for the transmission of cable television, radio, or other electronic communications of any form, on, in, and over (i) any area designated as an easement, private street, or right of way on any plat of all or any portion of the Property, and (ii) any portion of the Common Area. All cables located within the Property shall be installed and maintained underground. For purposes of this Section, the term "cables" shall include without limitation, all wire, coaxial, fiber optic, or other cable types intended for the transmission of electronic communications.

ARTICLE XIII

NOTICE OF PERMIT REQUIREMENTS

Section 13.1 **Jurisdictional Areas and Permits.** THE PROPERTY HAS BEEN OR
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WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF PERMIT NUMBER 199700166 ISSUED BY THE ACOE AND PERMIT NUMBER 40-109-87712-2, ISSUED BY THE SJRWMD (THE "PERMITS"), AS SUCH PERMITS MAY BE AMENDED FROM TIME TO TIME. THE PERMITS ARE OR WILL BE OWNED BY THE ASSOCIATION AND THE ASSOCIATION HAS THE OBLIGATION TO ASSURE THAT ALL TERMS AND CONDITIONS THEREOF ARE ENFORCED. THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING AN ACTION, AT LAW OR IN EQUITY, AGAINST ANY OWNER VIOLATING ANY PROVISION OF THE PERMITS.

FURTHER, ANY OWNER OWNING A LOT OR BUILDING SITE WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ACOE OR SJRWMD OR BY ANY APPLICABLE CONSERVATION EASEMENT SHALL BY ACCEPTANCE OF TITLE TO THE LOT OR BUILDING SITE, BE DEEMED TO HAVE ASSUMED THE OBLIGATION TO COMPLY WITH THE REQUIREMENTS OF THE PERMITS AS THE SAME RELATE TO SUCH OWNER'S LOT OR BUILDING SITE AND SHALL AGREE TO MAINTAIN SUCH JURISDICTIONAL WETLANDS AND CONSERVATION AREAS IN THE CONDITION REQUIRED UNDER THE PERMITS. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE PERMITS AND FOR ANY REASON THE DEVELOPER, THE ASSOCIATION IS CITED THEREFORE, THE OWNER AGREES TO INDEMNIFY AND HOLD THE DEVELOPER AND THE ASSOCIATION HARMLESS FROM ALL COSTS ARISING IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION ALL COST AND ATTORNEYS' FEES, AS WELL AS ALL COSTS OF CURING SUCH VIOLATION. NO PERSON SHALL ALTER THE DRAINAGE FLOW OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM OR ANY PORTION OF THE JURISDICTIONAL WETLANDS OR CONSERVATION AREAS, INCLUDING WITHOUT LIMITATION, ANY BUFFER AREAS, SWALES, TREATMENT BERMS OR SWALES, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SJRWMD OR ACOE, AS APPLICABLE.

ARTICLE XIV **GENERAL PROVISIONS**

Section 141 Remedies for Violations.

14.1.1 If any Owner or other person shall violate or attempt to violate any of the covenants or restrictions herein set forth, it shall be lawful for the Association, the Developer or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant; or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. The ACOE and the SJRWMD 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 and/or jurisdictional wetlands or conservation areas subject to the control of the ACOE or SJRWMD. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys fees for pre-trial

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preparation, trial, and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration, or by law.

14.1.2 In addition to all other remedies, and to the maximum extent allowed by law, the Association may impose a fine or fines against an Owner for failure of an Owner or his guests or invitees to comply with any covenant, restriction, rule or regulation enforceable by the Association, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Enforcement Committee (as defined below) at which time the Owner shall present reasons why a fine should not be imposed. At least fourteen (14) days' prior notice of such meeting shall be given.

(b) Enforcement Committee: The Board of Directors shall appoint an Enforcement Committee to perform the functions given it under this Section. The Enforcement Committee shall consist of at least three (3) Members who are not officers, directors or employees of the Association or the spouse, parent, child, brother or sister of such an officer, director or employee. The Enforcement Committee may impose fines only upon a majority vote thereof.

(c) Hearing: The alleged non-compliance shall be presented to the Enforcement Committee at a meeting at which it shall hear reasons why a fine should not be imposed. A written decision of the Enforcement Committee shall be submitted to the Owner by not later than twenty-one (21) days after the meeting.

(d) Amounts: The Enforcement Committee (if its findings are made against the Owner) may impose special assessments in the form of fines against the Lot owned by the Owner. A fine not to exceed the maximum amount allowed by law may be imposed for each violation. A fine may be imposed on the basis of each day of a continuing violation with a single notice and opportunity for hearing, however, no such fine shall exceed the maximum aggregate amount allowed by law for a continuing violation.

(e) Payment of Fines: Fines shall be paid not later than fourteen (14) days after notice of the imposition or assessment of the penalties.

(f) Collection of Fines: Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth elsewhere in this Declaration.

(g) Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.

(h) Non-exclusive Remedy: The imposition of fines authorized by this Section shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against any damages which the

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Association may otherwise be entitled to recover by law from such Owner.

Section 14.2 **Severability**. Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 14.3 **Additional Restrictions**. No Owner, without the prior written consent of the Developer, may impose any additional covenants or restrictions on any part of the Property, but the Developer may include in any contract or deed hereafter made and covering all or any part of the Property, any additional covenants or restrictions applicable to the Property so covered which are not inconsistent with and which do not lower standards established by this Declaration.

Section 14.4 **Titles**. The addition of titles to the various sections of this Declaration are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 14.5 **Termination or Amendment**. The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association, and their respective successors and assigns for a period of fifty (50) years, and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Owners holding two-thirds (2/3) or more of the total votes of the Association may alter, amend or terminate these covenants provided, however, that so long as the Developer owns any land within the Property or owns any property contiguous to the Property, no such termination or amendment shall be effective without the written consent and joinder of the Developer. Further, until such time as the Developer shall not own any lands subject to this Declaration, the Developer shall have the unilateral right to amend this Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot or other building parcel located within the Property. Any such amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the current public records of St. Johns County, Florida.

Section 14.6 **Conflict or Ambiguity in Documents**. To the extent of any conflict, ambiguity, or inconsistency between this Declaration, the Articles, or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 14.7 **Usage**. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 14.8 **Effective Date**. This Declaration shall become effective upon its recordation in the public records of St. Johns County, Florida.

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IN WITNESS WHEREOF, the Developer has caused this instrument to be executed under seal this 28 day of JUNE 2004.

Signed, sealed and delivered
in the presence of:

James A. Hagan
(Print Name)
Trish L. Mohr
(Print Name)

MHK OF VOLUSIA COUNTY, INC., a
Florida corporation

By: Charlene B. Irland
(Print Name)
Title: Vice President

STATE OF FLORIDA)
COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me this 28 day of JUNE, 2004, by CHARLENE B. IRLAND, the VICE PRESIDENT of MHK OF VOLUSIA COUNTY, INC., a Florida corporation, on behalf of the corporation.

Trish L. Mohr
(Print Name Trish L. Mohr)
NOTARY PUBLIC, State of Florida at Large
Commission # _____
My Commission Expires:
Personally Known
or Produced I.D. _____
[check one of the above]

Type of Identification Produced

Exhibit A – Property
Exhibit B – Common Area



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EXHIBIT A

Legal Description of the Property

The Commons at Wingfield Glen Unit One, according to the plat thereof recorded in Map Book 50, Page 25 through 30, of the public records of St. Johns County, Florida

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EXHIBIT B

Common Area

Tracts C-1, C-2, C-3, P-1, R-1, S-1, and SL-1 of the Commons at Wingfield Glen Unit One, according to the plat thereof recorded in Map Book 50, pages 25 through 30, of the public records of St. Johns County, Florida.

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CONSENT AND JOINDER OF MORTGAGEE

BRANCH BANKING & TRUST COMPANY, N.A. ("Mortgagee") is the holder of that certain Real Estate Mortgage ("Mortgage") recorded in Official Records Book 1899, at page 1410 of the public records of St. Johns County, Florida. Mortgagee joins in the foregoing Declaration of Covenants and Restrictions for The Gables at Wingfield Glen Townhomes to which this Consent is attached ("Declaration") to evidence its consent and joinder to the provisions of the Declaration and its agreement that its security interest as evidenced by the Mortgage shall be subordinated thereto.

Signed, sealed and delivered
delivered in the presence of:

BRANCH BANKING & TRUST COMPANY, N.A.,

Jean E. Oliver
Richard H. Cam

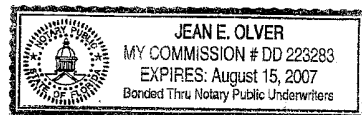
By: *Carl T. McFarland*
Carl T. McFarland
Its: Senior Vice President

STATE OF FLORIDA)
)ss
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this 26th day of JUNE, 2004, by CARL T. MCFARLAND the SENIOR VP of **BRANCH BANKING & TRUST COMPANY, N.A.**, on behalf of the BANK. He/She is personally known to me or has produced _____ as identification.

Jean E. Oliver
(Print Name JEAN E. OLVER)
NOTARY PUBLIC, State of Florida at Large.
Commission No. _____

My Commission Expires: _____



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Prepared by and return to:
Mark C. Dearing, Esq.
9456 Philips Highway, Suite 1
Jacksonville, Florida 32256

**AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
THE GABLES AT WINGFIELD TOWNHOMES**

THIS AMENDMENT is made this 10th day of March **2005**, by
MHK OF VOLUSIA COUNTY, INC., a Florida corporation, hereinafter referred to as
"Developer", who recites and provides:

RECITALS

A. Developer subjected certain lands to the terms and conditions of the Declaration of Covenants and Restrictions for The Gables at Wingfield Townhomes, dated June 28, 2004 and recorded on June 30, 2004 at Book 2232, page 509 of the official records of St. Johns County Florida (the "Declaration").

B. Developer is the owner of certain lands subject to the terms of the Declaration.

C. Pursuant to the terms of Section 14.5 of the Declaration, Developer has the unilateral right to amend the Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot or other building parcel located within the Property (as defined in the Declaration).

D. Developer desires to amend the Declaration as hereinafter provided.

E. The terms of this Amendment shall not materially or adversely affect the value of any Lot or other building parcel located within the Property (as defined in the Declaration).

NOW, THEREFORE, in consideration of the premises the Developer hereby declares:

1. All recitals hereinabove are true and correct.
2. Section 9.1 of the Declaration is hereby amended to add the following sentence at the end of said Section 9.1:

Notwithstanding the foregoing, Owners shall only be responsible for routine maintenance and upkeep of the exterior of their Unit; except as otherwise caused by any act, omission or negligence of any Owner or any of an Owner's guests, licensees or invitees, Owners shall not be responsible for any significant repair, replacement or repainting of any exterior portion

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ENV*

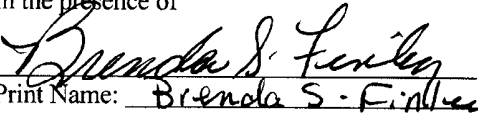
of the Unit, including but not limited to the roof, gutters, downspouts, exterior building surfaces and their replacements, electric and plumbing equipment, air conditioner and heating units, parking areas and any other equipment, structures, improvement, additions or attachments located on the Lot as installed by Developer as part of the Work. For purposes of the preceding sentence, the term "significant" shall refer to any repair, replacement or repainting in excess of One Hundred and No/100 Dollars (\$100.00).

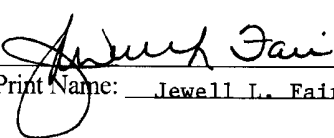
3. Except as set forth herein, all terms and conditions of the Declaration remain in full force and effect.

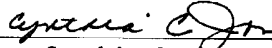
IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed in its name, the day and year first above written.

Signed, sealed and delivered
In the presence of

MHK OF VOLUSIA COUNTY, INC.



Print Name: Brenda S. Finley


Print Name: Jewell L. Fair

By: 
Print: Cynthia C. Jones
Its: President

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th day of March, 2005 by Cynthia C. Jones, as the President of MHK OF VOLUSIA COUNTY, INC., a Florida corporation, on behalf of the corporation, and who X is personally known to me or has provided as identification.


Notary Public, State of Florida
Print Name: Brenda S. Finley
My commission expires:
Commission No.:



Brenda S. Finley
Commission #DD343029
Expires: Sep 17, 2008
Bonded Thru
Atlantic Bonding Co., Inc.