

OFF. REC. 4538 G 054

DECLARATION

OF

COVENANTS, CONDITIONS, AND RESTRICTIONS -

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

RECORD VERIFIED  
James F. Taylor, Jr.  
Clerk of Circuit Court  
Hillsborough County, Fla.  
By Sandra L. Neely, D.C.

This Declaration, made on the date hereinafter set forth by General Homes-Florida, Inc., a Delaware Corporation, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of that certain property known as Eaglebrook, a subdivision in Hillsborough County, Florida, described as follows:

All property located in Eaglebrook subdivision, Hillsborough County, Florida, according to the Map or Plat thereof recorded in Plat Book 57 Page 49 of the Public Records of Hillsborough County.

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WHEREAS, Declarant desires to place certain restrictions, covenants, conditions, stipulations, and reservations upon and against Eaglebrook, in order to establish a uniform plan for the development, improvement, and sale of such subdivision, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of lots in said subdivision;

NOW, THEREFORE, Declarant hereby adopts, establishes, and imposes upon the above described property and declares the following reservations, easements, restrictions, covenants, and conditions applicable thereto, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subdivision, which reservations, easements, restrictions, covenants, and conditions shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1. "Architectural Control Committee" shall mean the Eaglebrook Architectural Control Committee, provided for in Article IV hereof.

This instrument was prepared by and should be returned to:

General Homes-Florida, Inc.  
2502 Rocky Point Drive  
Suite 900  
Tampa, Florida 33607

ATTN: LORRAINE McANALLEN

JAMES F. TAYLOR, JR.  
CLERK CIRCUIT COURT  
RECORDING DEPT.  
HILLSBOROUGH CO.  
TAMPA, FL 33601

INT TAX	SURTAX	DOC STP	REC FEE	ACC NUM	TOT DUE	REC CLK
			81.00		81.00	

SECTION 2. "Association" shall mean HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns.

SECTION 3. "Common Areas" shall mean all property owned by the Association, if any, for the common use and benefit of the Owners.

SECTION 4. "Declarant" shall mean General Homes-Florida, Inc., a Delaware corporation, and its successors and assigns, if such successors and assigns are designated in writing by Declarant as the successors and assigns of Declarant's rights hereunder.

SECTION 5. "FHA" shall mean the Federal Housing Administration.

SECTION 6. "Lot" or "Lots" shall mean all lots shown on the Plat and all lots on properties annexed to the Subdivision pursuant to this Declaration.

SECTION 7. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation and those having only an interest in the mineral estate.

SECTION 8. "Plat" shall mean the plat or plats of the Subdivision recorded in the public records of Hillsborough County, Florida, and shall include any replats of the Subdivision as permitted by this Declaration.

SECTION 9. "Subdivision" shall mean the real property described above, subject to the reservations, easements, restrictions, covenants, and conditions set forth herein and in the Plat and any additional properties which may hereafter be made subject to this Declaration pursuant to the provisions set forth herein.

SECTION 10. "VA" shall mean the Veterans Administration.

## ARTICLE II

### RESERVATIONS, EXCEPTIONS, AND DEDICATIONS

SECTION 1. Recorded Plats. The Plat subject to the limitations as set forth therein, the streets and easements shown thereon, and all dedications, limitations, restrictions, and reservations shown on the Plat is incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, conveying said Subdivision or any part thereof or any Lot or part thereof, whether specifically referred to therein or not.

Declarant shall have the right, but shall never be obligated, to resubdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the Subdivision contained within the boundaries of

the Plat and such Lots as replatted shall be subject to this Declaration as if such Lots were originally included herein. Any such replat must comply with FHA and VA requirements.

SECTION 2. Easements; Utilities. The easements and rights-of-way as shown on the Plat are reserved for public use for the purpose of constructing, maintaining, and repairing a system of roadways, drainage, water, gas, sewer, storm sewer, electric lighting, electric power, telegraph, telephone, cable television, and any other utility improvements Declarant sees fit to install in, across, or under the Subdivision. Declarant reserves the right to make changes in and additions to the above easements for the purpose of efficiently and economically installing such improvements, but the changes and additions must be approved by the FHA and VA. Neither Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by it or its assigns, its agents, employees, or servants, to fences, shrubbery, trees, or flowers, or any other property of any Owner of property subject to such easements.

All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed in underground conduits unless otherwise approved in writing by the Architectural Control Committee. In addition, no permanent improvement or structure shall be placed or erected upon any drainage easement. This includes, but is not limited to, fences, driveways, pools and decks, patios, air conditioning, any impervious surface improvements, utility sheds, sprinkler systems, trees, shrubs, hedges, plants or any other landscape element other than sod.

SECTION 3. Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Declarant to any portion of the Subdivision by contract, deed, or other conveyance shall be subject to any easement affecting the same for roadways, drainage, water, gas, sewer, storm sewer, electric lighting, electric power, telegraph, telephone, cable television, or other utility purposes. No Owner shall be deemed to separately own pipes, wires, conduits, or other utility lines or equipment running through or existing on such Owner's Lot which are utilized for or which service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance, and enjoyment of such Owner's Lot.

### ARTICLE III

#### USE RESTRICTIONS; MAINTENANCE OF LOT

SECTION 1. In General. No building shall be erected, altered, or permitted to remain on any Lot other than a detached single family dwelling, to be used exclusively for residential purposes and not exceeding two (2) stories in height. Each such dwelling on a Lot shall

have an attached garage or carport for two (2) cars, provided that the Architectural Control Committee may, in its discretion, permit in writing, as hereinafter provided, the construction of a carport or garage for more than two (2) cars. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on or standing on any Lot, or the use of any Lot for a garage apartment or apartment house; and no Lot shall be used for business or professional purposes of any kind or for any commercial or manufacturing purposes. No building of any kind shall ever be moved onto any Lot unless the prior written consent of the Architectural Control Committee has been obtained.

SECTION 2. Minimum Square Footage Within Improvements. Each dwelling in the Subdivision shall have a minimum of Seventeen Hundred (1700) square feet exclusive of open porches, garages, terraces, patios, and parking spaces.

SECTION 3. Sidewalks. A concrete sidewalk four (4) feet wide shall be constructed in accordance with plans and specifications approved by Hillsborough County along the fronts of all Lots and along the entire street sides of all corner Lots. Sidewalks along each Lot shall be constructed and completed before the dwelling thereon is occupied.

SECTION 4. Location of the Improvements on a Lot. No structure shall be located on any Lot nearer to the front line or nearer to the street side line than the minimum building setback lines as per R-1 restrictions of Hillsborough County, Florida. No dwelling or portion thereof shall be located on any Lot within any portion of a recorded easement. In addition, subject to Section 5 hereof, the following requirements shall apply:

Detached single family dwelling. In no instance shall a detached single family dwelling be located nearer than 25 feet to the front line of the Lot unless approved in writing in advance by the Architectural Control Committee. Such dwelling shall not be located on any Lot nearer than 25 feet from the rear line of the Lot. No part of such dwelling or any carport, garage, or other structure shall be located nearer than 7 1/2 feet from an interior side line of the Lot or 7 1/2 feet from any street side line of a corner Lot.

SECTION 5. Consolidation or Division of Lots. Subject to the prior written approval of the Architectural Control Committee, any Owner of one or more adjoining Lots or portions thereof may consolidate or divide such Lots or portions thereof into one or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case: the distance required as building setback lines or Maintenance Easements shall be measured from the resulting side lines rather than from the Lot lines as indicated on the

Plat, and, all setbacks shall be as per setbacks established for remaining lots in the subdivision.

**SECTION 6. Limitation on Use; Prohibition of Illegal or Offensive Activities.** No activity of any nature shall be conducted on any Lot or in any structure thereon other than the use of such Lot and all structures thereon strictly for single family residential purposes. No illegal, noxious or offensive activity of any sort shall be carried on or permitted on any Lot or in any structures thereon and nothing shall be done on any Lot or in any structure thereon which may be, or may become, an annoyance or a nuisance to the neighborhood. This restriction shall not apply to the normal sales activities by Declarant required to sell dwellings in the Subdivision and the lighting effects utilized to display model dwellings for sale.

**SECTION 7. Prohibition of Certain Structures.** No trailer, tent, shack, garage, barn, storage shed, or other similar structure shall be maintained or used on any Lot at any time as a dwelling or for any other purpose; provided, however, subject to the provisions of this Declaration, a storage shed, of the same architectural character and same materials as the dwelling on a Lot, may be maintained or used on such Lot for storage purposes if such storage shed is attached to a substantial portion of one wall of the dwelling on such Lot or if the roof of such storage shed is attached to a substantial portion of the roof of such dwelling. Notwithstanding the first sentence of this Section, Declarant shall have the exclusive right to erect, place, and maintain on any portion of the Subdivision any of the facilities listed in the first sentence of this Section as in its sole discretion Declarant deems necessary or convenient to construct and sell Lots and dwellings, and to construct other improvements in the Subdivision. Such facilities may include, but are not limited to, sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

**SECTION 8. Storage of Automobiles, Boats, Trailers, and Other Vehicles.** No motor vehicle shall be parked or stored on any Lot, easement, sidewalk, right-of-way or on any portion of the Common Areas unless such vehicle does not exceed six (6) feet six (6) inches in height, or seven (7) feet six (6) inches in width, or eighteen (18) feet in length and is concealed from public view inside a garage or other approved enclosure. The preceding sentence shall not apply to any:

- (a) passenger automobile,
- (b) passenger van (other than a motor home or recreation vehicle),
- (c) motorcycle, and
- (d) pick-up truck, whether or not with attached-bed camper, which can be completely concealed within the garage, as built, of the dwelling in

the Subdivision in which the owner of such pick-up truck resides,

if such vehicle has a current license plate, is being used daily as a motor vehicle on the streets and highways of Florida and if such vehicle does not exceed either six (6) feet six (6) inches in height, or seven (7) feet six (6) inches in width, or eighteen (18) feet in length.

No non-motorized vehicle, trailer, boat, marine craft, hovercraft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot, easement, sidewalk, right-of-way, or portion of the Common Areas, unless such object is concealed from public view inside a garage or other approved enclosure. For purposes of this paragraph, the term "approved enclosure" shall mean any fence, structure, or other improvement approved by the Architectural Control Committee.

Except as otherwise expressly provided in this Section, no commercial vehicle, machinery, or maintenance equipment shall be parked at any time within the Subdivision except for any such vehicle, machinery, or maintenance equipment temporarily parked and in use for the construction, repair, or maintenance of a Lot or dwelling of the Common Areas.

If a complaint is received by the Association about a violation of any part of this Section, the Architectural Control Committee shall determine whether a violation exists and its decision shall be binding on all parties.

**SECTION 9. Mineral Operations.** No oil or gas operations or mining operations of any kind shall be permitted on any Lot, and no wells, tanks, tunnels, mineral excavation, or shafts shall be erected, maintained, or permitted on any Lot.

**SECTION 10. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other common household pets may be kept, provided that they are not raised, bred, or kept for commercial purposes. No more than two (2) of each specie of such pets will be permitted on each Lot (including the dwelling and other structures on such Lot). Common household pets shall be confined within a fenced area which encloses the entire backyard or within the dwelling. When a pet is not within such fenced area or within the dwelling, the pet shall be kept at all times on a leash by its owner. The pet owner shall keep his or her Lot clean and free of all pet debris and shall not permit the pet to cause debris on other Lots or on the Common Area.

**SECTION 11. Walls, Fences, and Hedges.** No hedge in excess of three (3) feet in height, and no walls or fences of any height shall be erected or maintained nearer to the front line of a Lot than the plane

of the front exterior wall of the dwelling on such Lot. No side or rear hedge, wall, or fence shall be more than eight (8) feet in height with the exception of privacy walls constructed by the Declarant which may be up to twelve (12) feet in height. All fences or walls must be constructed of ornamental iron, wood, or masonry at least six (6) feet in height, and no chain link fences shall be placed on any Lot without the prior written approval of the Architectural Control Committee. No Owner shall maintain the portion of the outer wall of the Subdivision, which abuts such Owner's Lot, in a manner inconsistent with the character of such outer wall.

SECTION 12. Visual Obstruction at the Intersections of Public Streets. No object shall be placed, planted, or permitted to remain on any corner Lot if such object obstructs any portion of a person's view from any right-of-way adjacent to such Lot and within an area the vertical dimension of which extends from the ground to an elevation of eight (8) feet and the horizontal dimension of which extends twenty-five (25) feet to the left and twenty-five (25) feet to the right from the center of the intersection adjacent to such corner Lot.

SECTION 13. Lot Maintenance. The Owner and occupants of a Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner, shall edge curbs that run along the lines of the Lot, and shall in no event use any Lot for storage of materials or equipment except for normal residential purposes or incident to construction of improvements thereon as permitted herein. All fences and walls which have been erected on any Lot shall be maintained in good repair by the Owner and the occupants thereof and they shall promptly repair or replace the same in the event of partial or total destruction. The Owner or occupants of any Lot shall construct and maintain an enclosure, which has been approved by the Architectural Control Committee, to screen any of the following from being noticeable from any street, any other Lot or any portion of the Common Areas: storage piles which are incident to the normal residential requirements of a typical family, the storage of yard equipment, and the drying of clothes.

No Lot shall be used or maintained as a dumping ground for trash, garbage, or other waste materials. Trash, garbage, and other waste materials shall be kept only in closed sanitary containers constructed of metal, plastic, or masonry materials with sanitary covers tightly attached. Containers for the storage of trash, garbage, and other waste materials shall be kept in a clean and sanitary condition and shall be stored out of public view except within twelve (12) hours of scheduled curb-side pick-up times. Any other equipment in the Subdivision for the storage or disposal of trash, garbage, or other waste materials shall be kept in a clean and sanitary condition and shall be stored out of public view.

Building materials used in the construction of improvements erected on any Lot may be placed on such Lot at the time construction is commenced and may be maintained thereon, for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which the remaining materials shall either be removed from the Lot or stored in an enclosure on the Lot which has been approved by the Architectural Control Committee.

**SECTION 14. Signs.** Except for signs owned by Declarant or by other builders advertising their model dwellings during the period of original construction and sales of dwellings, no sign, poster, advertisement, billboard, or advertising structure of any kind, other than a customary "For Sale" sign not exceeding five (5) square feet, may be erected or maintained on any Lot. The Association shall have the right to remove any sign, poster, advertisement, billboard, or advertising structure that does not comply with the above, and in so doing neither the Association nor any of its agents or employees shall be liable for trespass or other tort, except for reckless or willfull misconduct in connection therewith.

**SECTION 15. Antennae and Satellite Dishes.** No radio or television antenna, satellite, or other receiving dish, or apparatus pertaining thereto, shall be erected or maintained on any portion of any Lot, roof or any structure on any Lot.

**SECTION 16. Violation of Restrictions.** In the event of violation by the Owner or occupants of any Lot of any covenant, condition, or restriction set forth in this Article and the continuation of such violation for ten (10) days or longer after written notice thereof has been sent to such Owner or occupants, or in the event the Owner or occupants have not proceeded with due diligence to complete the appropriate repairs and maintenance after such notice, the Association shall have the right, but not the obligation, to correct the violation. To the extent necessary to prevent rat or other infestation, diminish fire hazards, or correct a violation of any covenant, condition, or restriction in this Declaration, the Association, through its agents or employees, shall have the right to enter onto such Lot and any dwelling or improvements located upon such Lot. In connection therewith, the Association may cut the weeds and grass, edge the lawn around the curb, cause to be removed garbage, trash, and rubbish, perform maintenance or repairs, or do any other thing necessary to correct such violation. The Association may render a statement of charges to the Owner or occupants of such Lot for the cost of correcting or attempting to correct the violation. The Owner and occupants are liable, jointly and severally, to pay such statement immediately upon receipt thereof. The cost of such work, plus interest thereon at the maximum contract rate permitted under the laws of the



State of Florida and the Association's legal fees and costs, including its legal fees and costs on any appeals, in connection therewith, shall be a lien on the Lot and on the improvements thereon. Neither the Association nor any of its agents or employees shall be liable for trespass or other tort, except for reckless or willful misconduct, in connection with entering onto such Lot and any improvements thereon or in connection with the correction or attempted correction of any such violation.

#### ARTICLE IV

##### ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. Approval of Building Plans. No dwelling, fence, wall, solar panel, or other improvements or structures shall be commenced, erected, placed, or altered on any Lot, and no exterior addition to or change or alteration therein shall be made, until the plans and specifications, and a site plan describing the nature, kind, shape, height, and materials thereof, and showing the location of the same, have been approved in writing by the Architectural Control Committee as to harmony of exterior design and color with existing structures, as to location with respect to topography and finished ground elevation, and as to compliance with minimum construction standards of the Architectural Control Committee. A copy of the plans and specifications and the site plan, together with such information as may be deemed pertinent, shall be submitted to the Architectural Control Committee or its Designated Representative prior to commencement of any work thereon. The Architectural Control Committee may require the submission of such plans and specifications, and a site plan, together with such other documents as it deems appropriate, in such form and detail as it may determine in its sole discretion. The Architectural Control Committee shall have full and complete authority to approve or disapprove such plans and specifications or site plans and its decision shall be final and binding on all parties.

SECTION 2. Committee Membership. The Architectural Control Committee membership shall be initially composed of Donald A. Pleasants, of Tri-Venture Developers, and Lorraine C. McAnallen of General Homes, and Timothy Powell, of General Homes, who by majority vote may designate a representative (herein called "Designated Representative") to act for and on behalf of the Architectural Control Committee and to exercise all powers and perform all duties of the Architectural Control Committee. The address of the Architectural Control Committee is 2502 Rocky Point Drive, Suite 900, Tampa, Florida 33607. However, at such time as all of the Lots and duties of the Architectural Control Committee (including but not limited to any matters then pending before the Architectural Control Committee), shall immediately vest in and be deemed assigned to the Association, and the

Architectural Control Committee shall thereafter exist as a committee of the Association under the control of the Association's Board of Directors.

SECTION 3. Replacement. In the event of the death, inability to serve because of disability, or resignation of any member or members of the Architectural Control Committee, the remaining member or members thereof shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers and perform the duties of the Architectural Control Committee.

SECTION 4. Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate minimum acceptable construction standards; provided, however, that the Architectural Control Committee shall not be bound by such standards and may alter, amend or revoke them at any time.

SECTION 5. Term. The duties and powers of the Architectural Control Committee, whether or not such duties and powers have been deemed to be transferred to the Association as above provided, shall cease on and after ten (10) years from the date of this Declaration. Thereafter, all powers and duties of the Architectural Control Committee shall cease and terminate; provided, however, that any time after January 1, 19984, whether or not the term of the Architectural Control Committee specified above shall have expired, the Board of Directors of the Association, upon a vote of members of the Association holding not less than two-thirds of the votes of members of the Association entitled to vote thereon, may assume or retain the duties and powers of the Architectural Control Committee, in which case the Board of Directors of the Association shall thereafter have all of the powers and duties provided herein for the Architectural Control Committee.

SECTION 6. Variances. If any Owner makes a request to the Architectural Control Committee for a variance from any covenants of this Declaration, the Architectural Control Committee may require such Owner to submit to it such documents and items (including, as examples but without limitation), a written description of the variance requested, plans and specifications, site plans, and samples of materials) as it shall deem appropriate in connection with its consideration of the request for a variance. Approval by the Architectural Control Committee for a variance shall be by written instrument addressed to the Owner of the Lot with respect to which such variance has been requested. Such written instrument shall set forth the applicable covenant, the variance requested, the decision of the Committee and the conditions on which the variance has been approved. Such written instrument shall be signed by a majority of the members of the Architectural Control Committee (or by the Committee's Designated

Representative). Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice to the Owner of disapproval by the Architectural Control Committee, or (b) failure by the Architectural Control Committee to respond to the request for variance within sixty (60) days after it has received the request. In the event the Architectural Control Committee or any successor to the powers and duties thereof shall not be then functioning, or the term of the Architectural Control Committee shall have expired and the Board of Directors of the Association shall not have succeeded to the authority thereof as herein provided, no variances from the terms of this Declaration shall be permitted.

## ARTICLE V

### HOMEOWNERS' ASSOCIATION

SECTION 1. Membership. Each Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

SECTION 2. Classes of Lots; Voting Rights. The Association shall have two classes of Lots and two classes of membership which correspond with the two classes of Lots:

Class A Lots. Class A Lots shall be all Lots other than Class B Lots. A person shall be entitled to one vote for each Class A Lot owned. When more than one person holds an ownership interest in any Class A Lot, all of such persons shall be members. The vote for such Class A Lot shall be exercised as such persons among themselves determine, but in no event shall more than one vote be cast with respect to any Class A Lot.

Class B Lots. Class B Lots shall be all Lots owned by Declarant unless such Lots shall have been converted to Class A Lots as provided below and Declarant shall be entitled to three (3) votes for each Class B Lot owned by it. A Class B Lot shall cease and be converted to a Class A Lot on the happening of any of the following events, whichever is earliest:

- (a) when Declarant has sold, transferred or assigned such Lot;
- (b) the earliest date on which the total votes outstanding attributable to Class A Lots equals or exceeds the total votes outstanding attributable to Class B Lots; or
- (c) on January 1, 1994.

Members who own Class A and Class B Lots shall have no rights to vote as a class, except as may be required by law, this Declaration or the Articles of Incorporation of the Association and, except where class voting is so required, both classes shall vote together on all matters as one group.

SECTION 3. Not-for-Profit Corporation. The Association shall be governed by the Articles of Incorporation of the Association.

SECTION 4. ByLaws. The Association may make whatever rules and bylaws it may choose to govern the Association; provided, however, that the rules and bylaws shall not be in conflict with the terms and provisions hereof or with the Articles of Incorporation of the Association.

SECTION 5. Inspection of Records. Any member of the Association shall have the right to inspect the books and records of the Association at reasonable times during the Association's normal business hours, provided that such member has given reasonable written notice to the Association setting forth the items the member wishes to inspect.

SECTION 6. Suspension of Voting Rights. The Association shall have the right to suspend the voting rights under the Declaration of any Owner for any period during which any assessments, fees or other liens arising under this Declaration (including interest, costs and attorneys' fees with respect thereto remain unpaid.

#### ARTICLE VI

##### USE OF COMMON AREAS; DEDICATION OR TRANSFER OF COMMON AREAS

SECTION 1. Owner's Easement of Enjoyment of Common Areas. Each Owner shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to charge reasonable fees for the use of the Common Areas and any facilities or improvements located thereon. An Owner shall be personally liable to pay such fees with respect to the use by such Owner, and those to whom he has delegated the right to use such Common Areas, pursuant to Section 3 of this Article. Such fees together with interest at the highest legal contract rate in Florida from the due date, if such fees have not been paid within thirty (30) days after the due date, and the Association's costs and legal fees incurred in collecting or attempting to collect such fees, (including such costs and fees on any appeals) shall be a continuing lien in favor of the Association on such Owner's Lot (and all improvements thereon).

SECTION 2. Rules and Regulations with Respect to Common Areas. The Association shall have the right to publish rules and regulations for the use of the Common Areas including the right of suspension of the right and easement of enjoyment of the Common Areas for a period not to exceed sixty (60) days for any infraction of the Association's published rules and regulations.

SECTION 3. Use of Common Areas by Family and Contract

Purchasers. Any Owner, whose rights to use the Common Areas have not been suspended pursuant to this Article, may delegate to the members of his immediate family, his tenants, or contract purchasers who reside on his Lot, in accordance with the ByLaws of the Association, his right of enjoyment to any portions of the Common Areas.

SECTION 4. Dedication or Transfer of Common Areas.

The Association shall have the right to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be placed upon such dedication or transfer by the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed by members of the Association holding two-thirds (2/3) of the votes of each class of the members who are entitled to vote thereon and has been recorded in the public records of Hillsborough County, Florida.

## ARTICLE VII

ASSESSMENTSSECTION 1. In General; Creation of Lien and Personal

Obligation. Each Lot in the Subdivision is hereby made subject to an annual assessment and, from time to time, special assessments for the purposes set forth in Section 5 of this Article. The Declarant, for each Lot owned by it within the Subdivision, hereby covenants and agrees to pay, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay, to the Association: (1) the annual assessment, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon, costs, and attorneys' fees incurred by the Association in collecting or in attempting to collect any of such assessments, including such costs and attorneys' fees on any appeals, shall be a continuing lien, in favor of the Association, on the Lot (and all improvements thereon) against which the assessment is made. Each assessment, together with such interest, costs, and attorneys' fees, shall also be the personal obligation of the person who is the Owner of the Lot at the time when the assessment or any installment thereof becomes due. The personal obligation for delinquent assessments, interest, costs, and attorneys' fees shall not pass to a successor in title unless expressly assumed by the successor.

The annual or special assessments on Class B Lots shall be 50% of the corresponding assessments for Class A Lots.

SECTION 2. Purpose of Annual Assessments.

The annual assessments shall be used exclusively to promote the recreation,

health, safety, and welfare of the residents in the Subdivision and for the improvement and maintenance of the Common Areas. Without limiting the generality of the preceding sentence, annual assessments shall be used for the following:

- (a) maintaining rights-of-way, easements, fences and walls along the entrance and perimeters of the subdivision, and other public areas in the subdivision;
- (b) maintaining Common Areas;
- (c) payment of all legal and other expenses incurred in connection with the enforcement of all assessments, liens, covenants, restrictions, and conditions affecting the Lots or the Subdivision;
- (d) payment of all reasonable and necessary expenses in connection with the collection and administration of assessments;
- (e) employing policemen and watchmen, if determined by the Association to be necessary; and
- (f) caring for vacant Lots and doing any other thing necessary or desirable in the opinion of the Association to keep the Subdivision neat and in good order, or which is considered of general benefit to the Owners or occupants of the Subdivision.

It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

SECTION 3. Determination of Annual Assessments; Billing and Payment Thereof. Except as otherwise provided in this Section, the Association shall determine, on or before November 30 of each calendar year, the annual assessments for the next calendar year (such next calendar year being referred to herein as the "Assessment Period"). A bill for an annual assessment shall be sent to each Owner on or before December 10 of the calendar year preceding the Assessment Period. An annual assessment shall be overdue if not paid to the Association on or before January 31 of the Assessment Period, with the exception of initial start-up as stated below.

If an Owner purchases a Lot from Declarant, such Owner shall be charged at closing an assessment for the calendar year in which the closing occurs. The amount of such assessment shall be a proportion of the annual assessment for such calendar year (for Lots of the same type) based on the number of full months remaining in the calendar year in which the closing occurs.

Notwithstanding anything to the contrary in this Section, the Association may waive annual assessments for any calendar year or years and may subsequently determine, in accordance with the first paragraph of this Section, to commence annual assessments for a subsequent calendar year; provided, however, that the waiver of such assessments must apply to all Lots in the Subdivision. Initial start-up of assessments may occur at the beginning of any quarter of the calendar year, in which case, prior assessment determination shall be sixty (60)

days before assessment and, billing thirty (30) days prior to assessment period. Once annual assessments have commenced after a waiver of any such assessments under this Section, such annual assessments may not be again waived under the terms of this Section.

SECTION 4. Maximum Annual Assessment. For the calendar year during which this Declaration has been executed, the maximum annual assessment shall be Sixty Dollars \$60.00 per Lot. For each succeeding calendar year, the maximum annual assessment per Lot shall not exceed one hundred ten (110%) percent of the annual assessment for the immediately prior calendar year unless such annual assessment has been approved by two thirds (2/3) of the votes of each class of members of the Association voting in person or by proxy, at a meeting duly called for such purpose, which meeting is held during December of the immediately prior calendar year.

SECTION 5. Special Assessments. In addition to the annual assessment authorized above, the Association may levy special assessments for the purpose of construction, reconstruction, repair, or replacement of capital improvements in the Common Areas, including but not limited to fixtures and personal property related thereto, provided that any such assessment shall have the prior approval of two-thirds (2/3) of the votes of each class of members of the Association voting in person or by proxy, at a meeting duly called for such purpose.

SECTION 6. Effect of Nonpayment of Assessments. Any (a) annual assessment which has not been paid on or before the due date set forth in Section 3 of this Article; and (b) any special assessment not paid on or before thirty (30) days after the due date thereof shall bear interest from the due date at the highest legal contract rate in Florida. The Association may bring an action at law against the Owner obligated to pay the same, or foreclose the lien against the Owner obligated to pay the same, or foreclose the lien against the Lot and improvements thereon to which the lien applies. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of any facilities or services provided by the Association or by abandonment of such Owner's Lot.

SECTION 7. Subordination of the Lien With Respect To Assessments and Fees. All liens on any Lot (and improvements thereon) for annual and special assessments made under this Article or for fees charged for the use of the Common Areas under Article VI hereof, (including interest, costs, and attorneys' fees with respect thereto) shall be secondary, subordinate, and inferior to all liens, present and future given, granted, and created by or at the instance and request of the Declarant or any other Owner to secure the payment of monies advanced for the purchase of such Lot or the construction of improvements on such Lot, to the extent of any such annual or special assessments or fees, (including interest, costs, and attorneys' fees

with respect thereto) which are unpaid prior to foreclosure of any such mortgage lien; and provided further that as a condition precedent to any proceeding by the Association to enforce its lien upon any Lot on which there is an outstanding valid mortgage lien, for the aforesaid purpose or purposes, the Association shall give the holder of such mortgage lien sixty (60) days written notice of such proposed proceeding by the Association, which notice shall be sent to such mortgage lien holder by prepaid U.S. Certified Mail, return receipt requested, and shall contain a statement of the delinquent annual and special assessments and fees, (and the interest, costs, and attorneys' fees with respect thereto), upon which the proposed proceeding is based. Upon the request of any such mortgage lien holder, the Association shall acknowledge in writing its obligation to give to such mortgage lien holder the foregoing notice with respect to the Lot covered by such mortgage lien. The sale or transfer of any Lot pursuant to foreclosure of any such mortgage, or any proceeding in lieu thereof, shall extinguish the lien with respect to such assessments and fees (including interest, costs, and attorneys' fees with respect thereto) as to assessments and fees (and interest, costs, and attorneys' fees with respect thereto) which became due prior to such sale or transfer.

### ARTICLE III

#### ANNEXATION AND MERGER

SECTION 1. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Annexation. Additional land contiguous to the Subdivision as described in Plat Book 57, Page 49, in the Public Records of Hillsborough County, may be annexed by the Declarant into the Subdivision without the consent of the members of the Association within ten (10) years of the date of this instrument, provided that the annexation is approved by the FHA and VA. The Declarant or any other owner of land shall have the right to submit and make subject to this Declaration any additional land upon approval of the Board of Directors of the Association, with the approval of members of the Association holding two-thirds (2/3) of the votes of each class of membership of the Association entitled to vote thereon, and with the approval of FHA and VA. Any additional land authorized under this and the succeeding subsections to be added to the Subdivision shall be made by recording in the Public Records of Hillsborough County, Florida, an amendment to this Declaration and an annexation agreement with respect to the additional land which shall extend the covenants and restrictions of this Declaration to such additional land. Such amendment shall impose assessments on the land covered thereby on a uniform, per Lot basis, substantially equivalent to the assessments imposed by this



Declaration, and may contain such complementary additions or modifications of the covenants and restrictions contained in this Declaration as may be applicable to the additional land.

(b) Mergers. The Association may merge into or consolidate with another homeowners' association, and upon such merger or consolidation, the Association's properties, rights, and obligations shall be transferred to the surviving or consolidated association; or the properties, rights, and obligations of another homeowner's association may be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions applicable to the properties of the other association, as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration.

#### ARTICLE IX GENERAL PROVISIONS

SECTION 1. Term. These covenants shall run with the land and shall be binding upon all parties and all persons having or acquiring any right, title, or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof, for a period of forty (40) years from the date that this Declaration is recorded. After such period of forty (40) years, these covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by members holding two-thirds (2/3) of the votes of each class has been recorded agreeing to terminate this Declaration.

SECTION 2. Amendment of Declaration. This Declaration may be amended at any time when an instrument setting forth the amendment or amendments has been signed by members holding two-thirds (2/3) of the votes of each class of members entitled to vote thereon and has been recorded in the Public Records of Hillsborough County, Florida.

SECTION 3. Proceedings Against Persons Violating Covenants. Upon any violation of any of the covenants in this Declaration the Association or any Owner may bring proceedings at law or in equity against the person or persons violating any such covenant of this Declaration to require such person violating any such covenant to correct or cease such violations or, where applicable, to recover damages for such violation. The Association or Owner who successfully prosecutes an action in law or in equity shall be entitled to recover from the defendant any and all costs, fees and expenses, including attorneys' fees, incurred by the Association or the Lot Owner in such proceedings, including any appeals. Failure by the Association or any

Lot Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 4. Conflict. In the case of any conflict between the Articles of Incorporation of the Association and this Declaration, this Declaration shall control, and in the case of any conflict between the ByLaws of the Association and this Declaration, this Declaration shall control.

SECTION 5. Severability. If any provision or provisions of this Declaration are determined by any court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of the remaining provisions of this Declaration.

SECTION 6. FHA/VA Approval. So long as the Declarant is in control of the Association, the following actions may require the prior approval of the FHA and/or the VA: annexation of additional properties, dedication of any Common Areas, and amendment of this Declaration.

EXECUTED this 12<sup>th</sup> day of March, 1985.

WITNESSES:

GENERAL HOMES-FLORIDA, INC.

Speedy J. Gowing  
Matthew M. White

By: David J. Evans  
David J. Evans, Vice President

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

BEFORE ME, the undersigned authority, on this day personally appeared David J. Evans, Vice President of General Homes-Florida, Inc., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL this 12<sup>th</sup> day of March, 1985.

Gloria M. Martin  
Notary Public, State of Florida at  
Large

My Commission Expires: Aug 28 1988  
NOTARY PUBLIC STATE OF FLORIDA AT L  
BONDED THRU GENERAL INS. UNDERWRIT

(SEAL)

TRI-VENTURE DEVELOPERS, a  
Florida General Partnership

Donald A. Pleasants  
Donald A. Pleasants, General Partner  
Richard V. Dunn  
Richard V. Dunn, General Partner

J. Glen McDonnell GEN PART  
J. Glen McDonnell, General Partner

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

OFF. REC. 4538 072

BEFORE ME, the undersigned authority, on this day personally appeared Donald A. Pleasants, General Partner of Tri-Venture Developers, a general partnership, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL this 7th day of March, 1985.

Rosemary Scott  
Notary Public, State of Florida at Large

My Commission Expires March 30, 1989  
Notary Public, State of Florida  
Bonded thru Troy Feltz Insurance, Inc.

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

BEFORE ME, the undersigned authority, on this day personally appeared Richard V. Dunn, General Partner, of Tri-Venture Developers, a general partnership, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL this 10th day of March, 1985.

Gloria M. Martin  
Notary Public, State of Florida at Large

My Commission Expires:

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES AUG 28 1985  
BONDED THRU GENERAL INS. UNDERWRITERS

BEFORE ME, the undersigned authority, on this day personally appeared J. Glen McDonnell, General Partner, of Tri-Venture Developers, a general partnership, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL this 10th day of March, 1985.

Gloria M. Martin  
Notary Public, State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES AUG 28 1985  
BONDED THRU GENERAL INS. UNDERWRITERS

CONSENT AND JOINDER

The undersigned mortgagee is the owner and holder of a first mortgage on the property described herein dated the 13th day of December, 1983, recorded in Official Record Book 4237 at Page 1196 of the Public Records of Hillsborough County, Florida, and hereby consents to and joins in the above Declaration of Covenants, Conditions, and Restrictions and subordinates its mortgage lien to such Declaration of Covenants, Conditions and Restrictions.

ATTEST:

By: Pamela J. Henderson, its Asst. V.P.

FIRST NATIONAL BANK OF FLORIDA  
By: Lawrence M. Heard, its Sr. V.P.

ACKNOWLEDGEMENT

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH )

BEFORE ME, the undersigned authority, on this day personally appeared Lawrence M. Heard, Sr. V.P., known to me to be the person and officer whose name is subscribed to the foregoing instrument, who acknowledged to me that he/she executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL this 15th day of March, 1985.

Diane M. Gentry  
Notary Public, State of Florida at  
Large  
NOTARY PUBLIC, State of Florida  
My Commission Expires Mar. 23, 1987  
My Commission Expires: \_\_\_\_\_  
(SEAL)