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FIRST AMENDMENT TO AND RESTATEMENT OF
 DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS,
 RESERVATIONS AND RESTRICTIONS
 FOR VIERA EAST COMMUNITY
 (FORMERLY REFERRED TO AS VIERA SOUTHEAST COMMUNITY)

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- EXHIBIT "D" - Bylaws of Community Association and First Amendment
thereto

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FIRST AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS,
RESERVATIONS AND RESTRICTIONS
FOR VIERA EAST COMMUNITY
(FORMERLY REFERRED TO AS VIERA SOUTHEAST COMMUNITY)

THIS FIRST AMENDMENT TO AND RESTATEMENT OF DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESERVATIONS AND RESTRICTIONS FOR VIERA EAST COMMUNITY ("Declaration") is made this 26th day of August, 1992 by THE VIERA COMPANY (f/k/a Duda Lands, Inc.), a Florida corporation (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant recorded that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera Southeast Community recorded in Official Records Book 3022, Pages 1576 through 1611, Public Records of Brevard County, Florida ("Original Declaration"), under the terms of which Declarant, joined by A. Duda & Sons, Inc., Jean-Yves Clerc, as Trustee, and Rostan, Inc., an Ohio corporation, subjected that certain real property described in Exhibit "A", attached hereto and made a part hereof, to the covenants, conditions, easements, reservations and restrictions set forth therein; and

WHEREAS, under Article XI of the Original Declaration, Declarant reserved the right to amend the Declaration unilaterally at any time without prior notice and without the consent of any Person for any purpose; and

WHEREAS, Declarant desires to amend the Original Declaration as provided in this First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community as set forth hereinbelow, which amendment is consistent with the general development plan for the Properties set forth in the Original Declaration; and

WHEREAS, Declarant intends that this Declaration shall amend and restate as to the Properties (as defined hereinbelow): (i) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties, (ii) a flexible and reasonable procedure for the maintenance of the Properties, and (iii) a method for the administration, preservation, use and enjoyment of the Properties, and (iv) amend the name of the community to Viera East Community.

NOW, THEREFORE, Declarant hereby amends and restates the Original Declaration in its entirety as hereinafter set forth, and the terms and conditions of this Declaration shall control

and supersede those contained in the Original Declaration, and all of the property described in Exhibit "A" attached hereto and incorporated by reference, and any additional property as is hereafter subjected to this Declaration as provided herein, shall be held, sold and conveyed subject to the following covenants, conditions, easements, reservations and restrictions, which are for the purpose of, protecting the value and desirability of, and which shall run with, the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the real property subjected to this Declaration or any part thereof, their heirs, successors, successors-in-title and assigns.

ARTICLE I Definitions

Section 1. "Annexation Agreement" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration in accordance with the terms of this Declaration.

Section 2. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract or agreement, including without limitation with any District, become the responsibility of the Community Association to maintain, administer or operate. Landscape Buffer Areas shall be part of the Area of Common Responsibility. The office of any property manager employed by or contracting with the Community Association, if located on the Properties, or any public right-of-way within or adjacent to the Properties, may be a part of the Area of Common Responsibility.

Section 3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Community Association attached hereto as Exhibit "C" and incorporated herein by reference, which have been filed or which simultaneously herewith are being filed with the Secretary of State of the State of Florida, as same may be amended from time to time.

Section 4. "Assessment" shall be an inclusive term referring to both Regular Assessments and Special Assessments.

Section 5. "Board of Directors" shall mean and refer to the Board of Directors of the Community Association.

Section 6. "Bylaws" shall mean and refer to the Bylaws of the Community Association attached hereto as Exhibit "D" and incorporated herein by reference, as amended from time to time.

Section 7. "Class B Control Period" shall mean and refer to the first to occur of the following:

(a) when seventy-five percent (75%) of the Units permitted by the Development Order and other Development Approvals for the Properties and the property which is subject to annexation under the provisions of this Declaration, have certificates of occupancy issued thereon and have been conveyed to Persons other than the Declarant and Owners holding title solely for the purpose of development and sale;

(b) December 31, 2024; or

(c) when, in its sole discretion, the Declarant so determines.

Section 8. "Common Area" shall mean and refer to all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, if any, which the Community Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners. The Community Association may or may not own any Common Area in fee simple; however, Declarant may convey Common Area to the Community Association in fee simple released from any encumbrance securing the repayment of monetary obligations incurred by Declarant, but subject to all easements and other encumbrances then of record (including those created by this Declaration) and subject to taxes and assessments imposed by the Community Development District, the Community Association, and ad valorem real property taxes for the year of conveyance. The Community Association shall accept title to any real estate or personal property offered to the Community Association by Declarant.

Section 9. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Community Association for the maintenance, repair and operation of the Area of Common Responsibility or for the general benefit of all Owners, including, if so determined by the Board of Directors, any reasonable reserves, if any, all as may be found to be necessary and appropriate by the Community Association pursuant to this Declaration, the Bylaws and the Articles of Incorporation.

Section 10. "Community Architectural Review Committee" or "ARC" shall mean and refer to the Community Architectural Review Committee established pursuant to Article V of this Declaration.

Section 11. "Community Association" shall mean and refer to Viera East Community Association, Inc., formerly known as Viera Southeast Community Association, Inc., a Florida not for profit corporation, its successors and assigns.

Section 12. "Community Development District" shall mean and refer to the Community Development District which the Declarant has formed and may form (as all of the foregoing may be amended from time to time) pursuant to Chapter 190, Florida Statutes, which Community Development District may pertain to all or portions of the Properties, and which may also pertain to certain real property not forming a part of the Properties.

Section 13. "Community-Wide Standard" shall mean and refer to the standard of conduct, maintenance or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Community Architectural Review Committee.

Section 14. "Declarant" shall mean and refer to The Viera Company, a Florida corporation, or its successors, successors-in-title or assigns who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant, provided, however, in no event shall there be more than one Declarant for the Properties at any given time.

Section 15. "Declaration" shall mean and refer to this First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community (formerly referred to as Viera Southeast Community), as supplemented and amended from time to time.

Section 16. "Development Approvals" shall mean and refer to the Development Order and any and all subdivision and other governmental permits and approvals obtained with respect to the Properties or any part thereof, and the relevant zoning and comprehensive plan designations for the Properties or any part thereof.

Section 17. "Development Order" shall mean and refer to that certain Development Order contained in a Resolution issued by Brevard County, Florida, dated November 13, 1990, and the Viera Development Order, City of Rockledge entered by the City of Rockledge, dated September 19, 1990, as amended by Resolution No. 90-244 dated November 21, 1990, both pertaining to the Properties and other property as set forth therein, as same may be amended from time to time.

Section 18. "District" shall mean and refer to a separately denominated residential, commercial, industrial, office, governmental, educational, institutional or other use area subject to this Declaration, whether or not governed by an owners association, in which Owners may have common interests other than those common to all Owners within the Properties, such as a common theme, entry features, development name, and/or common areas and facilities which are not available for use by all Owners within

the Properties, all as may be further defined and provided for by amendment to this Declaration or by Supplemental Declaration.

Section 19. "District Association" shall mean and refer to an owners' association established pursuant to a District Declaration as provided for in Section 7 of Article III of this Declaration, or its successors or assigns.

Section 20. "District Committee" shall mean and refer to a District Committee which is formed in lieu of the formation of a District Association pursuant to Section 7 of Article III of this Declaration.

Section 21. "District Declaration" shall mean and refer to a declaration of covenants, conditions and restrictions recorded with respect to a specific District, as supplemented and amended from time to time.

Section 22. "Landscape Buffer Areas" shall mean and refer to (i) the 100-foot drainage and landscape buffer area along the west boundary of the Properties adjoining Interstate No. 95, (ii) landscape buffer and entry feature areas established by Declarant along the boundary of the Properties and Wickham Road, (iii) landscape buffer areas established by the Declarant within or adjacent to the right-of-way of Murrell Road and other roadways within or adjoining the Properties, (iv) landscape buffer areas and entry feature areas established by Declarant at the intersection of Viera Boulevard and U.S. Highway No. 1 and within the right-of-way of Viera Boulevard between the Properties and U.S. Highway No. 1, and (v) landscape buffer areas shown on any plat of any portion of the Properties designated on the plat as to be maintained by the Community Association, provided as to this subpart (v) Declarant shall have agreed thereto in writing.

Section 23. "Master Drainage System" shall mean and refer to all land, easements, structures and other facilities and appurtenances which together constitute and comprise the master surface water management and drainage system of the Properties (or portions thereof) and adjacent property as reflected on plans therefor now or hereafter on file with and approved by Brevard County, Florida and the St. Johns River Water Management District.

Section 24. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 25. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 26. "Nonresidential District" shall mean and refer to a District comprised of Nonresidential Units or Nonresidential Unplatted Parcels.

Section 27. "Nonresidential Unit" shall mean and refer to a portion of the Properties, whether developed or undeveloped, intended for any type of development, use and occupancy permitted under the Development Order, other than as an attached or detached residence for a single family, all as may be developed, used, and defined as herein provided or as provided in any Supplemental Declaration or Annexation Agreement covering all or a part of the Properties. Permitted uses may include, without limitation, commercial, industrial, office, governmental, educational, institutional and other uses. Apartment complexes, adult congregate living facilities and similar rental residential facilities shall be considered Nonresidential Units. The term shall include all portions of the property owned, including any structure thereon.

Section 28. "Nonresidential Unplatted Parcel" shall mean and refer to an Unplatted Parcel upon which existing Developmental Approvals would allow Nonresidential Units.

Section 29. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit or Unplatted Parcel which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit or Unplatted Parcel is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be deemed the Owner.

Section 30. "Person" shall mean and refer to a natural person, a corporation, a partnership, an estate, a trust, a trustee or other legal entity.

Section 31. "Planning and Design Criteria" shall mean and refer to planning and design criteria to be prepared by the Community Architectural Review Committee as amended from time to time.

Section 32. "Properties" shall mean and refer to the real property described in Exhibit "A", and such other real property as from time to time may be subjected to the covenants, conditions and restrictions of the Declaration by annexation as more fully set forth in Article VII hereof.

Section 33. "Regular Assessment" shall mean and refer to the assessments levied against all Units and Unplatted Parcels in the Properties to fund Common Expenses in accordance with Section 1 of Article VIII of this Declaration.

Section 34. "Residential District" shall mean and refer to a District comprised of Residential Units or Residential Unplatted Parcels.

Section 35. "Residential Unit" shall mean and refer to a portion of the Properties, whether developed or undeveloped, intended for development, use and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in any Supplemental Declaration or Annexation Agreement covering all or a part of the Properties. The term shall include all portions of the property owned, including any structure thereon. Apartment complexes, adult congregate living facilities and similar rental residential facilities shall not be considered Residential Units.

Section 36. "Residential Unplatted Parcel" shall mean and refer to an Unplatted Parcel upon which existing Developmental Approvals would allow Residential Units.

Section 37. "Special Assessment" shall mean and refer to assessments levied in accordance with Section 3 of Article VIII of this Declaration.

Section 38. "Supplemental Declaration" shall mean and refer to an amendment or supplement to this Declaration which imposes expressly or by reference, additional restrictions and obligations on the land described therein.

Section 39. "Unit" shall be an inclusive term referring to both Nonresidential Units and Residential Units.

Section 40. "Unplatted Parcel" shall mean a portion of the Properties which is not platted or submitted to condominium or cooperative ownership, but intended for development of more than one Unit, or if platted is platted into a lot(s) intended for development of more than one Unit. Once an Unplatted Parcel or portion thereof is platted into Units or submitted to condominium or cooperative ownership, the Unplatted Parcel or portion thereof so platted or submitted shall no longer be deemed an Unplatted Parcel.

Section 41. "Voting Member" shall mean and refer to the representative (or such representative's alternate if he or she is unable to attend a meeting of the Community Association) selected by each District Association and District Committee to be responsible for casting all votes of the membership of the Community Association attributable to Units or Unplatted Parcels

in such District for all matters requiring the vote of membership of the Community Association, unless otherwise expressly specified in this Declaration or the Bylaws. The Voting Member from each District shall be the senior elected officer (for example, the District Committee chairman or the District Association president) from that District or such other representative as is elected or appointed pursuant to the bylaws of that applicable District Association or governing documents of such District Committee (except that in the event a District is owned by a single Person and no District Committee or District Association has been formed, the Voting Member shall be the Owner of such District or such Owner's designated representative). The alternate Voting Member from each District shall be the next most senior elected officer or such other representative as is elected or appointed pursuant to the bylaws of such District Association or governing documents of such District Committee. Notwithstanding the foregoing, during the Class B Control Period, the Declarant's vote as a Class "B" member shall be exercised by a Voting Member or Voting Members appointed by Declarant, and such Voting Member(s) appointed by Declarant shall cast the Class "B" member's votes as directed by Declarant. Such Voting Member(s) appointed by Declarant shall not be a representative of a specific District, and Declarant shall be entitled to appoint such Voting Member(s) during the Class B Control Period to vote the Class "B" member's votes, even if all Districts in the Properties are otherwise represented by Voting Members pursuant to the provisions of this Declaration. The number of Voting Members appointed by Declarant during the Class B Control Period to vote the Class "B" member's votes shall be in the sole discretion of Declarant.

ARTICLE II Property Rights

Section 1. Rights of Owners. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area for the purpose for which it is intended, subject to this Declaration as it may be amended from time to time, any easements reserved therein or granted by Declarant, and any restrictions or limitations contained in any plat or in any deed conveying such property to the Community Association or subjecting such property as Common Area to the Declaration. Such non-exclusive right or easement is also subject to (i) the right of the Community Association to limit the number of guests of Owners or Owners who may use the Common Area from time to time; (ii) the right of the Community Association to promulgate, establish and enforce reasonable rules and regulations pertaining to the use of the Common Area; and (iii) the right of the Community Association to take such steps as are reasonably necessary to maintain, preserve and protect the Common Area. Any Owner may delegate his right of enjoyment in and to the Common Area to the

members of his family, his tenants, guests and invitees, as applicable, subject to reasonable regulation by the Board of Directors and in accordance with procedures it may adopt. An Owner of a Residential Unit who leases his Unit shall be deemed to have delegated all such rights to the Unit's lessee. An Owner of a Nonresidential Unit who leases his Unit shall not be deemed to have delegated such rights to the Unit's lessee, except to the extent provided in the lease. No Owner may exempt himself from personal liability for or exempt his Unit or Unplatted Parcel from any assessments duly levied by the Community Association, or release the Unit or Unplatted Parcel owned by the Owner from liens, charges, encumbrances and other provisions of this Declaration or the rules and regulations of the Community Association by (a) the voluntary waiver of the right, privilege and easement for the use and enjoyment of the Common Area; or (b) the abandonment of his Unit or Unplatted Parcel.

Section 2. Board of Director's Rights. The Board of Directors, in its sole discretion, by resolution may extend permission to selected non-owners of any interest in the Properties, to use portions of the Common Area subject to such terms and conditions as the Board of Directors may impose.

Section 3. Withdrawal. Declarant reserves the right, without prior notice and without the consent of any Person, to amend this Declaration unilaterally at any time so long as Declarant owns any land which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties, for the purpose of removing certain portions of the Properties then owned by Declarant or its affiliates or the Community Association from the purview, operation and effect of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for Viera East Community or adjacent lands, desired to be effected by Declarant, provided such withdrawal does not materially adversely impact the overall scheme of development of Viera East Community.

Section 4. Amendment. This Article shall not be amended without the written consent of the Declarant, unless Declarant no longer owns any land which is subject to the Declaration or which under the terms of this Declaration could be annexed to the Properties.

ARTICLE III Community Association

Section 1. Objects and Purposes and Function. The Community Association has been created and established for the objects and purposes of and shall have exclusive jurisdiction over and the sole responsibility for the ownership, administration, management, operation, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the

Common Area, the maintenance and repair of the Area of Common Responsibility and any other duties related thereto imposed by agreement or otherwise, and the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in this Declaration, the payment of all Common Expenses, and the promotion and advancement of the general welfare of the members of the Community Association; all as more particularly provided in this Declaration and in the Articles of Incorporation, Bylaws and rules of regulations of the Community Association.

Section 2. Duties and Powers. In addition to those duties and powers conferred by law and those specified and enumerated in the Articles of Incorporation and the Bylaws, the Community Association shall also have such duties and powers as are, respectively, imposed and conferred upon it pursuant to this Declaration, including, without limitation, such duties and powers as may reasonably be implied from, necessary for or incidental to the accomplishment of the objects and purposes for which the Community Association has been created and established. All duties and powers of the Community Association shall be exercised by the Board of Directors unless otherwise provided in this Declaration, the Articles of Incorporation or the Bylaws.

Section 3. Membership. Every Owner shall be deemed to have a membership in the Community Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit or Unplatted Parcel owned. The membership shall not be refused, waived or surrendered, but voting rights and rights of use and enjoyment of the Common Area may be regulated or suspended as provided in this Declaration, the Articles of Incorporation, the Bylaws and rules and regulations adopted by the Community Association.

Section 4. Transfer of Membership. Membership in the Community Association shall be appurtenant to and may not be separated from the ownership interest of an Owner in a Unit or Unplatted Parcel. The membership of an Owner in the Community Association shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred and assigned upon the transfer of the ownership interest required for membership in the Community Association. Owner agrees to immediately notify the Community Association upon such transfer and to deliver to the Community Association the address of the new Owner, and a copy of the deed conveying the Unit or Unplatted Parcel to the new Owner.

Section 5. Voting Rights. The Community Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A" members shall be all Owners with the exception of the Class "B" member, if any. Voting rights shall be allocated among Class "A" members as follows:

(i) Residential Units and Residential Unplatted Parcels. One (1) vote per acre or portion thereof shall be allocated to a Residential Unplatted Parcel. For those portions of a Residential District which are subject to a recorded plat, are submitted to condominium or cooperative ownership, or are otherwise designated by Declarant as a Residential Unit, each Residential Unit shall be allocated one (1) vote.

(ii) Nonresidential Districts. One (1) vote per acre or portion thereof shall be allocated to a Nonresidential Unplatted Parcel. For those portions of a Nonresidential District which are subject to a recorded plat for Units, are submitted to condominium or cooperative ownership, or are otherwise designated by Declarant as a Nonresidential Unit, each Nonresidential Unit shall be allocated ten (10) votes per acre or portion thereof.

The Voting Member for such District shall cast all votes attributable to Units and Unplatted Parcels in the District on all Community Association matters requiring membership vote, unless otherwise expressly specified in this Declaration or the Bylaws. The Voting Member shall cast all such votes as he in his discretion, deems appropriate. Notwithstanding the foregoing, during the Class B Control Period, the Declarant's votes as a Class "B" member shall be exercised by a Voting Member or Voting Members appointed by Declarant, and such Voting Member(s) shall cast the Class "B" member's votes as directed by Declarant. Notwithstanding the above, each Voting Member shall cast only one (1) equal vote for election of each member to the Board of Directors.

(b) The Class "B" member shall be the Declarant. The Class "B" member shall have triple the number of votes of the Class "A" members at the time of such vote, until the Class "B" membership terminates and becomes converted to Class "A" membership. The rights of the Class "B" member, including the right to approve actions taken under this Declaration and the Bylaws, are specified elsewhere in this Declaration and the Bylaws. The Class "B" member shall be entitled to appoint the members of the Board of Directors during the Class B Control Period, as provided in the Bylaws. After termination of the Class B Control Period, the Class "B" member shall have the right to disapprove actions of the Board of Directors, the officers, the Community Association and any committee thereof as provided in Section 3 of Article III of the Bylaws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(i) Two (2) years after the expiration of the Class B Control Period; or (See Section 7)

(ii) When, in its discretion, Declarant so determines.

Section 6. Cumulative Voting. No cumulative voting shall be permitted.

Section 7. Districts. Every Unit and Unplatted Parcel shall be located within a District. The initial Districts are identified in Exhibit "B", attached hereto and made a part hereof. When additional property is hereafter subjected to this Declaration by Annexation Agreement and thus becomes part of the Properties, such Annexation Agreement or a subsequent Supplemental Declaration shall designate new Districts or identify the existing Districts into which such real property is being included. The Declarant may, without the joinder or consent of any Person whomsoever, (i) remove portions of the Properties from or add portions of the Properties to any District, (ii) otherwise change the configuration of any District or (iii) delete Districts or designate new Districts by Supplemental Declaration or Annexation Agreement specifying the District deletion, configuration or reconfiguration.

Each District shall be governed by a District Association established pursuant to a District Declaration approved by Declarant (which approval may be withheld in Declarant's sole and complete discretion), provided that Declarant may waive (temporarily or otherwise) the requirement for a District Association and a District Declaration with respect to a specific District, in which event the Owners of the Units and Unplatted Parcels within said District shall form a District Committee (established in accordance with the Bylaws) in lieu of a District Association (unless the entire District is owned by a single Owner, in which case no District Committee need be formed as long as such District is owned by a single Owner).

ARTICLE IV Maintenance

Section 1. Community Association's Responsibility. The Community Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, restoration and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures and improvements situated upon or under the Area of Common Responsibility, including, but not limited to, drainage systems, recreation and open space, utilities, traffic control devices and pedestrian systems, and such

other actions as may be required pursuant to the terms and conditions of any agreement of the Community Association and the Declaration. The Community Association also shall maintain and keep in good repair such portions of any additional property not included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Community Association or by a governmental entity or agency. In the discharge of its responsibilities, the Community Association shall comply fully with the Development Order and other Development Approvals to the extent relevant and applicable to the Community Association's duties and responsibilities. Except as otherwise specifically provided herein, all costs associated with maintenance, repair, restoration and replacement of the Area of Common Responsibility and additional property (as provided above) shall be a Common Expense to be allocated among all Units and Unplatted Parcels as part of the Assessments.

The Community Association may maintain property which it does not own (in addition to those portions of the Area of Common Responsibility which it does not own), including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. Owner's Responsibility. Each Owner (and any owner of a portion of the Properties not within a Unit or Unplatted Parcel) shall maintain his or her Unit or Unplatted Parcel (or portion of the Properties) and all structures, parking areas, landscaping and other improvements comprising the Unit or Unplatted Parcel (or portion of the Properties) in good repair and in a manner consistent with the Community-Wide Standard and all applicable covenants, including those contained within the Declaration and any District Declaration, unless such maintenance responsibility is otherwise assumed by or assigned to a District Association pursuant to any District Declaration applicable to such Unit or Unplatted Parcel (or portion of the Properties). If any Owner fails properly to perform his or her maintenance responsibility, the Community Association, in its sole discretion, shall have a right of entry upon such Unit or Unplatted Parcel (or portion of the Properties) and may perform such maintenance and assess all costs incurred by the Community Association (together with an overhead expense to the Community Association of fifteen percent (15%) of the total amount thereof) against the Unit or Unplatted Parcel (or portion of the Properties) and the Owner (or owner) thereof in accordance with Section 3 of Article VIII of this Declaration; provided, however, except when entry is required due to an emergency situation, the Community Association shall afford the Owner (or owner) reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. District's Responsibility. Any District Association or District Committee having responsibility for maintenance of all or a portion of the Properties within a particular District pursuant to a District Declaration affecting such District or otherwise, shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any such District Association fails to perform its maintenance responsibility as required herein and in any District Declaration, the Community Association shall have a right of entry and may perform it and assess the cost (together with an overhead expense to the Community Association of fifteen percent (15%) of the total amount thereof) against all Units and Unplatted Parcels within such District in accordance with Section 3 of Article VIII of this Declaration.

Section 4. Determination as to Community-Wide Standard. The determination as to whether the Properties or any portion thereof, and all structures, parking areas, landscaping and other improvements located thereon are being maintained in a manner consistent with the Community-Wide Standard and all applicable covenants shall be made by the Community Architectural Review Committee. The Community Architectural Review Committee shall have the power and authority to establish and amend the Community-Wide Standard for maintenance through maintenance requirements included in the Planning and Design Criteria.

ARTICLE V
Architectural Standards

Section 1. All Improvements Subject to Approval. No construction, which term shall include within its definition staking, clearing, excavation, grading and other site work; no exterior alteration, addition or modification of existing improvements; no plantings, landscaping or removal of plants, trees or shrubs; and no buildings, structures, walls, fences, pools, patios, paving, driveways, sidewalks, signs, or other improvements of any kind, nature or description shall be commenced, constructed, maintained or otherwise take place upon any of the Properties except in strict compliance with this Article, and in compliance and conformance with any plans approved pursuant to this Article after fully meeting the requirements of this Article, and after the approval of the appropriate entities has been obtained.

Section 2. Community Architectural Review Committee. The Community Architectural Review Committee shall have exclusive jurisdiction over, and the right to review and approve or disapprove, all construction and improvements on the Properties or any portion thereof, including without limitation the activities set out in Section 1 of this Article. Any review by and approval or disapproval of the ARC shall take into account the objects and purposes of this Declaration and the purposes and

function of the ARC. Such review by and approval of the ARC shall also take into account and include the type, kind, nature, design, style, shape, size, height, width, length, scale, color, quality, quantity, texture and materials of the proposed building, structure or other improvements under review, and the compatibility and harmony of same with other contiguous, adjacent and nearby structures and other improvements, and the topography, finish grade elevation, and other physical characteristics and the proposed location of same and in relation to the character of the Properties in general.

Section 3. Design and Development Guidelines. The ARC shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, which shall include provisions of the Planning and Design Criteria applicable to the Properties or any portion thereof. The guidelines and procedures shall be those of the Community Association, and the ARC shall have sole and full authority to prepare and to amend the same. The Community Association shall make the guidelines and procedures, upon request, available to Owners, builders and developers who seek to engage in development of or construction upon all or any portion of the Properties, and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

Section 4. Appointment of Community Architectural Review Committee. Until Declarant no longer owns any portion of the Properties or any land which may become part of the Properties by virtue of annexation, Declarant retains the right to appoint and replace from time to time all members of the ARC. The committee shall consist of at least three (3), but no more than five (5), persons who need not be Owners or members of the Community Association. There shall be no surrender of such right of appointment prior to that time except in the Declarant's sole discretion, in and by a written instrument in recordable form executed by Declarant. Upon the expiration of such right of appointment, the Board of Directors shall appoint the members of the ARC. The term of office for a member of the ARC shall be as determined by Declarant until it no longer has the power to appoint members to the ARC, at which time the Board of Directors may determine the term of office for members of the ARC.

Section 5. Modifications. The ARC shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing structures, improvements, landscaping or topography on the Properties or any portion thereof.

The ARC shall promulgate detailed standards and procedures governing its area of responsibility and practice with respect to modifications, additions or alterations to the Properties. The review and approval of modifications, additions or alterations shall include, without limitation, those matters set forth in

Section 2 of this Article. No permission or approval shall be required to repaint substantially in accordance with an originally approved color scheme, or to rebuild substantially in accordance with originally approved plans and specifications. Nothing contained in this Article V shall be construed so as to require the submission to or approval of the ARC of any plans, specifications or other materials for the reconstruction or alteration of the interior of any building, structure or other improvement constructed on the Properties after having been previously approved by the ARC, unless any proposed interior construction or alteration will have the effect of changing or altering the exterior appearance of such building, structure or other improvement, and provided such interior construction or alteration is not in violation of the Declaration, the Planning and Design Criteria or Development Approvals.

The jurisdiction and authority of the ARC under this Section 5 may be delegated to a Community Modifications Review Committee (or "MRC") in the event the Board elects to form and appoint members to such committee as provided in the Bylaws. In such case the MRC shall be subject to all terms and provisions of this Article V that would otherwise pertain to the MRC in relationship to the jurisdiction and authority delegated by the ARC, and the manner of appointment of members thereto shall be in the same manner as for the ARC provided under Section 4 of this Article V.

Section 6. Delegation. Provided, however, the ARC may delegate its authority as to a particular District to the appropriate board or committee of any District Association as long as the ARC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the ARC. Such delegation may be revoked and jurisdiction reassumed at any time if the ARC determines there is a deficiency in review and enforcement practices, procedures and standards and the applicable board or committee fails to cure such deficiency within thirty (30) days after written notice thereof.

Section 7. Duration of Approval. Any approval of plans, specifications and other materials, by the ARC shall be effective for a period of one (1) year from the effective date of such approval. If construction or installation of the building, structure or other improvement for which plans, specifications and other materials have been approved, has not commenced within said one (1) year period, such approval shall expire, and no construction shall thereafter commence without a resubmission and approval of the plans, specifications and other materials previously approved. The prior approval shall not be binding upon the ARC on resubmission in any respect.

Section 8. Declarant Exempt. The Declarant shall be exempt from compliance with the provisions of this Article V.

Section 9. Time Limitation on Review. The ARC shall have forty-five (45) days after delivery to the Community Association's principal office of all required and requested information, to approve or reject any submissions subject to approval under this Article, and if not rejected within such 45 day period, said plans shall be deemed approved; subject, however, at all times to the covenants, conditions, restrictions and other requirements contained in this Declaration and also subject to the provisions of the Planning and Design Criteria. All work done after receiving the approval of the ARC shall be subject to the inspection by, and final approval of, such committee as appropriate, to determine compliance with the Planning and Design Criteria and plans and specifications submitted and approved by such committee.

Section 10. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 11. Variance. The ARC may authorize variances from compliance with any of the provisions of its guidelines and procedures, including the Planning and Design Criteria, when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may be granted only, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the use restrictions set forth in the body of this Declaration, or (c) prevent the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain (a) an approval of any governmental agency or (b) the issuance of any permit shall not be considered a hardship warranting a variance.

Section 12. Fees and Deposits. The ARC shall have the power and authority to establish and collect fees and to require deposits in connection with its review and approval procedures, including fees of professional consultants, if any, and of members of the ARC, as well as taking into account the costs and expenses associated with the development, formulation and publication of the Planning and Design Criteria.

Section 13. No Liability. No approval given by the ARC or any other committee established pursuant to this Declaration or the Bylaws shall impose any responsibility or liability whatsoever on the Community Association or any officer thereof, the Board of Directors or any such committee, or any member,

employee or agent of any of the foregoing, including, without limitation, for: (i) the structural adequacy or integrity of buildings and improvements for which plans are approved; (ii) any decision, approval or disapproval of any plans, specifications or other materials required to be submitted for review and approval pursuant to the provisions of this Article, or (iii) any mistake in judgment, negligence, misfeasance or nonfeasance related to or in connection with any such decision, approval or disapproval. The review and approval process provided in this Article pertains only to compliance with the provisions provided hereunder and does not include review or approval for compliance with any applicable governmental regulations, including without limitation, any applicable building or zoning laws, ordinances, rules and regulations.

Section 14. Review After the Class B Control Period. Notwithstanding anything to the contrary set forth herein, after the Class B Control Period, in the event Voting Members from a majority of the Residential Districts or Voting Members from a majority of the Nonresidential Districts petition the Board of Directors to separate the jurisdiction and authority of the ARC into two committees, one pertaining to residential development of the Properties or portions thereof, and one pertaining to nonresidential development of the Properties or portions thereof, then the Board of Directors shall terminate the ARC and appoint in lieu thereof two architectural review committees to perform the functions and to have the jurisdiction and authority of the ARC as provided herein. The Community Residential Architectural Review Committee shall have the jurisdiction and authority over, and shall perform the functions of the ARC pertaining to the Properties or portions thereof related to residential development, including without limitation, Residential Units, Residential Districts and Residential Unplatted Parcels. The Community Nonresidential Architectural Review Committee shall have the jurisdiction and authority over, and shall perform the functions of the ARC pertaining to the Properties or portions thereof related to nonresidential development, including without limitation, Nonresidential Units, Nonresidential Districts and Nonresidential Unplatted Parcels. Should the Board of Directors determine that it is desirable for the Community Residential Architectural Review Committee or the Community Nonresidential Architectural Review Committee to delegate a portion of its jurisdiction and authority to a modifications committee as provided in Section 5 of this Article, then the Board of Directors may elect to form a Community Residential Modifications Review Committee and a Community Nonresidential Modifications Review Committee for such purpose. If formed, the Community Residential Architectural Review Committee and the Community Nonresidential Architectural Review Committee shall have all of the powers and duties of the ARC provided in this Declaration, the Articles of Incorporation and Bylaws as to its areas of jurisdiction and authority, and the numbers thereof and shall be

appointed in the same manner as the ARC. If formed, the Community Residential Modifications Review Committee and the Community Nonresidential Modifications Review Committee shall have all of the powers and duties of the Community Modifications Review Committee provided in this Declaration, the Articles of Incorporation and Bylaws as to its areas of jurisdiction and authority, and the members thereof shall be appointed in the same manner as the ARC.

Section 15. Enforcement and Amendment. The Board of Directors on behalf of the Community Association, and the Declarant so long as Declarant owns any land which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties, shall have the authority and standing to enforce in courts of competent jurisdiction, decisions of the committees established in Sections 2, 5 and 14 of this Article V. This Article may not be amended without Declarant's written consent so long as Declarant owns any land which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties.

ARTICLE VI Use Restrictions

The Properties shall be used only for such purposes as are permitted in the Development Order and other applicable Development Approvals, subject to such further restrictions as may be set forth in this Declaration, any Supplemental Declaration or Annexation Agreement, and any applicable District Declaration or other covenants or deed restrictions pertaining thereto. Each Owner shall fully comply with the Development Order and the Development Approvals which pertain to such Owner's Unit or Unplatted Parcel. Each District Association, District Committee or such other owner of any portion of the Properties not included within a Unit or Unplatted Parcel shall fully comply with the Development Order and the Development Approvals which pertain to the portion of the Properties owned by each of them.

A District Declaration may impose stricter standards than those contained in this Article. The Community Association, acting through the Board of Directors, shall have standing and power to enforce restrictions and standards imposed under District Declarations as if such provisions were a covenant under this Declaration.

The Properties shall also be subject to such further restrictions as Declarant may impose under and by virtue of deeds to Owners. Restrictions identified in any such deed as being enforceable by the Community Association shall be enforceable by the Community Association, acting through the Board of Directors,

in the same manner as if such restrictions were set forth in this Declaration.

The Community Association, acting through the Board of Directors, shall have the authority to make, enforce, amend and delete standards and restrictions governing the use of the Properties in addition to those contained herein, and to impose reasonable user fees for use of Common Areas. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled or modified in a regular or special meeting of the Community Association by both Voting Members representing a majority of the total votes of the Community Association and by the vote of Declarant, so long as Declarant owns any land which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties.

The Board of Directors may delegate its power and authority to enforce restrictions pursuant to this Article VI to a Covenants Committee as provided in the Bylaws.

Section 1. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners, shall also apply to all occupants of any portion of the Properties.

Section 2. Nuisance. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such portion of the Properties to appear to be in an unclean, unsightly, unhealthy or unkempt condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon, nor shall any use or practice be allowed upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of the Properties. No illegal, noxious, or offensive activity shall be carried on or conducted upon any portion of the Properties. The pursuit of hobbies or other activities including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall occur only within a garage or other similar walled interior area of the Properties and shall not be visible to view.

Section 3. Tents, Trailers and Temporary Structures. Owners or occupants shall not place upon any portion of the Properties any tent, trailer or any structure of a temporary nature, without obtaining prior written approval from the ARC. The Declarant shall be exempted from the terms and provisions of this Section.

Section 4. Subdivision of Portion of the Properties. As long as Declarant owns any land which is subject to this Declaration or which is under the terms of this Declaration could be annexed to the Properties, no portion of the Properties shall be platted, replatted, subdivided or its boundary lines changed, nor shall any portion of a Unit or Unplatted Parcel, less than the whole thereof, be sold, conveyed or transferred except with the prior written approval of the Declarant, which approval may be granted or withheld in the sole discretion of Declarant. Thereafter, no portion of the Properties shall be platted, replatted, subdivided or its boundary lines changed, nor shall any portion of a Unit or Unplatted Parcel, less than the whole thereof, be sold, conveyed or transferred except with the prior written approval of the Board of Directors. Any such subdivision, boundary line change, platting or replatting shall not be in violation of the applicable subdivision and zoning regulations, the Development Order or the Development Approvals. Declarant, however, hereby expressly reserves the right to plat, replat, subdivide or change the boundary lines of any portion of the Properties owned by the Declarant and the right to sell, convey or transfer any portion of a Unit or Unplatted Parcel less than the whole thereof, without notice to or the approval or consent of any Person being required.

Section 5. Lakes, Ponds, Retention and Other Water Areas. Access to and use of lakes, ponds, retention and other water areas within the Properties shall be governed and controlled by the Declarant or to the extent applicable, the Community Development District, except that if any of the foregoing are not a part of the Master Drainage System and are located totally within a District, access to and use thereof shall be governed and controlled by the related District Association or District Committee. This shall not be deemed to imply that any of the Properties or the Owners thereof will have access to or rights to use lakes, ponds, retention or other water areas within the Properties. The Declarant or the Community Development District, to the extent applicable, may establish rules and regulations relevant to access and use of lakes, ponds, retention and other water areas (not subject to jurisdiction of a District Association or District Committee) which may include, without limitation, regulation or prohibition of sailing, boating (including jet skis or other vehicles containing gas, diesel or other form of combustion engines), swimming, fishing or other water sports or activities. The Declarant or the Community Development District shall also have the right, but not the obligation, to specifically designate the portions, if any, of the lakes, ponds, retention or other water areas and the corresponding shoreline or beach areas upon which boats or other vehicles may be stored, docked, or launched, or within which swimming may be permitted. To the extent the rules and regulations of the Declarant or the Community Development District allow access to or use of lakes, ponds, retention or

other water areas, such use shall be at the risk of the Person undertaking such activity, and there shall be no obligation by the Declarant or Community Development District to provide supervisory personnel or lifeguards. At such time as Declarant no longer owns any property which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties, or at such earlier time as Declarant in its sole discretion may determine, the rights reserved to Declarant in this section shall become rights of the Community Association, to be exercised by its Board of Directors. The actions, rules or regulations promulgated by the Community Development District shall control in the event of any conflicts between its actions and those of Declarant or the Community Association.

Section 6. Enforcement. In the event of the violation of or the failure to comply with the requirements of this Article and the failure of the owner of the affected portion of the Properties within ten (10) days following written notice by the Community Association of such violation or non-compliance and the nature thereof, to cure or remedy such violation, then the Community Association or its duly appointed employees, agents or contractors, shall have the right, but not the obligation, and an easement and license to enter upon the affected portion of the Properties, without being guilty of any trespass therefor, for the purpose of curing or eliminating such violation, all at the sole expense of the owner thereof. Such costs and expenses, together with an overhead expense to the Community Association of fifteen percent (15%) of the total amount thereof shall be payable by the owner of the affected portion of the Properties to the Community Association within ten (10) days after written notice to the owner of the amount thereof, which amount shall become or be treated in the same manner as a Special Assessment levied against said portion of the Properties. The Community Association may place a lien upon such portion of the Properties to recover such costs and expenses, as provided in Article VIII and the Community Association may seek all other legal and equitable remedies available to it.

ARTICLE VII Annexation of Additional Property

Section 1. Annexation. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until January 1, 2025, to annex to the Properties any additional property, including properties now or hereafter owned by it and the property of others, (i) which is either abutting the existing Properties (including additions thereto), which shall include properties which would abut the Properties, but for the existence of a road right of way, easement or other similar property grant separating it from the Properties, or (ii)

which is so situated that its addition will be consistent with a uniform scheme of development as determined in the sole discretion of Declarant. Such annexation shall be accomplished by filing in the public records of Brevard County, Florida an Annexation Agreement annexing such property so as to become part of the Properties and Exhibit "A", and thereby submitting same to the terms of the Declaration. Any such annexation shall be effective upon the filing for record of such Annexation Agreement unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the owner of at least a portion of the Properties and that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing herein shall obligate Declarant to annex additional real property into the Properties.

The Community Association also shall have the right, privilege and option, from time to time and at any time, to annex to the Properties any additional property owned by it or an owner consenting to such annexation, (i) which is either abutting the existing Properties (including additions thereto), which shall include properties which would abut the Properties, but for the existence of a road right of way, easement or other similar property grant separating it from the Properties, or (ii) which is so situated that its addition will be consistent with the uniform scheme of development. Such annexation shall be accomplished by filing in the Public Records of Brevard County, Florida an Annexation Agreement annexing such property so as to become part of the Properties and Exhibit "A", and thereby submitting same to the terms of the Declaration. Any such annexation shall be effective upon the filing for record of such Annexation Agreement unless otherwise provided therein.

Section 2. Amendment. This Article shall not be amended without the written consent of Declarant.

ARTICLE VIII Assessments

Section 1. Creation of Assessments. There are hereby created Regular Assessments for Common Expenses as may from time to time specifically be authorized by the Community Association, to be commenced at the time and in the manner set forth in Section 5 of this Article. Assessments shall be levied on all Units and Unplatted Parcels according to the following formula:

(a) Assignment of Points.

✓ (i) Residential Units and Residential Unplatted Parcels. One (1) point per acre or portion thereof shall be assigned to a Residential Unplatted Parcel. For those portions of a Residential District which are subject to a recorded plat for Units, are submitted to condominium or cooperative ownership, or are otherwise designated by Declarant as a Residential Unit, each Residential Unit shall be assigned one (1) point.

(ii) Nonresidential Units and Nonresidential Unplatted Parcels. One (1) point per acre or portion thereof shall be assigned to a Nonresidential Unplatted Parcel. For those portions of a Nonresidential District which are subject to a recorded plat for Units, are submitted to condominium or cooperative ownership, or are otherwise designated by Declarant as a Nonresidential Unit, each Nonresidential Unit shall be assigned ten (10) points per acre or portion thereof.

(b) Computation of Assessment.

The percentage of the total assessment to be levied on a particular Unit or Unplatted Parcel shall be computed by dividing the total points assigned to that Unit or Unplatted Parcel subject to the Assessment by the total points for all Units and Unplatted Parcels in the Properties subject to the Assessment. The percentage of the total assessment for each Unit or Unplatted Parcel subject to assessment shall be computed annually by Declarant, and notice of the percentage for each Unit or Unplatted Parcel (including a summary of the computations) shall be sent to each Owner together with the annual notice of any Assessment. The Assessment for a Unit or Unplatted Parcel shall be arrived at by multiplying the total budget amount or total assessment adopted by the Board of Directors (as it may be amended from time to time) by the applicable percentage of the total assessment computed for such Unit or Unplatted Parcel.

Upon annexation of additional property into the Properties, Assessments shall be recomputed under the above formula, and all Owners shall be notified of their new Assessment not less than fifteen (15) days prior to the beginning of the next billing cycle for the collection of Assessments as established, and as may be modified, by Declarant.

Special Assessments shall be levied as provided in Section 3 of this Article VIII. Each Owner, by acceptance of a deed or recorded contract of sale to any portion of the Properties, is deemed to covenant and agree to pay these Assessments. All Assessments, together with interest at a rate not to exceed the highest rate allowed by Florida law as computed from the date the delinquency first occurs, penalties, late charges, processing or other fees, costs, expenses and reasonable attorneys' and paralegals' fees, shall be a charge on the land and shall be a

continuing lien upon the Unit or Unplatted Parcel against which each Assessment is made.

All Assessments, together with interest, penalties, late charges, processing or other fees, costs, expenses and reasonable attorneys' and paralegals' fees, shall also be the personal obligation of the Person who was the Owner of such Unit or Unplatted Parcel at the time the Assessment arose, and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit or Unplatted Parcel pursuant to foreclosure of a first Mortgage, or pursuant to a deed in lieu of foreclosure of a first Mortgage, shall be liable for unpaid Assessments which accrued prior to such acquisition of title.

The Community Association shall, upon demand at any time, furnish to any Owner liable for any type of Assessment a certificate in writing setting forth whether such Assessment has been paid as to any particular Unit or Unplatted Parcel. Such certificate shall be conclusive evidence of payment to the Community Association of such Assessment therein stated to have been paid. The Community Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the entire Assessment for delinquent payments, including without limitation in the case of the Regular Assessment, acceleration of payment of the Regular Assessment for the entire fiscal year, and acceleration of payment of the full amount of any Special Assessment. The Board of Directors may in its sole discretion grant an option for the Regular Assessment to be paid in installments rather than annually in advance, subject to an additional processing fee and interest being due if such option is elected. Unless the Board of Directors otherwise provides, the Regular Assessment shall be paid in quarterly installments.

No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein by non-use of the Common Area or abandonment of the Unit or Unplatted Parcel against which the Assessments are made. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of an Assessment or set-off against an Assessment shall be claimed or allowed by reason of any alleged failure of the Community Association to take some action or perform some function required to be taken or performed by the Community Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Community Association, or from any action taken to comply with

any law, ordinance, order or directive of any municipal or other governmental authority.

So long as Declarant has an option unilaterally to subject additional property to this Declaration in accordance with Article VII, Declarant may elect, in lieu of paying Assessments on its unsold Units or Unplatted Parcels, to pay the difference between the amount of Assessments levied on all Units and Unplatted Parcels subject to assessment (except Declarant's unsold Units or Unplatted Parcels) and the amount of actual expenditures required during the fiscal year by the Community Association. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. Such services or materials may be furnished by any party designated by Declarant and the value of such services shall be established by Declarant or by a written statement of the service or material provider.

The Community Association is specifically authorized to enter into subsidy contracts or contracts for "in-kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 2. Adoption of Budget. It shall be the duty of the Board of Directors at least sixty (60) days before the beginning of each fiscal year, to prepare and adopt a budget for the Community Association covering the estimated Common Expenses during the coming fiscal year. The budget may, but shall not be required to, include a capital contribution establishing a reasonable reserve fund in accordance with a capital budget separately prepared. If so proposed, such capital budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board of Directors shall set the capital contribution, if any, in an amount sufficient to permit the Community Association to meet the projected capital needs, as shown on the capital budget, with respect to amount and timing, by Regular Assessments over the period of the budget. The Board of Directors shall mail, publish in a newspaper of local circulation, or post on the Properties a copy of the adopted budget and a notice of the amount of the Regular Assessment to be levied against each Unit or Unplatted Parcel for the following fiscal year calculated as provided in Section 1 of this Article, to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and Regular Assessment shall become effective upon adoption of the budget by the Board of Directors.

Notwithstanding the foregoing, however, in the event the Board of Directors fails for any reason so to adopt the budget for any year, then and until such time as a budget shall have

been adopted by the Board of Directors, the budget in effect for the immediately preceding year shall, with an increase of ten percent (10%), continue for the current year.

In the event that the Board of Directors shall determine during any fiscal year that the Regular Assessment established for such fiscal year is or will become inadequate or insufficient to meet all Common Expenses for such fiscal year, for whatever reason, the Board of Directors shall be entitled to immediately determine the approximate amount of the deficiency or inadequacy of the Regular Assessment for such fiscal year, adopt an amendment to the budget to cover such deficiency, and levy supplemental or revised Regular Assessments for such fiscal year, calculated as provided in Section 1 of this Article. Such amendment to the budget and such supplemental or revised Regular Assessments shall become effective upon adoption by the Board of Directors. The Board of Directors shall furnish notice of such amendment to the budget and such supplemental or Revised Regular Assessments in the same manner provided in the first paragraph of this Section. The foregoing shall not be deemed a Special Assessment.

Section 3. Special Assessments. In addition to the Regular Assessments authorized in Section 1 of this Article, the Community Association may levy and collect a Special Assessment or Special Assessments from time to time for any purpose related to the discharge of the Community Association's duties and obligations pursuant to this Declaration. The obligation to pay Special Assessments shall be computed on the same basis as for Regular Assessments. Special Assessments shall be payable in such manner and at such times as determined by the Board of Directors, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board of Directors so determines. If the Declarant is subsidizing the Regular Assessments as provided in Section 1 of this Article at the time of such Special Assessment, Declarant may determine in its discretion whether it desires to subsidize the Special Assessment in the same manner as provided in Section 1, or pay same based on the Units and Unplatted Parcels it owns. In the event a Special Assessment is levied on a Unit or Unplatted Parcel for reasons other than noncompliance with the terms and conditions of deed restrictions, the Declaration, any District Declaration or any other documents related thereto, including without limitation the rules and regulations, then if such Special Assessment exceeds fifty percent (50%) of the Regular Assessment for the fiscal year in which it is levied, such Special Assessment shall require the approval of Voting Members representing a majority of the votes, for each class of members, present at a meeting of the Community Association called for the purpose of considering such Special Assessment. Special Assessments levied as a result of noncompliance with the terms and conditions of deed restrictions, the Declaration, District

Declaration, or any other documents related thereto, including without limitation rules and regulations, shall not require the approval of Voting Members of any class, and may be imposed by the Board of Directors or its designees.

After the Community Association has mailed written notice to an Owner of a Unit, or Unplatted Parcel at such Owner's last known address, specifying the noncompliance of such Unit or Unplatted Parcel with the terms and conditions of the Declaration or District Declaration, and providing the opportunity to such Owner to cure such noncompliance within a stated period or to be heard by the Board of Directors or other committee designated by it in respect to the noncompliance, the Community Association may levy and collect a Special Assessment against any Owner individually and against such Owner's Unit or Unplatted Parcel to reimburse the Community Association for costs and expenses incurred in bringing an Owner and his Unit or Unplatted Parcel into compliance with the provisions of this Declaration or the applicable District Declaration (including without limitation an overhead expense of fifteen percent (15%) of the total costs and expenses payable to the Community Association). The Community Association may also levy a Special Assessment against the Units or Unplatted Parcels in any District to reimburse the Community Association for costs incurred in bringing the District or Units or Unplatted Parcels therein into compliance with the provisions of this Declaration or the District Declaration, which Special Assessment may be levied upon the vote of the Board of Directors or other committee designated by it, after notice to the senior officer or Voting Member of the District Association or District Committee specifying the noncompliance of the District or Units or Unplatted Parcels therein, and the opportunity to cure such noncompliance within a stated period or be heard by the Board of Directors in respect to the noncompliance.

Section 4. Lien for Assessments. The Community Association shall, at any time following the expiration of ten (10) days after the due date of an Assessment, be entitled to cause a claim of lien for such delinquent Assessments to be filed among the Public Records of Brevard County, Florida. Any such claim of lien shall, among other things, state and identify the Unit or Unplatted Parcel against which the lien is claimed, the name of the Owner of the Unit or Unplatted Parcel as provided in the books and records of the Community Association, and the amount of the lien at the time of filing and such additional items as may be secured by the lien. Such lien may be executed by any officer of the Community Association or by the management agent or attorney for the Community Association. A copy of the claim of lien shall be furnished to the Owner against whose property the lien is filed. The payment of all Assessments established, made, levied and imposed by the Community Association pursuant to this Declaration, as well as any Assessments which may become due on or after the recordation of such lien together with interest,

Lien fees

penalties, processing or other fees, late charges, costs, expenses, and reasonable attorneys' and paralegals' fees associated with the collection thereof (whether suit be brought or not), shall be secured by the lien. Upon recording of a notice or claim of lien on any Unit or Unplatted Parcel, there shall exist a perfected lien for unpaid Assessments prior and superior to all other liens, except (a) all taxes, bonds, assessments, and other levies which by law would be superior thereto; and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, or foreclosure in the same manner mortgage liens are foreclosed. Lien fees

The Community Association shall have the power to bid for the Unit or Unplatted Parcel at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Unit or Unplatted Parcel is owned by the Community Association following foreclosure: (a) no Assessment shall be assessed or levied on it; and (b) each other Unit or Unplatted Parcel shall be charged, in addition to its usual Assessment, its pro rata share, based upon its percentage of total assessments in Section 1 of this Article, of the Assessment that would have been charged such Unit or Unplatted Parcel had it not been acquired by the Community Association as a result of foreclosure.

Suit to recover a money judgment for unpaid Assessments, interest, penalties, processing or other fees, late charges, costs, expenses and reasonable attorneys' and paralegals' fees shall be maintainable without foreclosing or waiving the lien securing the same. If there are multiple Owners of a Unit or Unplatted Parcel, each Owner shall be jointly and severally liable for any Assessments made against such Unit or Unplatted Parcel. The remedies herein provided for the collection and enforcement of Assessments and the foreclosure of the lien therefor shall be cumulative and not alternative and may be brought separately or simultaneously as separate counts in the same action.

Section 5. Date of Commencement of Assessments. The Assessments provided for herein shall commence as to each Unit or Unplatted Parcel on the first day of the first month following (i) the date of conveyance of the Unit or Unplatted Parcel by Declarant, or (ii) the effective date of the first budget, whichever is later. The first Regular Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time Regular Assessments commence as to the Unit or Unplatted Parcel.

Section 6. Subordination of the Lien to First Mortgages. The lien of Assessments, including interest, penalties, processing or other fees, late charges, costs, expenses and reasonable

attorneys' and paralegals' fees, shall be subordinate to the lien of any first Mortgage upon any Unit or Unplatted Parcel. The sale or transfer of any Unit or Unplatted Parcel shall not affect the Assessment lien or the personal liability of the Owner of such Unit or Unplatted Parcel for payment of the Assessment. However, the sale or transfer of any Unit or Unplatted Parcel pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such Assessments (but not the personal liability of the prior Owner for said unpaid Assessments) as to payments which became due prior to such sale or transfer. No foreclosure, sale or transfer shall relieve such Unit or Unplatted Parcel from the personal obligation or liability for the payment of any Assessments (including the right to file a lien for nonpayment thereof) for any Assessments thereafter accruing or becoming due. When a Mortgagee holding a first Mortgage of record or other purchaser of a Unit or Unplatted Parcel obtains title pursuant to remedies under the Mortgage, such Mortgagee or purchaser, its successors and assigns shall not be liable for the share of the Common Expenses or Assessments of the Community Association chargeable to such Unit or Unplatted Parcel which became due prior to the acquisition of title to such Unit or Unplatted Parcel by such acquirer. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from Owners of all the Units or Unplatted Parcels, including such acquirer, its successors and assigns.

Section 7. Exempt Property. Notwithstanding anything herein to the contrary, the following property shall be exempt from the payment of Assessments:

- (a) All Common Area under the Declaration and any District Declaration;
- (b) The Areas of Common Responsibility not within a Unit or an Unplatted Parcel;
- (c) All property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks, if any; and
- (d) All real property not within a Unit or an Unplatted Parcel which is part of the Master Drainage System.

Section 8. Alternative Billing of Assessments. The Community Association may, in lieu of collecting Assessments on an individual basis from each Owner, bill any District Association or District Committee for the combined Assessments due with respect to all the Units or Unplatted Parcels within each such District. Each District Association or District Committee, as the case may be, shall pay the Assessments due for all Units or Unplatted Parcels within the District promptly upon receipt of

any such billing. If any District Association or District Committee fails to pay the total combined Assessments within thirty (30) days after receipt of a bill therefor, the Community Association shall thereupon send notice of the Assessment due to each Owner of a Unit or Unplatted Parcel within the District and such Assessment shall then be payable by each such Owner of a Unit or Unplatted Parcel. In the alternative, the Community Association may elect to sue any District Association or District Committee for the payment of all the Assessments due for all Units or Unplatted Parcels within the District.

ARTICLE IX
General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by Declarant or the Community Association, their respective successors and assigns, for a term of forty (40) years from October 10, 1989 after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by eighty-five percent (85%) of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Enforcement. Every Owner and every occupant of a Unit or Unplatted Parcel shall comply strictly with the covenants, conditions, and restrictions set forth in the Declaration and associated documents, the applicable District Declaration and in the deed to the Unit or Unplatted Parcel, if any. The Community Association or Declarant shall have the right individually or collectively to enforce the covenants, conditions, restrictions and other provisions of this Declaration or seek such other relief as may be available as a result of a breach of such covenants, conditions, restrictions and other provisions of the Declaration, by any proceeding at law or in equity. Failure to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter. The right to enforce the Declaration shall include, without limitation, an action to recover sums due for damages or an action for injunctive relief, or both, maintainable by the Community Association or by Declarant. In addition, the Community Association may also impose per diem penalties for failure of an Owner to comply with this Declaration and associated documents after notice of such noncompliance and the elapsing of a stated time period within which to cure such noncompliance. Such penalties shall be due and payable upon imposition and shall be secured, collected and otherwise treated in the same manner as Assessments. Failure to

comply with the applicable District Declaration shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Community Association, Declarant, or in a proper case, by the aggrieved Owner.

The Community Association or Declarant shall have the right, but not the obligation, to take all actions that the District Association or District Declarant might otherwise take under the provisions of the District Declaration, including the right to enforce the terms of the District Declaration.

Costs, expenses and reasonable attorneys' and paralegals' fees, whether suit be brought or not, including those resulting at all trial and appellate levels, incurred by the prevailing party in any action to enforce any provision of this Declaration, the Planning and Design Criteria, the Articles of Incorporation, Bylaws, and rules and regulations of the Community Association, the District Declaration and any similar associated documents thereunder, or deed restrictions on the Properties, or to seek such other relief as may be available as a result of a breach of any covenants, conditions, restrictions or other provisions of any of the foregoing, including without limitation actions to recover sums due for damages or actions for injunctive relief, shall be the personal obligation of the nonprevailing party.

Section 3. Easements for Utilities and Other Services.

There is hereby reserved unto Declarant, so long as Declarant owns any property which is subject to this Declaration or which under the terms of this Declaration could be annexed to the Properties, and its designees for each of the following, (which may include, without limitation, Brevard County, Florida, any other governmental entity or any utility service provider), blanket non-exclusive easements upon, across, over, and under all of the Common Area and, to the extent shown on any plat, over other portions of the Properties for ingress, egress, installing, replacing, repairing and maintaining cable television systems, master television antenna systems, fiber optic lines, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, surface water management systems, including the Master Drainage System, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Unit or Unplatted Parcel and, except in an emergency, entry into any Unit or Unplatted Parcel shall be made only after reasonable notice to the Owner or occupant thereof.

Notwithstanding anything to the contrary contained in this Section, no sewer lines, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by Declarant, so long as Declarant owns any property which is subject to this Declaration or which under the

terms of this Declaration could be annexed to the Properties, and thereafter by the Board of Directors.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement over the Properties. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

Section 4. Future Easements. There is hereby reserved to Declarant, together with the right to grant and transfer the same, the right, power and privilege to, at any time hereafter, grant to itself, the Community Association, Brevard County or any other parties such other further and additional easements as may be reasonably necessary or desirable, in the sole opinion and within the sole discretion of Declarant, for the future orderly development of the Viera East Community in accordance with the objects and purposes set forth in this Declaration. It is expressly provided, however, that no such further or additional easement shall be granted or created over and upon any Unit or Unplatted Parcel pursuant to the provisions of this Section if any such easement shall unreasonably interfere with the presently contemplated or future use and development of that particular Unit or Unplatted Parcel. The easements contemplated by this Section may include, without limitation, such easements as may be required for utility, drainage, road right-of-way, signage and other purposes reasonably related to the orderly development of the Viera East Community in accordance with the objects and purposes specified in this Declaration. Such further or additional easements may be hereafter created, granted or reserved by Declarant without the necessity for the consent or joinder of the Owner of the particular portion of the Properties over which such further or additional easement is granted or required.

Section 5. Master Drainage System. Declarant currently is retaining title to all or portions of the property comprising the Master Drainage System. Declarant may elect to assign or transfer the ownership and/or the responsibility for maintenance of the Master Drainage System to the Community Association or to form a municipal service taxing unit or special district (including the Community Development District) to own and/or maintain, control and operate the Master Drainage System. In the event Declarant or the Community Association maintains the Master Drainage System, the cost of the maintenance of the Master Drainage System attributable to the Properties shall be a Common Expense. In the event a municipal service taxing unit or special district (including the Community Development District) owns, maintains, controls or operates the Master Drainage System, then the cost of same will be imposed upon the portion of the Properties subject to such taxing unit or district in accordance with its terms and provisions.

Subject to regulations and ordinances imposed by all governmental and quasi-governmental bodies or agencies, and further subject to any written agreements entered between the Declarant and/or the Community Development District and any governmental and quasi-governmental bodies or agencies, the Declarant, except to the extent the Community Development District may otherwise be empowered to determine, shall have the sole right to control the water level of all lakes, ponds, retention and other water areas, the drainage control devices and all other areas and apparatus comprising the Master Drainage System. Subject to the regulations, ordinances and agreements imposed by or made with any governmental or quasi-governmental body or agency, the Declarant, and any assigns of the Declarant, shall have the right to use the water in all lakes, ponds, retention and other water areas in the Master Drainage System for irrigation purposes as determined by Declarant or such other Persons as Declarant may designate.

No Person (other than the Declarant or the Community Development District, its employees or agents) shall, without the written approval of the Declarant or the Community Development District, do any of the following on any part of the Master Drainage System: (a) use power boats or other watercraft, fish or swim unless specifically authorized pursuant to Article VI, Section 5 hereof; (b) discharge any liquid or material other than natural drainage into any lake, pond, retention or other water areas, and then only in accordance with the permits for the Master Drainage System; (c) alter or obstruct any lakes, ponds, retention or other water areas, or interfere with any water control structures or apparatus, which are a part of the Master Drainage System.

Section 6. Municipal Service Taxing Units; Special Districts. Declarant reserves the right to create such municipal service taxing units and special districts as may be necessary or desirable to furnish governmental or quasi-governmental (including utility) services to the Properties or portions thereof.

Section 7. Indemnification. The Community Association shall indemnify every officer, director, committee member and employee of the Community Association against any and all costs and expenses, including reasonable attorneys and paralegals' fees, reasonably incurred by or imposed upon such officer, director, committee member or employee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, committee member or employee of the Community Association. Such officers, directors, committee members and employees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. Such

officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Community Association (except to the extent they may also be members of the Community Association), and the Community Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to, others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, committee member, or employee, or former officer, director, committee member or employee may be entitled. The Community Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 8. Litigation. During the Class B Control Period no judicial or administrative proceeding shall be commenced or prosecuted by the Community Association unless approved by a majority of the Board of Directors. Thereafter, no judicial or administrative proceeding shall be commenced or prosecuted by the Community Association unless approved by a vote of seventy-five percent (75%) of the Board of Directors. This Section shall not apply, however, to (a) actions brought by the Community Association to enforce the provisions of this Declaration or associated documents, any District Declaration or associated documents, or such other relief as may be available as a result of a breach of covenants, conditions, restrictions and other provisions of the Declaration or associated documents, or any deed restrictions imposed on Units or Unplatted Parcels or other portions of the Properties, which shall include, without limitation, actions to recover sums due for damages or actions for injunctive relief, (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided in Article VIII hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Community Association in proceedings instituted against it. (This Section shall not apply to the undertaking of any defense of the Community Association in proceedings instituted against it.) This Section shall not be amended unless such amendment is made by Declarant or, after the Class B Control Period, is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 9. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of (i) any District Declaration and associated documents thereunder, and (ii) any deed restrictions, and the Community Association may, but shall not be required to, enforce those documents described in (i) and (ii); provided, however, in the event of conflict between or among such covenants and

restrictions, and provisions of any articles of incorporation, bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any District Declaration and any District Association or any deed restrictions shall be subject and subordinate to those of the Community Association and this Declaration. The foregoing priorities shall apply, but shall not be limited to, the liens for assessments created in favor of the Community Association. If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration, and the Bylaws, the provisions of Florida law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

Section 10. Severability. Invalidation of any one of these covenants or restrictions contained in the Declaration by judgment or court order shall in no way affect the validity of any other provisions contained in the Declaration, which shall remain in full force and effect.

Section 11. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment for so long as such encroachment shall exist due to the unintentional placement of improvements as a result of minor inaccuracies in surveying, construction or reconstruction, or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration).

Section 12. Development and Construction by Declarant. Nothing set forth in this Declaration shall be deemed, either expressly or impliedly, to limit the right of Declarant to change, alter or amend its development plan or plans for the Properties or the Development Order or Development Approvals, or to construct such improvements as the Declarant deems advisable prior to the completion of the development of all of the Properties. Declarant reserves the right to alter its development and construction plans and designs as it deems appropriate from time to time. Nothing in this Declaration shall be construed to require Declarant, its successors in interest or assigns to develop any of the Properties.

Section 13. Construction Activity by Declarant. Notwithstanding anything to the contrary set forth herein, Owners of Units and Unplatted Parcels (and owners of any other portion of the Properties) acknowledge that Declarant may undertake certain construction or related activities for the purpose of marketing, sale, development and improvement of the Properties or portions thereof. As a result, certain portions of the Properties may experience disturbance or inconvenience from time to time from such activities, however no Owner (or owner of any other portion of the Properties) shall be entitled to seek relief against the Declarant for any reason related thereto.

Section 14. Community Association Empowered to Enforce District Declaration. The Community Association is hereby authorized and empowered, but shall not be obligated so to act, to enforce the covenants, conditions and restrictions of any District Declaration or deed restrictions pertaining to the Properties, and shall have a reasonable right of entry for purposes thereof, provided however, the Community Association shall so notify the owner of such portion of the Properties in noncompliance, at its last known address, of such noncompliance, and grant the owner of such portion of the Properties an opportunity to cure such noncompliance or a right to be heard. Any costs, expenses, reasonable attorneys' and paralegals' fees (as well as a fifteen percent (15%) administrative overhead factor) incurred by the Community Association as provided hereunder shall be deemed a Special Assessment under Section 3 of Article VIII against such portion of the Properties in noncompliance, and shall be subject to collection and such other terms as provided therein and in Article VIII hereof.

Section 15. Wildlife, Wetland Programs and Other Components of Development Order. The Declarant or Community Association may in the future implement wildlife or wetland programs or other components of the Development Order, and this Declaration may be amended by Declarant, without the joinder or consent of any Person being required, for the purpose of defining and implementing such programs, and if deemed appropriate by Declarant, for the purpose of defining certain responsibilities and obligations of the Community Association, any District, District Association or District Committee, the Properties or portions thereof, and Owners in regard thereto.

ARTICLE X
Declarant's Rights

Section 1. Assignment of Rights. Any or all of the special obligations of Declarant may be transferred to other Persons including, without limitation, the Community Association, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the public records of Brevard County, Florida. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "A" in any manner whatsoever.

Section 2. Development Activities. Notwithstanding any provisions contained in the Declaration or related documents to the contrary, it shall be expressly permissible for Declarant, its sales agents, sales representatives, contractors and other designees to maintain and carry on upon portions of the Common Area, Units, Unplatted Parcels or other portions of the

Properties owned by Declarant, such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of Units or Unplatted Parcels, including, but not limited to, business offices, signs, model units, and sales offices, and siting of construction trailers, construction equipment and materials thereon, and Declarant, its sales agents, sales representatives, contractors and other designees shall have an easement for access to and use for such purposes and of such facilities.

Section 3. Approval of Additional Covenants and Plats of the Properties. So long as Declarant continues to have rights under this Article, no Person shall record any plat, declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument, affecting any portion of the Properties owned by such Person without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such plat, declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument, being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

Section 4. Amendment. This Article may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) thirty-five (35) years from October 10, 1989, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE XI Amendment

Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any Person, for any purpose including, without limitation, withdrawal of certain portions of the Properties then owned by Declarant or its affiliates from the provisions of this Declaration or a change in the uses permitted for the Properties under this Declaration, by recordation of an amendment in the public records of Brevard County, Florida. Any amendment of Declarant shall be consistent with the general development plan for the Properties set forth in this Declaration, and with the Development Order for the Properties issued by Brevard County, Florida. It may also designate separate residential, commercial, industrial, office, governmental, educational or other Districts. Other covenants and restrictions consistent with the general plan of development may include, without limitation, requirements for insurance and repair of the Common Area and Units or Unplatted Parcels, rights and obligations in respect to condemnation, rights and obligations of the Community Association, including

the right to promulgate rules and regulations (including without limitation providing for fines, payment of which may be secured by Assessment liens), and providing enforcement powers, reservation of additional easements over the Properties, and certain provisions required by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veterans Administration, the Department of Housing and Urban Development, and any other federal, state or local governmental entity or agency.

This Declaration may also be amended by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of the total votes of the Community Association including seventy-five percent (75%) of the votes held by members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to the amendment of this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment shall remove, revoke or modify any right or privilege of Declarant or the Community Association without the written consent of such party or the assignee of such party's right or privilege. No amendment may impair the validity or priority of the lien of any Mortgage held by any Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

By acceptance of a deed of conveyance to a Unit or Unplatted Parcel, or other portion of the Properties each owner thereof thereby gives its full, irrevocable and unqualified consent on behalf of itself, its mortgagees, and its successors-in-title to the amendment of this Declaration in the manner provided in this Article.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 26th day of August, 1992.

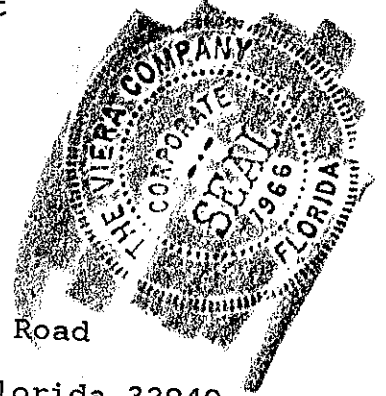
WITNESSES

[Signature]
Print Name: JOHN R. MALOY

Betty A. Deese
Print Name: BETTY A. DEESE

THE VIERA COMPANY, a Florida corporation

By: [Signature]
Perry J. Reader
Its: Vice President



(CORPORATE SEAL)

Address: 7380 Murrell Road
Suite 201
Melbourne, Florida 32940

STATE OF FLORIDA)
) SS:
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me this 26th day of August, 1992 by PERRY J. READER, the Vice President of THE VIERA COMPANY, a Florida corporation, on behalf of the corporation. He is known to me ~~or has produced~~ as identification and did not take an oath.

Betty A. Deese
Signature of Person Taking Acknowledgment
Print Name: BETTY A. DEESE
Title: Notary Public
Serial No. (if any) _____
Commission Expires: _____

Notary Stamp



(R:071\DOC4.DOC)
(Draft Date 3/10/92)

TABLE OF EXHIBITS

Exhibit

Subject Matter

"A"

Land Initially Submitted

"B"

Designation of Districts

"C"

Articles of Incorporation of Community
Association and First Amendment thereto

"D"

Bylaws of Community Association and First
Amendment thereto

EXHIBIT "A"

Land Initially Submitted

[Insert correct Exhibit "A" in lieu of this page]

LEGAL DESCRIPTION -

Portions of Sections 33 and 34, Township 25 South, Range 36 East, and portions of Sections 3, 4, 9 and 10, Township 26 South, Range 36 East, all in Brevard County, Florida, being more particularly described as follows: Commence at the Southeast corner of said Section 10; thence $N00^{\circ}58'45''W$ along the East line of said Section 10 for 50.04 feet to the North right of way line of Wickham Road and the POINT OF BEGINNING; thence $S86^{\circ}40'00''W$ along said North right of way line for 1,791.05 feet; thence $S89^{\circ}31'32''W$ along said North right of way line for 1,232.48 feet to the East line of that parcel described in Official Records Book 876, Page 569 of the Public Records of Brevard County, Florida; thence $N14^{\circ}32'54''W$ along said East line for 766.98 feet to the North line of said parcel described in Official Records Book 876, Page 569; thence $S75^{\circ}27'06''W$ along said North line for 768.49 feet to the Easterly right of way line of Interstate 95; thence $N26^{\circ}01'27''W$ along said Easterly right of way line for 745.31 feet; thence $N14^{\circ}32'54''W$ along said Easterly right of way line for 9,138.64 feet; thence $N75^{\circ}26'32''E$ for 1,437.64 feet; thence $S14^{\circ}33'28''E$ for 580.00 feet; thence $S42^{\circ}38'20''E$ along a radial line for 493.95 feet to a point on a curve concave to the South, having a radius of 640.00 feet; thence Easterly along the arc of said curve, through a central angle of $48^{\circ}08'20''$ for 537.72 feet to the point of tangency; thence $S84^{\circ}30'00''E$ for 750.00 feet to a point on the Northerly extension of the Easterly right of way line of Murrell Road, said right of way recorded in Official Records Book 2953, Page 2101 of the Public Records of Brevard County, Florida; thence $S05^{\circ}30'00''W$ along said Northerly extension of the Easterly right of way line of Murrell Road and along the Easterly right of way line of Murrell Road for 1,365.19 feet to the point of curvature of a curve concave to the East and having a radius of 1,085.92 feet; thence for the following six (6) courses along said Easterly right of way line: (1) thence Southerly along the arc of said curve for 521.20 feet, through a central angle of $27^{\circ}30'00''$ to the point of tangency; (2) thence $S22^{\circ}00'00''E$ for 1,399.77 feet to the point of curvature of a curve concave to the West, having a radius of 1,205.92 feet; (3) thence Southerly along the arc of said curve for 568.28 feet, through a central angle of $27^{\circ}00'00''$ to the point of tangency; (4) thence $S05^{\circ}00'00''W$ for 468.53 feet to the point of curvature of a curve concave to the East, having a radius of 1,085.92 feet; (5) thence Southerly along the arc of said curve for 511.85 feet, through a central angle of $27^{\circ}00'24''$ to the point of tangency; (6) thence $S22^{\circ}00'24''E$ for 592.63 feet to the point of curvature of a curve concave to the Northeast, having a radius of 50.00 feet; thence Southwesterly along the arc of said curve for 78.54 feet, through a central angle of $90^{\circ}00'00''$ to the point of tangency; thence $N67^{\circ}59'36''E$ for 423.19 feet to the point of curvature of a curve concave to the South, having a radius of 960.00 feet; thence Easterly along the arc of said curve for 318.71 feet, through a central angle of $19^{\circ}01'19''$ to the point of tangency; thence $N87^{\circ}00'55''E$ for 221.13 feet; thence $N02^{\circ}59'05''W$ for 692.95 feet to the South line of the Indian River Colony Club, Phase Two, Unit Four, as recorded in Plat Book 35, Pages 65 through 67 of the Public Records of Brevard County, Florida, said line also being the North line of Section 10, Township 26 South, Range 36 East; thence $N86^{\circ}30'29''E$ along said South line of said Indian River Colony Club and along the North line of said Section 10 for 1,620.78 feet to the Southeast corner of said Indian River Colony Club, said point also being the Northeast corner of said Section 10; thence $S00^{\circ}58'45''E$ along the East line of said Section 10 for 3,187.48 feet to the North line of that parcel described in Official Records Book 2812, Page 2063 of the Public Records of Brevard County, Florida; thence for the following eight (8) courses along the Northerly line of said lands described in Official Records Book 2812, Page 2063: (1) $S87^{\circ}55'44''W$ for 650.12 feet; (2) thence $S00^{\circ}58'45''E$ for 288.82 feet; (3) thence $S59^{\circ}01'15''W$ for 245.81 feet; (4) thence $N88^{\circ}24'23''W$ for 501.94 feet; (5) thence $S59^{\circ}01'15''W$ for 503.09 feet; (6) thence $S00^{\circ}58'45''E$ for 575.00 feet; (7) thence $S44^{\circ}01'15''W$ for 159.04 feet; (8) thence

UNSUITABLE
FOR
MICROFILM

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DEAN, MEAD, SPIELVOGEL & GOLDMAN

*Jim
TVC/Jean Cor*

MEMORANDUM

TO: File
FROM: Andrew D. Fredericks
RE: Annex Agreement Number 2 to the Master Declaration
DATE: October 26, 1993

We discussed with Mason today the fact that Tracts CC, HH, N1, U1 and U2 have been added to the Declaration without a district designation. Mason advised us that since these are all somewhat oddball sites, he would prefer to leave them undesignated for the time being. U1 and U2 are proposed to be commercial sites and may, in the future, be grouped together with Tract T.

I briefly reviewed the Master Declaration and failure to designate a parcel has little effect. However, designation of a parcel does affect the voting rights appurtenant to and assessments against that parcel, so it is imperative to designate the tracts prior to the sale of any portion of any of such tracts.

Andrew D. Fredericks

ADF

ADF/km

cc: R. Mason Blake, Esquire
Vicki L. Berman, Esquire

EXHIBIT "A" - continued

S87°55'44"W for 359.20 feet to the East right of way line of Murrell Road; thence S12°28'28"E along said East right of way line for 152.51 feet to the South line of said lands described in Official Records Book 2812, Page 2063; thence N87°55'44"E along said South line for 2,241.61 feet to the East line of said Section 10; thence S00°58'45"E along said East line 600.08 feet to the POINT OF BEGINNING, said lands containing 750.84 acres, more or less.

DUDA LAMAR, JR.
ORDER NO. 10000
06/06/00
07/11/00

UNSUITABLE
FOR
MICROFILM

EXHIBIT "B"

DESIGNATION OF DISTRICTS

District SS and RR - Commercial
(comprised of lands identified as Tracts SS and RR on
Map 1 attached to the Development Order).

District TT and UU - Commercial
(comprised of lands identified as Tracts TT and UU on
Map 1 attached to the Development Order).

District MM and QQ - Residential (to be known as Hammock Trace
Residential District) (comprised of lands identified as
Tracts MM and QQ on Map 1 attached to the Development Order).

District NN and OO - Commercial
(comprised of lands identified as Tracts NN and OO on
Map 1 attached to the Development Order).

District II - Residential (to be known as Hammock Lakes Residential
District) (comprised of lands identified as Tract II on Map 1
attached to the Development Order).

District JJ, KK and LL - Commercial
(comprised of lands identified as Tracts JJ, KK and LL
on Map 1 attached to the Development Order).

District EE - Commercial
(comprised of lands identified as Tract EE on Map 1
attached to the Development Order).

District FF and GG - Residential (to be known as Fawn Ridge
Residential District) (comprised of lands identified as
Tracts FF and GG on Map 1 attached to the Development Order).

Crane Creek District - Residential (to be known as Crane Creek
Residential District) (comprised of lands conveyed to Rostan,
Inc. in Official Records Book 2977, Page 1537, and
Official Records Book 2977, Page 1555, all in the Public
Records of Brevard County, Florida).

Six Mile Creek District - Residential (to be known as Six Mile
Creek Residential District) (comprised of lands conveyed to
Jean-Yves Clerc, Trustee, in Official Records Book 2978, Page
4732, Official Records Book 2970, Page 0970, Official Records
Book 2970, Page 986 and Official Records Book 3024, Page 1298,
all in the Public Records of Brevard County, Florida).

235704

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See instead

Clerk Circuit Court

Recorded and Verified Brevard County, FL

ANNEXATION AGREEMENT NUMBER ONE TO THE
 DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS,
 RESERVATIONS AND RESTRICTIONS
 FOR VIERA EAST COMMUNITY:

Names 2
 Rec Fee 17.00
 Int Tx _____
 Refund _____

Stamp Duty _____
 Service Chg _____

ANNEXATION OF VIERA - TRACT N - PHASE ONE

THIS ANNEXATION AGREEMENT NUMBER ONE to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community: Annexation of Viera - Tract N - Phase One ("Community Annexation Agreement Number One"), is made this 26th day of August, 1992, by THE VIERA COMPANY, a Florida corporation (the "Community Declarant").

WITNESSETH

WHEREAS, the Community Declarant is the owner of that certain real property known as VIERA - TRACT N - PHASE ONE, according to the Plat thereof as recorded in Plat Book 38, Page 40, of the Public Records of Brevard County, Florida, the legal description of which is more particularly set forth in Exhibit "A", attached hereto and made a part hereof (the "Additional Property"); and

WHEREAS, the Community Declarant heretofore submitted certain property to the terms and conditions of the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community (f/k/a Viera Southeast Community) recorded in Official Records Book 3022, Pages 1576 through 1611, of the Public Records of Brevard County, Florida, as amended and restated by that certain First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community of even date herewith (the "Community Declaration"); and

WHEREAS, Article VII of the Community Declaration provides that certain additional property may be annexed to, and become a part of, the Properties (as that term is defined in the Community Declaration) and thereby submitted to the terms and conditions of the Community Declaration; and

WHEREAS, the Additional Property will be consistent with the uniform scheme of development of the Properties as contemplated by the Community Declaration; and

WHEREAS, the Community Declarant owns property which may be subject to annexation into the Properties as provided in Article VII of the Community Declaration; and

WHEREAS, the Community Declarant desires to annex the Additional Property into the Viera East Community, such annexation

THIS INSTRUMENT PREPARED BY
 AND RETURN TO:

R. MASON BLAKE, ESA
 THE VIERA COMPANY
 7380 MURRELL RD, SU. 201
 MELBOURNE, FL. 32940

to include the submission of the Additional Property to the terms and conditions of the Community Declaration and the addition of the Additional Property to the Properties; and

WHEREAS, Section 7 of Article III of the Community Declaration provides for the designation of additional property being subjected to the Community Declaration as a new District (as that term is defined in the Community Declaration).

NOW, THEREFORE, the Community Declarant hereby declares as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.

2. In accordance with Article VII of the Community Declaration, Community Declarant hereby annexes the Additional Property into Viera East Community and subjects the Additional Property to the Community Declaration and all terms and provisions contained therein. The Additional Property shall hereafter be deemed a part of the Properties (as that term is defined in the Community Declaration) and shall be held, occupied, transferred, sold and conveyed subject to the Community Declaration and all covenants, conditions, easements, reservations and restrictions contained therein. For the purpose of protecting the value and desirability of the Additional Property, said covenants, conditions, easements, reservations and restrictions shall run with the Additional Property and shall be binding on all parties having any right, title or interest in the Additional Property, their heirs, successors, successors in title and assigns.

3. The Additional Property is hereby designated by the Community Declarant as a portion of a new District (as that term is defined in the Community Declaration) to be known as Herons' Landing Residential District. Such District ultimately shall be comprised of lands identified as Tract N on Map 1 attached to the Development Order (as that term is defined in the Community Declaration) and may also include, if annexed to such District in accordance with the Community Declaration and the applicable District Declaration (as that term is defined in the Community Declaration), lands identified as Tract L on said Map 1.

IN WITNESS WHEREOF, the Community Declarant has executed this Community Annexation Agreement Number One this 26th day of August, 1992.

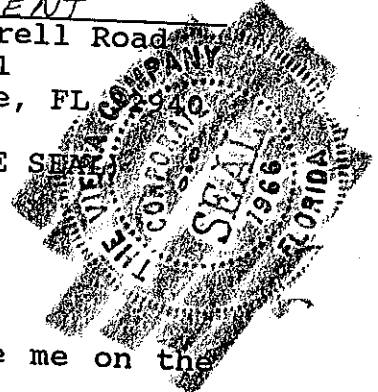
Signed, sealed and delivered in the presence of:

[Signature]
Print Name: JOHN R. MALOY
Betty A. Deese
Print Name: BETTY A. DEESE

THE VIERA COMPANY, a Florida corporation

By: [Signature]
Print Name: PERRY J. READER
Its: VICE PRESIDENT
Address: 7380 Murrell Road
Suite 201
Melbourne, FL 32909

(CORPORATE SEAL)



STATE OF FLORIDA }
COUNTY OF BREVARD }

The foregoing instrument was acknowledged before me on the 26th day of August, 1992, by PERRY J. READER as VICE PRESIDENT of THE VIERA COMPANY, a Florida corporation, on behalf of the corporation. He is personally known to me and did not take an oath.



Betty A. Deese
Print Name: BETTY A. DEESE
Notary Public, State of Florida
My Commission No: _____
My Commission Expires: _____

(NOTARIAL SEAL)

EXHIBIT "A"

LEGAL DESCRIPTION

That portion of the East 1/2 of Section 34 and that portion of the West 1/2 of Section 35, all lying within Township 25 South, Range 36 East, Brevard County, Florida, and being more specifically described as follows:

Commence at the Northeast corner of the Southeast 1/4 (east 1/4 corner) of Section 34, Township 25 South, Range 36 East, run thence S00°13'16"W, along the east line of said southeast 1/4 of Section 34, a distance of 20.06 feet; thence N88°13'15"W, a distance of 121.30 feet to the Point of Beginning of the lands described herein, said Point of Beginning being on the Point of Curvature of a Curve Concave to the southeast and having a radius of 755.00 feet; thence from said Point of Beginning, and a radial bearing of S83°56'35"E, run northerly along the arc of said curve a distance of 466.81 feet through a central angle of 35°25'32" to a point on said curve; thence from a radial bearing of S48°31'03"E, run S45°21'28"E, a distance of 66.57 feet to the Point of Curvature of a curve concave to the southwest and having a radius of 50.00 feet; thence from said Point of Curvature, run easterly and southerly along the arc of said curve a distance of 34.38 feet through a central angle of 39°24'02" to the Point of Reverse Curvature of a curve concave to the northwest and having a radius of 170.00 feet; thence from said Point of Reverse Curvature, run southerly, easterly, northerly, and thence westerly along the arc of said curve a distance of 650.97 feet through a central angle of 219°24'02" to the Point of Tangency thereof; thence from said Point of Tangency, run N45°21'28"W, a distance of 207.36 feet; thence N44°38'32"E, a distance of 305.00 feet; thence S47°24'01"E, a distance of 73.46 feet to the Point of Curvature of a curve concave to the north and having a radius of 170.00 feet; thence from said Point of Curvature, run easterly along the arc of said curve a distance of 162.66 feet through a central angle of 54°49'19" to the Point of Tangency thereof; thence N77°46'40"E, a distance of 138.73 feet; thence S00°00'17"W, a distance of 584.78 feet; thence S40°13'54"E, a distance of 170.29 feet; thence S00°00'17"W, a distance of 575.80 feet to a point on a curve concave to the south and having a radius of 2675.00 feet, said point on curve also being the northerly right-of-way line of Viera Boulevard, a 150 ft. wide right-of-way as now exist; thence from said point on curve, and a radial bearing of S21°25'06"W, run westerly along the arc of said curve and along said north right-of-way line of Viera Boulevard, a distance of 916.90 feet through a central angle of 19°38'21" to the Point of Tangency thereof; thence run N88°13'15"W, along said north right-of-way line of Viera Boulevard, a distance of 982.60 feet; thence N01°46'45"E, a distance of 218.31 feet to the Point of Curvature of a curve concave to the east and having a radius of 960.00 feet; thence from said Point of Curvature, run northerly along the arc of said curve a distance of 195.69 feet through a central angle of 11°40'46" to the Point of Tangency thereof; thence from a radial bearing of S76°32'29"E, run S79°55'55"E, a distance of 629.86 feet; thence S84°44'04"E, a distance of 50.00 feet; thence S88°13'15"E, a distance of 120.29 feet to the Point of Beginning.

Containing 26.93 Acres, more or less.

UNSUITABLE
FOR
MICROFILM

DEAN, MEAD, SPIELVOGEL & GOLDMAN

ATTORNEYS AND COUNSELORS AT LAW

101 SOUTH COURTENAY PARKWAY
P. O. BOX 541366
MERRITT ISLAND, FLORIDA 32954-1366
(407) 453-2333
FAX (407) 453-8641

REPLY TO:

Melbourne, Florida

September 27, 1993

7380 MURRELL ROAD, SUITE 100
P. O. BOX 410310
MELBOURNE, FLORIDA 32941-0310
(407) 259-8900
FAX (407) 254-4479

VIA HAND DELIVERY

R. Mason Blake, Esquire
The Viera Company
7380 Murrell Road, Suite 201
Melbourne, Florida 32940

*Route 4
Murrell Rd
file in
file
Original
Declarat*

Re: The Viera Company/Annexation Agreement Number Two for Viera
- Tracts A through Z, AA, BB, CC, HH, N1, U1 and U2

Dear Mason:

Enclosed is the original Annexation Agreement Number Two in connection with the above-referenced property recorded in Official Records Book 3315, Page 3467, Public Records of Brevard County, Florida.

Should you have any questions, please call.

Sincerely,

Penny W. Bell

Penny W. Bell
Legal Assistant

PWB:ejv

Enclosure

cc: Charles L. Ashley (w/o enclosure)
Calvin J. Livingston, Esquire (w/enclosure)
Albert D. Capouano, Esquire (w/o enclosure)
Kenneth Crooks, Esquire (w/enclosure)

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Handy Confirmed
County Circuit Court
Brevard and Volusia Counties, FL

7
400
2900

①
RN TO:
Vicki L. Berman, Esq.
DEAN, MEAD, SPIELVOGEL & GOLDMAN
7380 Murrell Road, Suite 100
Melbourne, FL 32940

This instrument prepared by:
Kenneth C. Crooks
DEAN, MEAD, SPIELVOGEL & GOLDMAN
P. O. Box 541366
Merritt Island, FL 32954-1366
File No. 02782/16966

→ Acc. 33.00

ANNEXATION AGREEMENT NUMBER TWO TO THE
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS,
RESERVATIONS AND RESTRICTIONS
FOR VIERA EAST COMMUNITY:

ANNEXATION OF VIERA - TRACTS A THROUGH Z, AA, BB, CC,
HH, NI, U1 AND U2

THIS ANNEXATION AGREEMENT NUMBER TWO to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community: Annexation of Viera Tracts A through Z, AA, BB, CC, HH, NI, U1 and U2 ("Community Annexation Agreement Number Two"), is made this 17th day of August, 1993, by THE VIERA COMPANY, a Florida corporation (the "Community Declarant").

WITNESSETH

WHEREAS, the Community Declarant is the owner of certain real property located in Brevard County, Florida, the legal description of which is more particularly set forth in Exhibit "A", attached hereto and made a part hereof (the "Additional Property"); and

WHEREAS, the Community Declarant heretofore submitted certain property to the terms and conditions of the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community (f/k/a Viera Southeast Community) recorded in Official Records Book 3022, Pages 1576 through 1611, of the Public Records of Brevard County, Florida, as amended and restated by that certain First Amendment to and Restatement of Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community, recorded in Official Records Book 3225, Pages 4071 through 4150, of the Public Records of Brevard County, Florida, and as amended by that certain Annexation Agreement Number One to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Viera East Community: Annexation of Viera - Tract N - Phase One, recorded in Official Records Book 3225, Page 4151 through 4154, of the Public Records of Brevard County, Florida ("the Community Declaration"); and

WHEREAS, Article VII of the Community Declaration provides that certain additional property may be annexed to, and become a part of, the Properties (as that term is defined in the Community Declaration) and thereby submitted to the terms and conditions of the Community Declaration; and

BK 3315 PG 3467

436984

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WHEREAS, the Additional Property will be consistent with the uniform scheme of development of the Properties as contemplated by the Community Declaration; and

WHEREAS, the Community Declarant owns property which may be subject to annexation into the Properties as provided in Article VII of the Community Declaration; and

WHEREAS, the Community Declarant desires to annex the Additional Property into the Viera East Community, such annexation to include the submission of the Additional Property to the terms and conditions of the Community Declaration and the addition of the Additional Property to the Properties; and

WHEREAS, Section 7 of Article III of the Community Declaration provides for the designation of additional property being subjected to the Community Declaration as new Districts (as that term is defined in the Community Declaration).

NOW, THEREFORE, the Community Declarant hereby declares as follows:

1. The recitals set forth above are true and correct and are incorporated herein by reference.

2. In accordance with Article VII of the Community Declaration, Community Declarant hereby annexes the Additional Property into Viera East Community and subjects the Additional Property to the Community Declaration and all terms and provisions contained therein. The Additional Property shall hereafter be deemed a part of the Properties (as that term is defined in the Community Declaration) and shall be held, occupied, transferred, sold and conveyed subject to the Community Declaration and all covenants, conditions, easements, reservations and restrictions contained therein. For the purpose of protecting the value and desirability of the Additional Property, said covenants, conditions, easements, reservations and restrictions shall run with the Additional Property and shall be binding on all parties having any right, title or interest in the Additional Property, their heirs, successors, successors in title and assigns.

3. The Additional Property shall include and consist of the new Districts which are hereby designated by the Community Declarant as set forth on the Designation of Annexed Districts attached hereto and made a part hereof as Exhibit "B".

4. Except as specifically set forth otherwise herein, the terms used in this Community Annexation Agreement Number Two shall have the same meanings and definitions as provided in the Community Declaration.

IN WITNESS WHEREOF, the Community Declarant has executed this Community Annexation Agreement Number Two this 17th day of August, 1993.

Signed, sealed and delivered in the presence of:

P. Bell
Print Name: Penny W. Bell

Betty A. Deese
Print Name: BETTY A. DEESE

THE VIERA COMPANY, a Florida corporation

By: R. Mason Blake
Print Name: R. Mason Blake
Its: Vice President

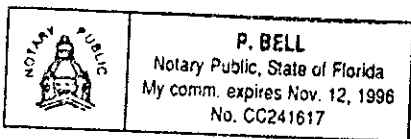
Address: 7380 Murrell Road
Suite 201
Melbourne, FL 32940

(CORPORATE SEAL)



STATE OF FLORIDA :
COUNTY OF BREVARD :

The foregoing instrument was acknowledged before me this 17th day of August, 1993, by R. MASON BLAKE, as Vice President of THE VIERA COMPANY, a Florida corporation, on behalf of said corporation. He is personally known ~~or has~~ produced ~~as~~ identification and did take an oath.



P. Bell
Notary Public, State of Florida
at Large
Penny W. Bell
Print Name
Commission No. _____
My Commission Expires: _____
(Seal)

LEGAL DESCRIPTION (BY SURVEYOR):

All of Section 27 and portions of Sections 26, 28, 33, 34 and 35, Township 25 South, Range 36 East, and portions of Sections 3 and 4, Township 26 South, Range 36 East, all in Brevard County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Section 28, Township 25 South, Range 36 East; thence N89°34'55"E along the North line of said Section 28 for 626.79 feet to a point lying on the Easterly right of way line of Interstate 95, said point being the POINT OF BEGINNING of the following described parcel; thence continue N89°34'55"E along said North line for 2,011.71 feet to the North 1/4 corner of said Section 28; thence N89°35'49"E along the North line of the Northeast 1/4 of Section 28 for a distance of 2,649.14 feet to the Northwest corner of said Section 27; thence N89°44'33"E along the North line of said Section 27, for a distance of 5,333.46 feet to the Northeast corner of said Section 27; thence S00°21'41"E along the East line of the Northeast 1/4 of said Section 27, for a distance of 2,659.87 feet to the Northeast corner of the Southeast 1/4 of said Section 27; thence S00°40'49"W along the East line of the Southeast 1/4 of said Section 27 for a distance of 2,181.04 feet; thence S38°50'18"E for 1,283.83 feet; thence South for 1,365.22 feet to the Northerly line of VIERA - TRACT N - PHASE ONE, according to the plat thereof as recorded in Plat Book 38, Pages 40 and 41 of said Public Records of Brevard County, Florida; thence for the following twelve (12) courses along said Northerly line: (1) thence S77°46'23"W for 138.73 feet to the point of curvature of a curve concave to the North, having a radius of 170.00 feet; (2) thence Westerly for 162.66 feet along the arc of said curve through a central angle of S04°49'19" to the point of tangency; (3) thence N47°24'18"W for 73.46 feet; (4) thence S44°38'15"W for 305.00 feet; thence S45°21'45"E for 207.36 feet to the point of curvature of a curve concave to the West and North, having a radius of 170.00 feet; (5) thence Southerly and Westerly for 650.97 feet along the arc of said curve through a central angle of 219°24'02" to the point of reverse curvature of a curve concave to the Southwest, having a radius of 50.00 feet; (6) thence Northwesterly for 34.38 feet along the arc of said curve through a central angle of 39°24'02" to the point of tangency; (7) thence N45°21'45"W for 66.57 feet to an intersection with a non-tangent curve concave to the East, having a radius of 755.00 feet; (8) thence Southerly for 466.81 feet along the arc of said curve through a central angle of 35°25'22" (said curve subtended by a chord which bears S23°45'54"W for 459.41 feet) to the point of intersection with a non-tangent line; (9) thence N88°13'32"W for 120.29 feet; (10) thence N84°44'21"W for 50.00 feet; (11) thence N79°56'12"W for 629.86 feet to Northwest Corner of said VIERA - TRACT N - PHASE ONE, said point also lying on the Easterly right of way line of Crane Creek Boulevard (a proposed 80.00 foot wide right of way), said point also being a point of intersection with a non-tangent curve concave to the East, having a radius of 960.00 feet; thence Southerly for 195.69 feet along the arc of said curve and along the West line of said plat through a central angle of 11°40'46" (said curve is subtended by a chord which bears S07°36'51"W for 195.35 feet) to the point of tangency; thence S01°46'28"W along said West line of VIERA - TRACT N - PHASE ONE and along said proposed Easterly right of way line of Crane Creek Boulevard for 218.31 feet to the Southwest corner of said VIERA - TRACT N - PHASE ONE and the Northerly right of way line of Viera Boulevard (a proposed 150.00 foot wide right of way); thence S88°13'32"E along the South line of said plat and along said proposed Northerly right of way line of Viera Boulevard for 982.60 feet to the point of curvature of a curve concave to the South, having a radius of 2675.00 feet; thence Easterly for 916.90 feet along the arc of said curve and along the South line of said VIERA - TRACT N - PHASE ONE and along said proposed Northerly right of way line of Viera Boulevard through a central angle of 19°38'21" (said arc subtended by a chord which bears S78°24'22"E for 912.42 feet) to a point of intersection with a non-tangent line; thence South for 161.87 feet to a point lying on the proposed Southerly right of way line of Viera Boulevard, said point being the intersection with a non-tangent curve concave to the South, having a radius of 2525.00 feet; thence Westerly for 924.59 feet along the arc of said curve and along said proposed Southerly right of way line through a central angle of 20°58'49" (said arc subtended by a chord which bears N77°44'08"W for 919.43 feet) to the point of tangency; thence

(continued on Page 2 of Exhibit "A")

EXHIBIT "A"
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(continued from Page 1 of Exhibit "A")

N88°13'32"W along said proposed Southerly right of way line for 982.60 feet to the Easterly right of way line of Crane Creek Boulevard (a proposed 80.00 foot wide right of way); thence for the following twelve (12) courses along said proposed Easterly right of way line, and along the proposed Southerly right of way line of said Crane Creek Boulevard: (1) thence S01°46'28"W along said proposed Easterly right of way line for 918.10 feet to the point of curvature of a curve concave to the West, having a radius of 454.37 feet; (2) thence Southerly for 189.89 feet along the arc of said curve through a central angle of 23°56'40" to the point of reverse curvature of a curve concave Easterly, having a radius of 1207.62 feet; (3) thence Southerly for 377.32 feet along the arc of said curve through a central angle of 17°54'08" to the point of tangency; (4) thence S07°49'00"W for 422.26 feet to the point of curvature of a curve concave Easterly, having a radius of 400.00 feet; (5) thence Southerly for 382.28 feet along the arc of said curve through a central angle of 54°45'26" to the point of reverse curvature of a curve concave to the West, having a radius of 550.00 feet; (6) thence Southerly and Westerly for 1387.37 feet along the arc of said curve and along the West line of VIERA TRACTS "BB & V", PHASE 2, according to the plat thereof as recorded in Plat Book 38, Pages 68 and 69 of the Public Records of Brevard County, Florida, and along the Northerly line of VIERA TRACTS "BB & V", PHASE 1, UNIT 2, according to the plat thereof as recorded in Plat Book 37, Pages 87 and 88 of said Public Records through a central angle of 144°31'43" to the point of tangency; (7) thence N82°24'42"W along said Northerly line of VIERA TRACTS "BB & V", PHASE 2, UNIT 1, for 459.93 feet to the point of curvature of a curve concave to the North, having a radius of 633.03 feet; (8) thence Westerly for 301.35 feet along the arc of said curve and along said Northerly line of VIERA TRACTS "BB & V", PHASE 1, UNIT 2, and along the Northerly line of VIERA TRACTS "BB & V", PHASE 1, UNIT 1, according to the plat thereof as recorded in Plat Book 37, Page 78 of said Public Records, through a central angle of 27°16'31" to the point of tangency; (9) thence N55°08'11"W along said Northerly line of VIERA TRACTS "BB & V", PHASE 1, UNIT 1, for 193.43 feet to the point of curvature of a curve concave to the South, having a radius of 360.00 feet; (10) thence Westerly for 355.71 feet along the arc of said curve and along said Northerly line of VIERA TRACTS "BB & V", PHASE 1, UNIT 1, through a central angle of 56°36'48" to the point of tangency, said point being the Northeast corner of VIERA NORTH, P.U.D., TRACT "AA", according to the plat thereof as recorded in Plat Book 38, Page 60 of said Public Records; (11) thence S68°15'00"W along the North line of said VIERA NORTH, P.U.D., TRACT "AA" for 301.01 feet to the point of curvature of a curve concave to the North, having a radius of 1024.67 feet; (12) thence Westerly for 487.34 feet along the arc of said curve and along said Northerly line of VIERA NORTH, P.U.D., TRACT "AA", through a central angle of 27°15'00" the point of intersection with a radial line, said line being the East right of way line of Murrell Road (a proposed 150.00 foot wide right of way); thence S05°30'00"W along said proposed Easterly right of way line for 500.00 feet; to the North line of Murrell Road (a 120.00 foot wide right of way according to Official Records Book 2953, Page 2101); thence S88°28'04"W along said North line of Murrell Road and its Westerly extension for 151.14 feet to the West right of way line of Murrell Road (a proposed 150.00 foot wide right of way); thence N05°30'00"E along said proposed West right of way line for 598.50 feet; thence N84°30'00"W for 600.00 feet, to the point of curvature of a curve to the left, having a radius of 640.00 feet and a central angle of 48°08'20"; thence Southwestly, along said curve, and arc distance of 537.72 feet; thence N42°38'20"W, a distance of 493.95 feet; thence N14°33'28"W for 580.00 feet; thence S75°26'32"W for 1437.64 feet to said Easterly right of way line of Interstate 95; thence N14°32'54"W along said Easterly right of way line of Interstate 95 for 8,929.18 feet to the point of curvature of a circular curve concave to the Southwest, having a radius of 5879.65 feet; thence Northwestly along the arc of said curve and said Easterly right of way line, for 2,502.25 feet, through a central angle of 24°23'02" (said arc subtended by a chord which bears N26°44'25"W for 2483.41 feet) to the North line of the Northwest 1/4 of Section 28, Township 25 South, Range 36 East and the POINT OF BEGINNING.
Less and except the pump station site as described by Gee & Jenson Engineers-Architects-Planners, as follows:

A parcel of land lying in Section 27, Township 25 South, Range 36 East, Brevard County, Florida, more particularly described as follows:

Commence at the Northwest corner of said Section 27; thence N89°45'24"E, along the North line of said Section 27, a distance of 75.00 feet; thence departing from said section line S00°17'41"E a distance of 150.01 feet to the POINT OF BEGINNING of the herein described parcel; thence N89°45'24"E a distance of 500.00 feet; thence S00°17'41"E a distance of 435.60 feet; thence S89°45'24"W a distance of 500.00 feet; thence N00°17'41"W a distance of 435.60 feet to the POINT OF BEGINNING.

EXHIBIT "B"

DESIGNATION OF DISTRICTS FOR ANNEXED PROPERTY

District A - Commercial (comprised of lands identified as Tract A on Map 1 attached to the Development Order).

District B, C and D - Residential (to be known as Viera East Golf Course Residential District) (comprised of lands identified as Tracts B, C and D on Map 1 attached to the Development Order).

District E - Residential (comprised of lands identified as Tract E on Map 1 attached to the Development Order).

District F - Residential (comprised of lands identified as Tract F on Map 1 attached to the Development Order).

District G - Residential (comprised of lands identified as Tract G on Map 1 attached to the Development Order).

District H - Commercial (comprised of lands identified as Tract H on Map 1 attached to the Development Order).

District I - Residential (comprised of lands identified as Tract I on Map 1 attached to the Development Order).

District J - Commercial (comprised of lands identified as Tract J on Map 1 attached to the Development Order).

District K - Commercial (comprised of lands identified as Tract K on Map 1 attached to the Development Order).

District N and L - Residential (to be known as Herons' Landing Residential District) (comprised of lands identified as Tracts N and L on Map 1 attached to the Development Order).

District M - Commercial (comprised of lands identified as Tract M on Map 1 attached to the Development Order).

District O and P - Commercial (comprised of lands identified as Tracts O and P on Map 1 attached to the Development Order).

District Q - Commercial (comprised of lands identified as Tract Q on Map 1 attached to the Development Order).

District R and S - Commercial (comprised of lands identified as Tracts R and S on Map 1 attached to the Development Order).

District T - Commercial (comprised of lands identified as Tract T on Map 1 attached to the Development Order).

District U - Residential (comprised of lands identified as Tract U on Map 1 attached to the Development Order).

District W - Residential (comprised of lands identified as Tract W on Map 1 attached to the Development Order).

District X - Residential (comprised of lands identified as Tract X on Map 1 attached to the Development Order).

RMB/bd