

**Prepared By/Return To:**  
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## **Declaration Of Easements, Covenants, Conditions, And Restrictions Of Etowah**

**This Declaration made by M/I Homes of Lake County, LLC (dba Shamrock Homes), a Florida Limited Liability Company, hereinafter called "Developer":**

### **Recitals**

**Whereas**, Developer is the sole owner of those certain parcels of real property situated in the City of Tavares, Lake County, Florida, described in Exhibit "A" attached hereto and incorporated herein by reference.

**Whereas**, Developer desires to impose a common plan of development on said real property for the purpose of protecting the value and desirability thereof, and for the purpose of enhancing the marketability thereof.

**Now Therefore**, Developer hereby declares that all of the real property described in Exhibit "A" attached hereto shall be held, sold and conveyed subject to the following easements, conditions, covenants and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding upon all parties having the right, title, or interest therein, or any part thereof, their respective heirs, successors, and assigns; and which shall inure to the benefit of the Association and each owner thereof, as said terms are hereinafter more particularly defined.

All references to the "Declaration" or the "Declaration of Easements, Covenants, Conditions, and Restrictions of Etowah, now or hereafter made in other instruments of Public Records of Lake County, Florida, or in the Article of Incorporation, By-Laws, and other corporate documents and papers of Etowah Homeowners' Association, Inc., a Florida corporation not for profit, shall mean and refer to this Declaration as herein set forth.

### **Article I Definitions and Construction**

**Section 1.** "Association" means **Etowah Homeowners' Association, Inc.**, a corporation not for profit organization pursuant to Chapters 617, Florida Statutes, its successors and assigns. The Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibits "B" and "C", respectively, and made a part hereof.

**Section 2.** "Owner" means the record owner, whether one or more persons or entities, of the fee simple title of any lot which is part of the Properties, including contract sellers, but excluding any other party holding such fee simple title merely as security for the performance of an obligation.

**Section 3.** "Properties" means those certain parcels of real property described in Exhibit "A" together with such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4.** "Common Area" means all real property owned by the Association for the common use, benefit, welfare and enjoyment of the owners. The Common Area to be owned by the Association shall be designated by the Developer or as designated on the plat of record. Notwithstanding the foregoing, "Common Area" means (i) all real property shown on the plat referenced as such, and dedicated for the common use and enjoyment of the owners or residents, including wetland preserves, wetland buffers, preservation areas, conservation areas, recreational areas and open areas, tracts, water retention areas, (ii) surface water management system and all roads and rights of way within the subdivision, (iii) central irrigation well, treatment and distribution system, and (iv) all furniture, fixtures and equipment, and other improvements serving the Common Areas.

**Section 5.** "Cottage Lots" means lots 1 through 60 as shown on Phase I of the Plat of Etowah.

**Section 6.** "Lot" means any unit of land designated as a lot on the recorded subdivision maps or plats of the Properties, together with all improvements thereon, or such other unit of land subsequently brought within these restrictions as a Lot. The term "lot" includes Cottage Lots and Non-Cottage lots.

**Section 7.** "Non-Cottage Lots" means lots 61 through 95 as shown on Phase I of the Plat of Etowah.

**Section 8.** "Developer" means M/I Homes of Lake County, LLC (dba Shamrock Homes), a Florida limited liability company, and such of its successors and assigns.

**Section 9.** "Recorded" means filed for record in the Public Records of Lake County, Florida.

**Section 10.** "Person" means any natural person or artificial legal entity.

**Section 11.** "Interpretation" Unless the contract otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation". This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the properties by providing a common plan for the development and preservation thereof. The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

**Section 12.** "Board of Directors" means the Board of Directors of Etowah Homeowners' Association, Inc.

**Section 13.** "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**Section 14.** "Maintenance" means the exercise of reasonable care and repair to keep buildings, roads, landscaping, lighting, lawns, potable water wells, treatment and distribution systems, storm water run off collection systems, and other related improvements and fixtures in good repair and condition. Maintenance of landscaping shall further mean the exercise of generally accepted garden-management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

**Section 15.** "Community" means the real property that is or will be subject to this Declaration. The term "Community" includes all real property, including undeveloped phases, that is or was the subject of a development order, together with any approved modification thereto.

## **Article II Property Rights**

**Section 1.** Owners' Easements of Enjoyment. Every owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

a. The right of the Association to make regular and special assessments and other fees for the construction, beautification, repairs, and maintenance of the Common Area.

b. The right of the Association to suspend the voting rights of an owner for any period during which any assessment or fee, other than the annual assessment, against a lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

c. The right of the Association to suspend the voting rights of an owner for any period during which the annual assessment against a lot remains delinquent in excess of ninety (90) days.

d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless approved by two thirds (2/3) of the members.

e. The right of Developer or Association to enter into a non-exclusive lease agreement or other form of agreement allowing persons, other than Owners to use the Common Area.

**Section 2.** Delegation of Use. Any owner may delegate, in accordance with the Bylaws of the Association, his right to the Common Area and facilities thereon to the members of his family, his tenants, or contract purchasers, provided the foregoing actually reside upon such owner's lot.

**Section 3.** Other Easements.

a. Utilities, Cable, Television, Drainage, Landscaping and Fencing. Easements for installation and maintenance of underground utilities, cable television, drainage facilities, landscaping and fencing, are hereby reserved over the common, reserved and dedicated areas.

Within these easements, no structure, planting or other material shall be placed or permitted to remain that may damage or interfere with the installation and maintenance of utilities, or damage, interfere or change the direction of flow of drainage facilities in the easements. The easement area of each Lot and all improvements therein shall be continuously maintained by the owner of such Lot, except for improvements for maintenance that a public authority or utility company is responsible, and except as otherwise provided in this Declaration.

b. Easements for Water Discharge. Due to the nature of the development as a high density residential subdivision, an easement for the reasonable discharge of water from the roof of any home located on or adjacent to a lot line shall exist in favor of the Owner of any such home. The easement for roof encroachment, and discharge of water shall be appurtenant to the Lot on which the home is constructed and shall inure to the benefit of all record Owners or Mortgages thereof.

c. Rights of Development and Association. Developer and its successor and assigns, and Association shall have the right and privilege and easement of doing whatever may be necessary in, on, under, and above such Lots, Tracts and Common Area to carry out any of the duties, purposes or reservations and rights reserved herein, or on the plat(s) of the Property in accordance with and subject to the provisions set forth herein .

d. Conservation Easement. See Section 6 below.

**Section 4. Right of Entry.** Developer and Association, through their duly authorized employees and contractors and agents shall have the right after reasonable notice to the owner thereof, to enter any Lot at any reasonable hour on any day to perform such maintenance or exercise any right as may be authorized herein.

**Section 5. Developer Privileges.** Developer, its successors or assigns, is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease or rent lots to any person or entity. Developer, through any agency or contractual arrangements with third parties, shall have the right to transact in the Community any business necessary to consummate the sale of lots, including, but not limited to, the right to maintain an office, model homes, spec homes, to have signs on lots and Common Area, to have employees in an office, and to utilize the common elements and to show the lots and improvements located thereon to prospective purchasers. No rights reserved to Developer hereunder or under any other provisions of this Declaration and the exhibits hereto shall be waived, altered or amended without the express written consent of Developer.

**Section 6. Conservation Easement.** Pursuant to the provisions of Section 704.06, Florida Statutes, the Developer has granted to the St. Johns River Water Management District (the "District") a conservation easement in perpetuity over the property as referenced on the plat of the Property. The Developer granted the Conservation Easement to offset adverse impacts to natural resources, fish and wildlife, and wetland functions, and the Conservation Easement provides as follows.

- a. Purpose. The purpose of the Conservation Easement is to assure that the Conservation Easement Areas will be retained forever in their existing natural condition and to prevent any use of the Conservation Easement Areas that will impair or interfere with the environmental value of these areas.

- b. Prohibited Uses. Any activity in or use of the Conservation Easement Areas inconsistent with the purpose of the Conservation Easement is prohibited. The Conservation Easement expressly prohibits the following activities and uses:
- i. Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
  - ii. Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
  - iii. Removing, destroying or trimming trees, shrubs, or other vegetation.
  - iv. Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
  - v. Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
  - vi. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
  - vii. Acts or uses detrimental to such retention of land or water areas.
  - viii. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
- c. Responsibilities. The Developer, its successors and assigns, are responsible for the operation and maintenance of the Conservation Easement Areas. In addition, the Developer, its successors and assigns, are responsible for the periodic removal of trash and other debris which may accumulate in the Conservation Easement Areas.
- d. Rights of District. To accomplish the purposes stated in the conservation Easement, the Developer conveyed the following rights to the District:
- i. To enter upon and inspect the Conservation Easement Areas in a reasonable manner and at reasonable times to determine if Developer or its successors and assigns are complying with the covenants and prohibitions contained in the Conservation Easement.
  - ii. To proceed at law or in equity to enforce the provisions of the Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Areas that may be damaged by any activity inconsistent with the Conservation Easement.

- e. Amendment. The provisions of the Conservation Easement may not be amended without the prior written approval of the District.

### **Article III Membership and Voting Rights**

**Section 1.** Every owner of a lot subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot subject to assessment.

**Section 2.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.** The Class B member shall be the Developer, whom shall be entitled to three (3) votes for each Lot owned. For purposes of this provision, the number of Lots owned by Developer shall be calculated based on the total number of lots comprising all current and future phases of the Community. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2017, or
- (c) on written notification to the Association from Developer, at Developer's sole discretion, to relinquish those rights as a Class B member and elect to convert membership to a Class A membership.

Notwithstanding the foregoing, Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the lots comprising all current and future phases of the Community.

### **Article IV Covenant for Maintenance Assessments**

**Section 1.** Creation of the Lien and Personal Obligation of Assessments. The Developer, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) initial assessments or charges; (ii) monthly common area maintenance assessments or charges; (iii) monthly lawn maintenance assessments for Cottage Lots, (iv) special assessments for capital improvements, and (v) such assessments to be established and collected as hereinafter provided.

The initial, monthly common area maintenance assessments, monthly lawn assessments, and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Initial Assessment and Monthly Common Area Maintenance Assessments.**

a. Initial Assessment. An initial assessment on each lot may be levied by the Association and paid by each lot owner acquiring title to a lot at the time of the initial purchase from Developer or subsequent transfer of a lot(s) for the purpose of deferring certain costs and expenses incurred by the Association by the additional or subsequent lot owner's admission to the Association. In addition to the initial assessments, each lot owner shall pay annual assessments.

b. Monthly Common Area Maintenance Assessment.

- (1) The monthly common area maintenance assessment (referred to herein as "Common Area Assessment") levied by the Association shall be used exclusively to promote the health, safety, welfare and recreation of the residents in the Properties, and for the use, repair and maintenance of the Common Area and improvements thereto, and maintenance and repair of the surface water or stormwater management system, including but not limited to work within retention areas, drainage structures and drainage easements.
- (2) Further, the Common Area Assessment shall cover the expenses incurred by the Association for street lighting, maintaining the lawns and landscape plantings of common areas, including those with any paths, road ways, walkways, pools or other common amenities.
- (3) Common Area Assessments may also be used to establish reserve accounts for the periodic maintenance, repair and replacement of improvements located on or a part of the various tracts and common area. Any such funds shall be reflected in the annual operating budget, as described in the Bylaws, and designated "reserve fund".

**Section 3. Maximum Common Area Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly charge for Common Area Maintenance shall be \$90.00 per Lot.

a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly Common Area Assessment may be increased each year not more than 10% above the maximum monthly assessment for the previous year without a vote of the membership.

b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly Common Area Assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors may fix the monthly Common Area Assessment at an amount not in excess of the maximum.

**Section 4. Special and Other Assessments.** In addition to the monthly Common Area Assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying above described maintenance services and common expenses, and defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvement(s) upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting called for this purpose.

**Section 5. Lawn Maintenance Assessments for Cottage Lots.** The Association shall levy a monthly lawn assessment for each of the Cottage Lots which shall be in addition to the monthly Common Area Assessment for the purpose of providing uniform lawn maintenance service for all Cottage Lots, including mowing, fertilizing, insect and weed control, edging, trimming, mulching, irrigation and maintenance of vegetation and shrubs. Until January 1 of the year immediately following the conveyance of the first Cottage Lot to an Owner, the maximum monthly lawn assessment shall be \$ 85.00 per Cottage Lot.

a. From and after January 1 of the year immediately following the conveyance of the first Lot to a Cottage Owner, the maximum monthly lawn assessment may be increased each year not more than 10% above the monthly assessment for the previous year without a vote of the membership.

b. From and after January 1 of the year immediately following the conveyance of the first Cottage Lot to an Owner, the maximum monthly lawn assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

c. The Board of Directors may fix the monthly lawn assessment at an amount not in excess of the maximum.

d. The monthly lawn assessments may also be used to establish reserve accounts for the periodic replacement of landscape materials and mulch, and the purchase of lawn care materials. Any such funds shall be reflected in the annual operating budget, as described in the Bylaws, and designated "reserve fund".

e. Cottage Lots shall receive one monthly statement that shall be comprised of the monthly lawn assessment and the monthly Common Area Assessment, unless modified by the Board of Directors as provided herein.

**Section 6. Notice and Quorum for Any Action Authorized Under Sections 3, 4 and 5.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3, 4 and 5 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**Section 7. Uniform Rate of Assessment.** Both Common Area Assessments and special assessments must be fixed at a uniform rate for all Lots, including Cottage Lots and Non-Cottage Lots. If deemed appropriate by a majority vote of the Board of Directors, such fees may be collected on a yearly, quarterly or monthly basis. The monthly lawn maintenance assessment for Cottage Lots must be fixed at a uniform rate for all Cottage Lots. Such fees may be collected on a yearly, quarterly or monthly basis as deemed appropriate by the majority vote of the Board of Directors.

**Section 8. Date of Commencement of Assessments and Due Dates.** All assessments provided for herein shall commence for each lot upon its sale by the Developer. The assessments shall be prorated from the date of the closing. Written notice of changes to assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 9. Effect of Nonpayment of Assessments, and Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of the Lot.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability, for any assessments thereafter becoming due or from the lien thereof.

## **Article V Architectural Control**

**Section 1. Approval of Plans.** Prior to initiating any construction on a lot, Owners shall submit to the Architectural Control Committee, a location and plot plan in detail and to scale, final plans and specifications for construction, and exterior colors for all buildings and structures to be erected on the lot. These plans and specifications shall be sufficient and definitive in detail and to scale so that there can be determined the character, all elevations, exterior appearance, construction materials and exterior colors of all structures. Further, all plans and specifications shall include a landscape plan, requiring a fully sodded yard, and showing the location, kind and height of all landscaping materials, trees and shrubs. Also, any change or alteration to the approved exterior color of an improvement or additions to any improvement shall require prior approval of the Architectural Control Committee, as provided hereafter.

The Architectural Control Committee shall, in writing, within thirty (30) days after submission of said plans and specifications and other information noted above, accept, reject, or propose changes. Failure to obtain written approval of the Architectural Control Committee, of the final plans and specifications for all construction on the lot and the final landscape plan shall be

deemed a material breach of this restriction. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

The plans and specifications and location of all construction thereunder, and every alteration of any building or structure shall be in accordance with the building, plumbing and electrical requirements of all regulatory codes. It shall be the responsibility of the owner to obtain from applicable governmental authority, or other appropriate authority, the necessary technical data with regard to construction elevations prior to the start of any construction. The aforementioned technical data must be detailed on the final plans and specifications when submitted to the Architectural Control Committee, before plan approval will be given. The Architectural Control Committee, will not assume any responsibility in this regard before, during, or after construction of any of the lots comprising the Property.

Developer shall comprise and have complete control of the Architectural Control Committee until such time Developer's membership in the Association is converted to Class A Membership, as provided in Article III, Section 2 of this Declaration, at which time the Developer shall relinquish control of the Architectural Control Committee to the Association, which Association shall appoint at least three members for terms of one year to comprise the Architectural Control Committee, whose actions must be unanimous. Should the Architectural Control Committee be unable to reach unanimous consent on any action, then such action shall be deferred to the Board of Directors for approval or disapproval. Any action by the Board of Directors based on the deferral from the Architectural Control Committee shall require the majority vote for approval.

**Section 2. Variance.** The Architectural Control Committee, in their sole discretion, may, by written instructions, grant any variation or modification to these covenants, conditions and restrictions, and a written approval by the Architectural Control Committee of such variation or modification shall be binding on all owners.

**Section 3. Architectural Control.** No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to, or change, or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same, shall have been submitted to, and approved in writing, as to harmony of external design and location in relation to the surrounding structures and topography, by the Architectural Control Committee. Fencing within the subdivision shall be limited to vinyl fencing of a similar style and color for the purpose of maintaining uniformity throughout the subdivision, and may only be permitted upon a determination by the Architectural Control Committee that said fencing does not detract or negatively impact the appearance of adjacent lots, and is consistent and compatible with the overall development scheme of the subdivision. Masonry walls, including brick and stone, may be permitted by the Architectural Control Committee if the Committee determines that the wall is consistent with the architecture of the home, does not detract or negatively impact the appearance of adjacent lots, and is consistent and compatible with the overall development scheme of the subdivision.

**Section 4. Landscape Control.** A uniform landscape plan will be maintained for Cottage Lots through the monthly lawn maintenance assessments used for uniform lawn and landscaping maintenance. Any substantial changes to the initial landscape package for an individual Lot must be submitted to the Architectural Control Committee for approval to assure

that such changes do not detract from the appearance of adjoining lots or interfere with or negatively change the character of the overall landscape plan for the Cottage Lots. In addition, such changes must not create additional maintenance demands on the Homeowners' Association with regard to uniform lawn maintenance. Seasonal plantings, annuals and perennials, installed and maintained by individual Cottage Lot owners shall be exempt from this Section 4 and maintenance of the same shall be the responsibility of said lot owners.

**Section 5. Refusal to Approve Plans.** Refusal of approval of plans, or specifications, location and plot plan, by the Architectural Control Committee may be based on any ground, including purely aesthetic grounds, in the sole and absolute discretion of the Architectural Control Committee, but cannot be unreasonably withheld.

## **Article VI Exterior Maintenance**

**Section 1. Maintenance of Premises.** In the event an owner of any lot in the Properties shall fail to maintain the premises and the improvements situate thereon in a manner satisfactory to the Board of Directors of the Association and after a thirty (30) day notice given by the Board of Directors to the lot owner apprising him of the maintenance deficiencies, and upon the approval of a two-thirds (2/3) vote of the Board of Directors, the Association shall have the right, through its agents and employees, to enter upon said parcel, to repair, maintain, and restore the lot and the exterior of buildings and any other improvements erected thereon. The entry of such lot for such purposes shall not constitute a trespass. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

## **Article VII Cul de sac, Road Right of Way, Easements, Entrance Maintenance and Common Areas Stormwater Management System**

**Section 1.** Association shall be responsible for the maintenance, repair, beautification, landscaping of Cul de sacs, road rights of way, all lighting installed for the benefit of the subdivision, entrance to the subdivision, improvements constructed in the common areas, all easements and all other areas of the subdivision which are either common areas or areas dedicated to the public or for common use of the subdivision, unless these items are being maintained by some governmental entity or agency. Further, the Association shall be responsible for all other improvements properly authorized hereunder or previously installed or constructed.

**Section 2.** Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved, by the St. John River Water Management District.

**Section 3.** Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, Association shall have the right to enter upon any portion of any Lot that is part of the surface water or stormwater management system, at a reasonable time and in

a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without prior written approval of the St. Johns River Water Management District.

**Section 4.** Association and its agents, licensees and assigns shall have a perpetual non-exclusive easement over, across and through all Lots for purposes of providing such common lot maintenance and other maintenance services as set forth in Article IV above. Use of such easement by the parties to whom granted shall not be deemed a trespass.

## **Article VIII General Restrictions**

**Section 1. Use Restrictions.** No lot shall be used except for residential purposes, except that real estate brokers, owners and their agents may show dwellings for sale or lease, but nothing shall be done on any lot that may become a nuisance or an unreasonable annoyance to the neighborhood.

**Section 2. Garages and Utility Rooms/Storage Sheds.**

a. **Garages.** All garages shall be at least adequate to house not less than two (2) nor more than three (3) standard sized American automobiles. Further, all garages shall be enclosed and attached to the dwelling, either by direct passage or through a roofed breezeway. No carports shall be allowed or permitted. All garage doors must be maintained in a useful condition. No repairs, alterations, or modifications shall be made to any vehicle except in a totally enclosed structure. There shall not be any open carports or detached garages.

b. **Utility Rooms/Storage Sheds.** At such time as a dwelling is being constructed on a Lot or thereafter, the respective Owner may apply to the Architectural Review Committee for permission to construct an attached or detached utility room/storage shed ("outbuilding") for use as a storage area or work shed to pursue a hobby, as long as such activities and uses are permitted by local, state, and federal laws and regulations, as amended. The construction, maintenance and use of the out building must be in full compliance with the terms of the Declaration of Restrictions, and applicable laws and regulations, and may only be approved if a determination is made by the Architectural Review Committee that such outbuilding does not detract the appearance of adjacent lots or otherwise harm adjacent lots, is consistent with the overall development scheme of the subdivision, is consistent with and compliments the architecture of the home located thereon. The Architectural Review Committee shall have full discretion to make said determination. No outbuilding shall be erected along the side or in front of the residence, nor extend forward of the rear building line of any lot, which building line shall be established as a line extending across the rear of the residence to intersect with the side lot lines. All elevations, exterior appearance and colors of the outbuildings must be consistent with the owner's residential improvement located on the lot(s), and landscaping shall be provided adjacent to any outbuildings according to requirements established by the Architectural Review Committee. Prior to initiating construction or installation of an out building on a lot, Owners shall submit to the Architectural Control Committee, a location and plot plan in detail and to scale, final plans and specifications for the structure, and exterior colors for all buildings and structures to be erected on the lot, and a landscaping plan. Metal sheds are prohibited, unless approved by the Developer or Architectural Review Committee.

**Section 3. Swimming Pools.** Only below ground swimming pools are permitted to be placed on the Lots. No above ground swimming pools are permitted. Prior to the construction of any pool, the plans for same shall be submitted to the Architectural Control Committee. The plans shall include the location and type of pool, along with the proposed fencing or screening, decking, patio location and landscaping.

**Section 4. Temporary and Other Prohibited Structures.** No structure of a temporary character, including a trailer, basement, tent, shack, garage, barn, or other such building shall be placed upon the Properties or additions to the Properties at any time, provided, however, that this prohibition shall not apply to shelters used by a contractor or Developer, his successors or assigns, during construction and, further, that temporary shelters may not, at any time, be used as residences or permitted to remain on the Properties after completion of construction.

**Section 5. Animals.** No animals, fowl or reptiles, shall be kept, bred or raised on or in lots, or on the Properties or additions to the Properties, except for caged birds kept as pets and domestic dogs and cats, provided that the same are not kept, raised or maintained thereon for business or commercial purposes or in number deemed unreasonable by the Developer or Association, in the exercise of their reasonable discretion. Numbers in excess of two (2) of each type of household pet (other than aquarium fish) shall prima facie be considered unreasonable. Notwithstanding the foregoing, no reptiles, animals, birds or other pets may be kept, raised or maintained on the Properties under circumstances, which in good faith judgment of the Developer or Association shall constitute an unreasonable annoyance, hazard or nuisance to other lot owners in the vicinity or an unreasonable interference with the comfortable and quiet use, occupation and enjoyment of other Lots or portions of the Properties. Owners of all animals will pickup and remove any waste deposited by their animals. Any violation regarding this is to be reported to the local Animal Control Department of the governmental authority. No dogs and cats shall be allowed off the premises of owner's site, except on a leash.

**Section 6. Condition of Building and Grounds; Landscaping.** It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds, on a lot that shall tend to substantially decrease the beauty of the community as a whole or the specific area. This restriction shall apply before, during and after construction.

**Section 7. Signs.** No signs of any kind shall be displayed to the public view on any lot. This provision shall specifically prohibit "for sale" or "for rent" signs or similar signs indicating that the property is for sale or for rent to be placed on individual lots within the subdivision. All signs shall conform to the regulations pertaining thereto in the County and City Ordinances where the property is located. Nothing herein shall be interpreted to limit the rights of Developer reserved under Article II of the Declaration.

**Section 8. Building Materials.** Only finished materials such as brick, stucco, painted siding, block, wood, glass and stone shall be used for the exterior surfaces of buildings and structures on the side or sides exposed to the street. All homes, buildings and structures shall remain the same color as was originally approved in the plans and specifications submitted to the Architectural Control Committee. In the event that an owner wishes to make any changes in color of exterior areas, such changes must be approved by the Architectural Control Committee.

**Section 9. Easements:**

a. The easements for installation and maintenance of utilities and drainage facilities and for the Common Areas are reserved on the plat or plats of the Community, as recorded in the Public Records of Lake County, Florida. No structure, fence, or other material shall be placed or permitted to remain within the easements, except those improvements placed within the easements by approval of the Association, Architectural Control Committee, or the Developer, which would include, but not be limited to, bikeways, sidewalks, or other such improvements. Notwithstanding the foregoing sentence, no structure, fence, planting, or plantings, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easement, or which may interfere with the Association facilities. The easement area of each lot and all improvements on it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority, or a utility company is responsible, and except those grass areas over utility easements and Common Areas to be maintained by the Association.

b. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

**Section 10. Setback Lines and Size of Buildings.** All buildings erected or constructed on lots as a dwelling shall contain minimum square feet of floor area. The minimum floor area is 1,400 square feet of air-conditioned space, exclusive of garages and open porches. All buildings erected or constructed on lots must meet setback limitations established by applicable governmental regulations and orders.

Where two or more lots are acquired and used as a single building site, under a single owner, the side lot lines shall refer only to the lines bordering on the adjoining property. The Developer, or the Board of Directors, shall have the authority to set aside, delete and cancel all easements along the side lot lines on adjoining lots in order to allow the lot owner to combine two lots for a single building lot.

The method of determining square foot area of proposed buildings and structures, or additions and enlargements thereto, shall be to multiply the outside horizontal dimensions of the building or structure at each floor level.

**Section 11. Offensive Activity.** No noxious or offensive activity shall be carried on, or upon, the Properties, or additions to the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the community. There shall not be maintained any plants, animals, or device, or thing of any sort, whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature which may

diminish, or destroy, the enjoyment of other property in the neighborhood by the owners thereof; and further, all domestic animals shall either be kept on a leash, or kept within an enclosed area.

**Section 12. Insect and Fire Control.** In order to implement effective insect, reptile and woods fire control, the Developer or Association shall have the right to enter upon any residential lot on which a residence has not been constructed, after thirty (30) days notice to the lot owner by the Developer or Association, and the failure of the lot owner to reply. Such entry may be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth. The Association and its agents may likewise enter upon such land to remove any trash which has collected on such lot without such entrance and removal being deemed a trespass. The provisions in this Section shall not be construed as an obligation on the part of the Developer to mow, clear, cut, or prune any lot, nor to provide garbage or trash removal service.

**Section 13. Parking on Appalachee Circle; Alleys (Cottage Lots).** Appalachee Circle has been deemed a One-Way Street to accommodate temporary on-street guest parking. Said street shall not be used for parking of vehicles of owners or occupants of the Cottage Lots, and may only be used for temporary guest parking not to exceed twenty-four (24) hours.

Parking within rear alleys adjoining Cottage Lots shall be strictly prohibited. Such alleys shall be used for ingress and egress only, and shall remain unobstructed at all times.

**Section 14. Trailers, Vehicles and Mobile Homes.** No mobile homes (including manufactured homes), semi-trailers, tractor trailers, trucks (other than light pick-up and utility van trucks, not exceeding one (1) ton capacity) or commercial vehicles shall be placed or parked on any lot, or street, at any time, either temporarily or permanently, except in a closed structure or garage. Further, no vehicles incapable of operation shall be stored on any Lot, or parked on any lot or street at any time, either temporarily or permanently.

At no time may any boats, trailers, campers, or recreational vehicles be placed or parked on any Lot or street, unless parked in an enclosed garage.

The prohibition of parking trucks and commercial vehicles shall not apply to temporary parking for pick-up and delivery and other commercial services, or to non-commercial vans for personal use that are in an acceptable condition, in the sole opinion of the Board of Directors (which favorable opinion may be changed at any time), or to any vehicles of Developer or those required by any builder during construction on any Lot. All vehicles shall be parked in the garage or driveway serving a respective Lot, except as herein provided. No on street parking shall be permitted. In the event any provision of this covenant is breached, Developer or Association may have said truck, commercial vehicle, camper, mobile home, motor homes, house trailer, recreational vehicle (including campers, dirt bikes, jet skis and similar vehicles used for recreational purposes), boat, boat trailer, horse trailer, or other trailer, towed from the Lot at the owner's sole cost and expense, and an individual assessment may be levied therefore against such owner.

**Section 145 Storage Receptacles.** No fuel tanks or similar storage receptacles may be exposed to view, and thus, may be installed only within the main dwelling house, within the accessory building, within the screened area required herein, or buried underground.

**Section 16. Mobile Homes.** No structure of any kind which is commonly known as "factory built", "modular", "manufactured" or of "mobile home" type construction shall be erected in Community.

**Section 17. Landscaping, Lawns, Driveways and Parking Areas.**

a. **Landscaping and Lawns.** The Architectural Control Committee shall have the authority to establish minimum landscape and planting requirements for each lot and those areas designated as landscape buffers. Landscaping as required and as shown on the approved final landscape plan submitted to the Architectural Control Committee shall be completed at the time of completion of the building as evidenced by the issuance of a Certificate of Occupancy by the appropriate governing authority.

All areas not covered by buildings, structures, walkways, or paved parking facilities shall be maintained as lawn or landscaped areas and shall be maintained to the pavement edge of any abutting streets, or to the water line of any abutting lakes or canals. No stone, gravel, or paving of any type, shall be used as a lawn, unless approved as part of the landscaping plan. Further, all lawn or landscaped areas must have installed and maintained an active outdoor water sprinkler system that supplies water to the lawn and/or landscape area to nurture and support the growth of the plant life. Automatic Irrigation systems must include rain sensors to promote conservation of water. Lot Owners shall be responsible for compliance with State and local regulations governing watering days and times.

c. **Cottage Lots; Additional Requirements.** The Homeowners' Association will maintain a uniform landscape plan for Cottage Lots through monthly lawn maintenance assessments. Changes to the initial landscape package for an individual Lot must be submitted to the Architectural Control Committee for approval pursuant to Article V, Section 4 of this Declaration. Such changes must not create additional maintenance demands on the Homeowners' Association with regard to uniform lawn maintenance. Seasonal plantings, annuals and perennials, installed and maintained by individual Cottage Lot owners shall be exempt from this Section 6 and maintenance of the same shall be the responsibility of said lot owners. Irrigation for Cottage Lots will be maintained by the Homeowners' Association pursuant to monthly lawn maintenance assessments.

d. **Modifications to Landscaping; Ornaments; Structures.** No landscape improvements or structures such as trees, shrubbery, statues, yard ornaments, sculptures, birdhouses/birdbaths, etc. of any kind whatsoever shall be permitted upon a Lot without the approval of the Board of Directors or Architectural Control Committee. Seasonal plantings, annuals and perennials, shall be exempt from this restriction. Freestanding flag poles shall not be permitted. One decorative flag pole (intended for residential use) attached to the wall of a home at a 90 or 45 degree angle shall be allowed, provided that the pole is no longer than five feet. The purpose of this provision is to prevent undue expense to the Association in maintaining individual lots and keeping uniform landscaped lots. Accordingly, lot owners shall not change or alter the landscaping of any Lot without the approval of the Board of Directors or Architectural Control Committee. The expense of replacement of lawn and/or landscape plantings will be borne by the applicable lot owner; however, any replacement must be of like kind, quality and size. If the Lot owner refuses to make necessary replacements, the Association shall have the right to effect the replacements and charge the same to the lot owner. If the Lot owner refuses to pay the charge, the non-payment of such charge shall be treated in the same manner as non-payment of an assessment and enforced in the manner set forth in Article IV, Section 8 hereof.

Lot owners shall maintain the irrigation system for their respective Lot, and ensure that satisfactory watering is effected to maintain high quality lawns and landscape plantings, subject to such rules promulgated by the Association or Board of Directors, or State and local agencies, regarding watering and use.

d. Driveways, Parking Areas and Mailboxes. All driveways and parking areas must be constructed with concrete or materials as approved by Developer, Board of Directors, or Architectural Control Committee. Prior to initiating construction of a driveway and/or parking area on a lot, Owners shall submit to the Architectural Control Committee, a location and plot plan in detail and to scale, final plans and specifications for construction, and construction materials. No gravel, or blacktop, or paved parking strips are to be allowed. All vehicles shall be parked in the garage or driveway serving a respective lot. No parking shall be permitted in any street or road right of way except guest or invitees of an Owner visiting a dwelling located on a Lot on a temporary and infrequent basis. No vehicles shall be parked in the front or side yard of any Lot.

Further, all mailboxes shall be clustered in the road right of way or Common Area, and no individual mailboxes located on a Lot shall be permitted. The type of mailboxes must be approved by Developer, Board of Directors, or Architectural Control Committee, prior to installation. All mailboxes must be maintained in good condition, as determined by Developer, Board of Directors, or Architectural Control Committee, and replaced with only such mailboxes approved by the Developer, Board of Directors, or Architectural Control Committee.

**Section 18.** Garbage Containers, Oil and Gas Tanks, Air-Conditioners. All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment and housing, must be underground or placed in walled or landscaped areas so that they shall not be visible from any street, or adjacent properties. All air-conditioning units shall be shielded and hidden so that they shall not be visible from any street, or adjacent property. Wall air-conditioning units shall be permitted only after prior written approval by Developer, Board of Directors, or Architectural Control Committee.

**Section 19.** Fences:

a. Prior to its installation, all fences and walls constructed on any lot must first be approved by the Architectural Control Committee, as to height, size, location, materials and design. No wall or fence shall be constructed with a height of more than five (5) feet above the ground level of adjoining property, and no hedge or shrubbery abutting the property lines shall be permitted with a height of more than six (6) feet, without written approval of the Developer, Board of Directors, or Architectural Control Committee. Perimeter walls and fences shall not be permitted. No fence shall be erected that extends forward of the front building line of any lot. In order to maintain uniformity within the subdivision, only vinyl fencing of a similar style and color shall be permitted by the Architectural Control Committee. Masonry walls, including brick and stone, may be permitted by the Architectural Control Committee if the Committee determines that the wall is consistent with the architecture of the home, does not detract or negatively impact the appearance of adjacent lots, and is consistent and compatible with the overall development scheme of the subdivision.

b. Notwithstanding the above, Developer hereby reserves the right to construct or install fencing, screening, or the like along the boundary of the Properties or any portion thereof.

**Section 20. Satellite Dish and Solar Panels:**

a. No owner shall install, or cause to be installed, within or on any lot or house, a satellite dish or dish type antennae in which the dish exceeds eighteen (18) inches in diameter. Further, all dishes must not be visible from any street, and/or adjacent properties, and adequate landscaping shall be installed and maintained by the owner to shield and/or hide the dish from the view of the street and/or adjacent property owner. Any and all exterior antennae or transmitting and/or receiving equipment, satellite dishes or dish type antennas must be approved by the Architectural Committee prior to installation to ensure conformity with this provision and other applicable provisions. The location type and size of all other external antennae shall be approved by Developer, Board of Directors, or Architectural Control Committee, prior to its installation. Other than provided herein, no aerial, satellite reception dishes, or antennas of any kind are permitted on the Property, unless permitted by law.

b. No solar panels shall be installed so they are visible from the front of any home or lot within the subdivision.

**Section 21. Leasing.** A Lot and the improvement located thereon may be rented or leased without Association approval. However, no lot or improvements located thereon shall be rented or leased to third parties during any calendar year for a period of time amounting to less than thirty (30) consecutive days or in excess of six (6) months. Any purported lease in violation of and/or not conforming to this provision shall be void and of no effect, and the lessee named therein shall take no rights thereunder.

The liability of the Lot owner under this Declaration shall continue, notwithstanding the fact that the Lot owner may have leased, rented or sub-let the Lot and/or improvement located thereon. Every tenant shall take possession of the Lot and/or the improvement located thereon subject to this Declaration, Bylaws and Articles of Incorporation of the Association, and any and all rules and regulations promulgated by the Architectural Control Committee, the Association, or the Developer.

**Section 22. Completion of Residential Structures and Option to Repurchase.** In order to speed completion of residential structures and enhance the residential nature of the community, construction of the main residence on any Lot must be initiated within twelve (12) months from the date the Lot is sold by the Developer to any third party. For purposes of this provision, the date the Lot is sold by Developer will be deemed to be the date of recording the deed evidencing conveyance of title in the Public Records of Lake County, Florida. No construction may be initiated until obtaining the necessary approvals from the Architectural Control Committee, as required by Article V of this Declaration. Construction of the main residence must be completed within twelve (12) calendar months following the initiation of construction. For purposes of this provision, the date of recording the notice of commencement in the Public Records of Lake County, Florida, will represent the date that construction is initiated on a Lot. Notwithstanding the foregoing, in no event shall construction of the main residence extend beyond twenty four (24) months from the date the Lot is sold by the Developer to any third party. Developer may extend, at its sole discretion, the time periods established herein for a cumulative period not to exceed six (6) months should good cause be shown.

Should a Lot owner fail to comply with the provisions of this Section 22, Developer or its assigns will have an option to repurchase the Lot for the same price that the Lot was sold by the Developer, less the following:

a. the cost to satisfy and/or release any encumbrances (i.e. mortgages, liens, etc.) against the Lot at the time of the exercise of said option;

b. cost of real estate commissions, documentary stamp tax, title insurance premium, title search and examination, recording and other related closing cost incurred by Developer at the time of closing the initial sale by Developer; and

c. cost of real estate commissions, documentary stamp tax, owner's title insurance premium, title search and examination, recording and other related closing cost expended by Developer in the exercising and closing of the option to repurchase provided herein.

The option to repurchase provided herein may be exercised at any time before a certificate of occupancy is issued by the City of Tavares for a residence constructed on the particular Lot. Notice exercising the option to repurchase must be recorded in the Public Records of Lake County, Florida, and a copy thereof promptly forwarded by certified mail, return receipt requested, to the current title holder of the particular Lot, as shown on the records of the Property Appraiser and Tax Collector of Lake County, Florida. The repurchase must occur within forty five (45) days of Developer recording the notice of exercising the option, as provided above. Developer will select the location, date and time of the closing. If no such notice has been filed before the issuance of a certificate of occupancy, then this option will become void and of no effect.

**Section 23. Other Restrictions.** The Association, Developer, or Architectural Control Committee shall have the authority, from time to time, to include within its promulgated Residential Planning Criteria other reasonable restrictions regarding such matters as prohibitions against window air-conditioning units, for-sale signs, for-rent signs, mailboxes, temporary structures, nuisances, garbage and trash disposal, vehicles and repair, removal of trees, gutter easements, games and play structures, swimming pools, sight distance at intersections, utility connections, television antennae, driveway construction, landscape buffers and such other reasonable restrictions as it shall deem appropriate; provided, however, that such additional restrictions shall not be in conflict with other restrictions and easements provided in this Declaration. The foregoing matters are shown by way of illustration and shall not be deemed to limit in any way the authority of the Architectural Control Committee to promulgate and enforce such Residential Planning Criteria. Once the Architectural Control Committee promulgates certain restrictions, the same shall become as binding and shall be given the same force and effect as the restrictions set forth herein, until the Architectural Control Committee modifies, changes, or promulgates new restrictions, or the Board of Directors of the Association modifies, or changes restrictions set forth by the Architectural Control Committee.

**Section 24. Drainage Swale Maintenance.** To the extent that Developer has constructed a Drainage Swale upon a lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such lot from time to time, the lot owner, including builders, shall be responsible for the maintenance, operation and repair of swales on the lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited.

No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human-induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the owner of the lot upon which the

Drainage Swale is located.

**Section 25. Clothes Drying Equipment.** No laundry shall be shall be hung or located outdoors.

## **Article IX Insurance, and Condemnation Or Eminent Domain**

### **Section 1. Insurance.**

a. **Insurance Requirements.** The Association shall purchase and maintain, or, alternatively, in the event Developer so elects, the Association shall be covered under Developer's insurance with respect to the insurance coverage described below, subject to the following provisions, and the cost of the premiums therefore shall be a part of the Operating Expenses. Notwithstanding the foregoing, in the event the Association determines that the cost of insurance is economically unwarranted or is not obtainable, the Association may determine to either reduce the amount of such insurance, increase the deductible amount or discontinue coverage.

(1) **Public Liability Insurance.** A comprehensive policy or policies of general liability insurance naming the Association and, until the Transfer Date, Developer as named insured thereof and including Owners as insured thereunder insuring against any and all claims or demands made by any person or persons whomsoever for injuries received in connection with, or arising from, the operation, maintenance and use of the Association Property and any improvements and buildings located thereon and for any other risks insured against by such policies with limits of not less than: (i) Two Hundred Fifty Thousand Dollars (\$250,000) for damages incurred or claimed by any one (1) person for any one (1) occurrence; (ii) not less than Two Hundred Fifty Thousand Dollars (\$250,000) for damages incurred or claimed by more than one (1) person for any one (1) occurrence; and (iii) One Hundred Thousand Dollars (\$100,000) for property damage for any one (1) occurrence. Such coverage shall include as appropriate, without limitation: (a) protection against any legal liability that results from lawsuits related to employment contracts in which the Association is a party; (b) bodily injury and property damage liability that results from the operation, maintenance or use of Association Property; (c) liability for non-owned and hired automobiles; (d) liability for property of others; and (e) such other risks as are customarily covered with respect to areas similar to the Association Property in developments similar to the Community in construction, location and use. The insurance purchased shall contain a "Severability of Interest Endorsement," or equivalent coverage, which would preclude the insurer from denying an Owner's claim because of the negligent acts of either the Association, Developer or any other Owners or deny the claim of either Developer or the Association because of negligent acts of the other or of that of an Owner.

(2) **Casualty Insurance.** Insurance for all buildings and fixtures, equipment and other personal property which comprise a portion of the Association Property in an amount equal to one hundred percent (100%) of the "Replacement Value" thereof with an "Agreed Amount and Inflation Guard Endorsement" (including a "Demolition Cost Endorsement," "Contingent Liability from Operation of Building Laws Endorsement" and an "Increased Cost of Construction Endorsement") or its equivalent, if necessary, The term "Replacement Value" shall mean one hundred percent (100%) of the current replacement costs exclusive of land, foundation, excavation, and other items normally excluded from coverage. The Board of

Directors may determine the kinds of coverage and proper and adequate amount of insurance including but not limited to: (i) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage; and (ii) such other risks that shall customarily be covered with respect to areas similar to the Association Property and in developments similar to the Community in construction, location and use.

b. Conditions of Insurance. All insurance purchased by the Association pursuant to this Section shall be subject to the provisions hereafter set forth.

(1) The Board of Directors shall receive any and all proceeds from the insurance policies on behalf of the Association, and to hold such proceeds in trust for the Association, Owners and mortgagees under the following terms:

(a) In the event that a loss of One Hundred Thousand Dollars (\$100,000) or less, as determined by detailed estimates or bids for repair and reconstruction obtained by the Board of Directors, occurs to any portion of the Association Property, the insurance proceeds received as a result of such loss shall be paid to the Association. Upon receipt of such proceeds, the Association shall promptly cause the necessary repairs to be made to the Association Property. In the event the insurance proceeds are insufficient to pay for the cost of repair of the Association Property, the Board of Directors shall hold a special meeting to determine the amount of a Special Assessment to obtain any necessary funds to repair and restore the damaged Association Property. Upon the determination by the Board of Directors of the amount of such Special Assessment the Board of Directors shall immediately levy such Special Assessment setting forth the date or dates for payment of same.

(b) In the event the insurance proceeds are in excess of One Hundred Thousand Dollars (\$100,000) as a result of damages to the Association Property, then all insurance proceeds received with respect to such damages, together with any and all other monies paid as provided below, shall be distributed in the following manner:

(i) The Board of Directors shall obtain detailed estimates or bids for the cost of rebuilding and reconstruction of such damaged property for the purpose of determining whether such insurance proceeds are sufficient to pay for the same,

(ii) In the event the insurance proceeds are sufficient to rebuild and reconstruct all of such damaged improvements or if the insurance proceeds, together with the funds as described below are sufficient for such purpose, then such damaged improvements shall be completely repaired and restored. The Board of Directors shall negotiate for the repair and restoration of such damaged Association Property and the Association shall negotiate and enter into construction contract(s) with a contractor or contractors to do the work on a fixed-price basis or on any other reasonable terms acceptable to the Board of Directors, which contractor(s) may be required to post a performance and payment bond with respect to such work. The insurance proceeds and other applicable funds shall be distributed in accordance with provisions for progress payments to be contained in such construction contract(s); provided, however, prior to any payment of such funds, the payees of such funds shall deliver to the Insurance Trustee any paid bills, waivers of liens under any lien laws and executed affidavits required by law, the Association or any respective Institutional Mortgagees.

(iii) In the event the insurance proceeds are insufficient to repair and replace all of the damaged improvements, the Board of Directors shall hold a special

meeting to determine a Special Assessment to obtain any necessary funds to repair and to restore such damaged improvements. Upon the determination by the Board of Directors of the amount of such Special Assessment, the Board of Directors shall immediately levy such Special Assessment setting forth the date or dates of payment of the same, and any and all funds received from Owners pursuant to such Special Assessment shall be delivered to the Insurance Trustee and disbursed as provided in the Section immediately preceding.

(c) In the event that, after the completion of and payment of the repair and reconstruction of the damage to the Association Property, any excess insurance proceeds shall be disbursed to Owners in proportion to their contributions. In the event, however, that such repairs and replacements were paid for pursuant by a Special Assessment as well as by the insurance proceeds, it shall be presumed that the monies disbursed from insurance proceeds and any remaining funds shall be distributed to Owners in proportion to their contributions pursuant to such Special Assessment.

(d) Any repair, rebuilding or reconstruction of damaged improvement(s) upon the Association Property shall be substantially in accordance with the architectural plans and specifications for: (i) the originally constructed improvements; (ii) the improvements as such were previously reconstructed; or (iii) new plans and specifications approved by the Board of Directors.

c. Form of Policies.

(1) Master Coverage. Nothing herein contained shall prohibit the Association from obtaining a "master" or "blanket" form of insurance for all of the Community or portions thereof, provided that the coverage required hereunder is satisfied.

(2) Minimum Coverage. Notwithstanding anything in this Section 1 to the contrary, the amounts set forth for the purchase of insurance hereunder are the minimum amounts to be purchased. Therefore, Owners or the Association, as the case may be, may purchase insurance in excess of the amounts set forth herein. The amounts set forth do not constitute a representation or warranty of any kind by Developer or the Association as to the proper amount or kinds of insurance required.

(3) Additional Terms of Policies. Policies insuring the Association property purchased pursuant to the requirements of this Section 1 shall provide that: (i) any insurance trust agreement shall be recognized; (ii) the right of subrogation against Owners will be waived; (iii) the insurance will not be prejudiced by any acts or omission of individual Owners who are not under the control of the Association; and (iv) the policy will be primary, even if an Owner has other insurance that covers the same loss.

**Section 2. Provisions Relating To Condemnation Or Eminent Domain Proceeding.**

a. Deposit of Awards. The taking of any portion of the Properties by condemnation shall be deemed to be a casualty, and the awards for that taking shall be: (i) deemed to be proceeds from insurance resulting from the casualty; and (ii) deposited with the Association.

b. Association Property. In the event the Association receives any award or payment arising from the taking of the Association Property or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent

deemed advisable by the Association and approved by Owners owning at least two-thirds (2/3) of the Lot Owners and the remaining balance thereof, if any, shall then be held by the Association.

## **Article X General Provisions**

**Section 1. Exclusive Contractor.** In order to maintain the quality and consistency of construction, and protect the value and desirability of the residential improvements constructed in the community, M/I Homes of Lake County, LLC (dba Shamrock Homes) or its assigns, successors or appointee shall be the exclusive contractor or builder for all homes and improvements to be constructed within the Community unless such provision is waived in writing by the Developer. This provision may be amended or altered all at the sole discretion of the Developer.

**Section 2. Common Area Easements.** Notwithstanding anything to the contrary, the Association, Developer and its principals, hereby reserves the right to grant or prohibit additional easements across or to common properties as defined in this Declaration and/or as set forth on the plat of the Properties.

**Section 3. Enforcement.**

a. **Generally.** The Developer, the Association, or any owner, shall have the right to enforce by judicial proceedings, all restrictions, conditions, covenants, reservations, liens and charges, now or hereafter imposed, by the provisions of this Declaration. Failure by the Developer, Association, or by any owner to enforce any covenant or restriction herein contained, shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in an action brought to enforce any provisions of this Declaration shall be entitled to recover attorney's fees for trial and appeal and court costs for the same.

b. **St. Johns River Water Management District.** The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the covenants and restrictions of this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**Section 4. Severability.** Invalidation of any one of these covenants or restrictions, or portions thereof, by judgment, or court order, shall in no way affect any other provisions, which shall remain in full force and effect.

**Section 5. Term of Declaration and Amendments.**

a. **Term of Declaration.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

b. **Amendments.**

(1) **Generally.** While Developer retains a Class B Membership in the Association, as provided in Article III of this Declaration, Developer may amend this Declaration, at its sole discretion, by the recordation of an amendatory instrument in the Public Records of

Lake County, Florida, executed by Developer only. Thereafter, this Declaration may be amended at any time by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be properly recorded in the Public Records of Lake County, Florida, to be effective.

(2) Stormwater Management System. Any amendment to the covenants and restrictions of this Declaration which alter any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

**Section 6. No Subdivision.** None of the platted lots in the Community shall be divided or sold except as a whole, without the written approval of the Developer or Association and no additional streets shall be constructed on or across any lot without the approval of the Developer or Association.

**Section 7. Utilities Easements.** There is hereby reserved for the purpose of installing and maintaining private government and public utility facilities and improvement district facilities, and for such other purposes incidental to the development of the Properties, those easements to be shown upon the plat(s) of the Properties, each easement being designated "Utility Easement".

**Section 8. Additional Properties.** The Developer reserves the right to add additional properties, which would be subject to all the terms and conditions of this Declaration, and would be under the jurisdiction of the Association.

The additions authorized under this Article shall be made by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions with respect to the additional property that shall extend the scheme of the covenants and restrictions of this Declaration to such property. Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added Properties and as are not inconsistent with the scheme of this Declaration.

No addition shall revoke or diminish the rights of the Owners of the Properties to the utilization of the common areas or tracts as established hereunder except to grant to the Owners of the additions to the Properties being added the right to use the Common Properties, according to the terms and conditions as established hereunder, and the right to proportionately change voting rights and assessments.

**In Witness Whereof,** the undersigned, being the Developer, has hereunto set his hands and seals this 30<sup>th</sup> day of Nov., 2006.

Signed, sealed and delivered  
in the presence of:

**Developer:** M/I Homes of Lake County,  
LLC (dba Shamrock Homes)

B. A. Driver  
Signature

BEN A. DRIVER  
Print

Jennifer Elszasz  
Signature  
JENNIFER ELSZASZ  
Print

By: [Signature]  
Steven J. Shamrock, President

State of Florida  
County of Lake

I hereby certify that on this 30 day of Nov., 2006, before me, an officer duly authorized in the State and County aforesaid to make acknowledgments, personally appeared Steven J. Shamrock, as president of M/I Homes of Lake County, LLC (dba Shamrock Homes), on behalf of the corporation, who is personally known to me and who did not take an oath.

[Signature]  
Notary Public

My Commission expires:



## EXHIBIT "A"

### ETOWAH PHASE 1

#### DESCRIPTION:

THAT PORTION OF LANDS DESCRIBED IN EXHIBIT 'A', OFFICIAL RECORDS BOOK 2876, PAGE 1408 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA AND LYING IN SECTIONS 15 AND 16, TOWNSHIP 19 SOUTH, RANGE 26 EAST, LAKE COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 16, (SAID POINT BEING A 6"X6" CONCRETE MONUMENT ACCEPTED AS THE SOUTHEAST CORNER OF SECTION 16); THENCE RUN NORTH 89°10'15" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 16 FOR 342.03 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF ANN ROU ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES: RUN NORTH 53°28'54" WEST FOR 55.87 FEET TO A POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 1,297.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 28°39'54" FOR 648.89 FEET TO THE EASTERLY BOUNDARY OF LANDS DESCRIBED IN EXHIBIT 'A', OFFICIAL RECORDS BOOK 2134, PAGE 774 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE ALONG SAID EASTERLY BOUNDARY AND THE NORTHERLY BOUNDARY OF SAID LANDS THE FOLLOWING COURSES: RUN NORTH 33°49'58" EAST FOR 63.59 FEET; THENCE NORTH 39°36'46" WEST FOR 111.54 FEET; THENCE NORTH 37°19'17" WEST FOR 64.22 FEET; THENCE NORTH 12°07'18" WEST FOR 37.51 FEET; THENCE NORTH 49°46'14" WEST FOR 56.88 FEET; THENCE DEPARTING AFORESAID NORTHERLY BOUNDARY OF LANDS DESCRIBED IN EXHIBIT 'A', OFFICIAL RECORDS BOOK 2134, PAGE 774 RUN NORTH 32°42'25" EAST FOR 84.11 FEET; THENCE NORTH 55°29'19" WEST FOR 358.77 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF LAKE EUSTIS DRIVE, (COUNTY ROAD DISTRICT NO. 4-5154) AS DESCRIBED IN EXHIBIT 'A', OFFICIAL RECORD BOOK 2735, PAGE 1751 OF THE PUBLIC RECORDS OF LAKE COUNTY; THENCE ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE THE FOLLOWING COURSES: RUN NORTH 36°06'40" EAST FOR 71.57 FEET; THENCE NORTH 36°22'18" EAST FOR 163.01 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF NORTH 34°41'18" EAST AND A RADIUS OF 6,470.29 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°03'22" FOR 119.26 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF NORTH 39°14'48" EAST AND A RADIUS OF 1,436.73 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°19'46" FOR 284.09 FEET; THENCE NORTH 44°14'05" EAST FOR 225.63 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF NORTH 49°23'06" EAST AND A RADIUS OF 1,418.55 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°54'56" FOR 319.77 FEET TO THE POINT OF TANGENCY; THENCE NORTH 55°50'34" EAST FOR 101.52 FEET TO A POINT HEREINAFTER KNOWN AS POINT 'A'; THENCE DEPARTING AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF LAKE EUSTIS DRIVE RUN SOUTH 33°55'54" EAST FOR 162.22 FEET; THENCE NORTH 56°07'21" EAST FOR 11.50 FEET; THENCE SOUTH 33°52'39" EAST ALONG A RADIAL LINE FOR 50.00 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" FOR 39.27 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 33°52'39" EAST FOR 268.41 FEET TO A POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 72°50'36" FOR 31.78 FEET; THENCE SOUTH 16°43'15" EAST ALONG A RADIAL LINE FOR 50.00 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 94.50 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°19'39"

FOR 148.98 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 16°23'36" EAST FOR 149.02 FEET; THENCE SOUTH 73°36'24" WEST FOR 23.45 FEET TO A POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 40.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 115°03'10" FOR 80.32 FEET TO A POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 584.13 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 20°45'53" FOR 211.70 FEET TO A POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 85°51'08" FOR 37.46 FEET; THENCE SOUTH 15°24'43" EAST FOR 50.01 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF SOUTH 31°06'04" WEST AND A RADIUS OF 25.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 84°43'49" FOR 36.97 FEET TO A POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 584.13 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°12'52" FOR 104.13 FEET; THENCE NORTH 73°27'59" EAST FOR 547.22 FEET TO THE WESTERLY BOUNDARY OF LOT C, 'WEBB AND RIDDLE'S SUBDIVISION, PLAT BOOK 3, PAGE 18 OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE SOUTH 16°40'09" EAST ALONG SAID WESTERLY BOUNDARY OF LOT C FOR 808.94 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF AFORESAID SECTION 15; THENCE NORTH 89°29'57" WEST ALONG SAID SOUTH LINE FOR 846.83 FEET TO THE POINT OF BEGINNING.

**TOGETHER WITH:**

COMMENCING AT THE AFOREMENTIONED POINT 'A'; THENCE NORTH 33°55'54" WEST FOR 50.00 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF LAKE EUSTIS DRIVE (AS DESCRIBED IN AFORESAID EXHIBIT 'A', OFFICIAL RECORD BOOK 2735, PAGE 1751) AND TO THE POINT OF POINT OF BEGINNING; THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE THE FOLLOWING COURSES: RUN SOUTH 55°50'34" WEST FOR 101.72 FEET TO A POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1,468.55 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°53'35" FOR 330.46 FEET; THENCE SOUTH 44°14'05" WEST FOR 224.63 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF SOUTH 39°15'28" WEST AND A RADIUS OF 1,486.73 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°17'46" FOR 293.11 FEET TO AN INTERSECTION WITH A CIRCULAR CURVE CONCAVE SOUTHEASTERLY, HAVING A CHORD BEARING OF SOUTH 34°41'22" WEST AND A RADIUS OF 6,520.29 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°02'29" FOR 118.51 FEET; THENCE SOUTH 36°22'18" WEST FOR 132.09 FEET; THENCE DEPARTING AFORESAID NORTHWESTERLY RIGHT OF WAY LINE OF LAKE EUSTIS DRIVE RUN NORTH 53°10'38" WEST FOR 94.32 FEET TO THE SHORELINE OF LAKE EUSTIS; THENCE ALONG SAID SHORELINE OF LAKE EUSTIS THE FOLLOWING APPROXIMATE COURSES: RUN NORTH 38°10'19" EAST FOR 485.88 FEET; THENCE NORTH 45°36'11" EAST FOR 240.37 FEET; THENCE NORTH 36°24'27" EAST FOR 121.53 FEET; THENCE NORTH 51°00'16" EAST FOR 256.34 FEET; THENCE NORTH 55°57'50" EAST FOR 126.53 FEET; THENCE DEPARTING AFORESAID SHORELINE OF LAKE EUSTIS RUN SOUTH 33°55'54" EAST FOR 88.63 FEET TO THE POINT OF BEGINNING.

THE WHOLE CONTAINING 48.65 ACRES, MORE OR LESS.