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RICHARD AKE CLERK OF COURT
HILLSBOROUGH COUNTY
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Prepared by and Return to:
MOLLOY & JAMES
325 South Boulevard
Tampa, Florida 33606

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
COVINGTON at CROSS CREEK**

THIS DECLARATION, is made this 9th day of March, 1998, by Engle Homes/Gulf Coast, Inc., (hereinafter referred to as "Developer"), whose address is 123 Northwest 13th Street, Suite 300, Boca Raton, Florida 33432.

WITNESSETH:

WHEREAS, the Developer is the owner of certain property in Hillsborough County, Florida (Property), more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

WHEREAS, Developer is developing the Property into a residential community of single family homes; and

WHEREAS, Developer intends and desires to impose certain covenants, restrictions, easements, conditions, and liens upon the Property and the use thereof, as part of a common plan of development upon the Property, and to protect its value and desirability;

NOW THEREFORE, the Developer hereby declares that the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Unless the context expressly requires otherwise, the following terms mean as follows wherever used in this Declaration, the Association's Articles of Incorporation ("Articles"), or the Association's By-Laws ("By-Laws").

Section 1. "Architectural Committee" shall mean the Architectural Committee, provided in Article VI hereof.

Section 2. "Articles" means the Articles of Incorporation of the Association, as may be amended from time to time. The Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibits "B" and "C", respectively.

Section 3. "Assessment" means the amount of money assessed against an Owner for the payment of the Owner's share of common fees, expenses and any other funds which an Owner may be required to pay to the Association as set out by this Declaration, the Articles or the By-Laws.

Section 4. "Association" means COVINGTON at CROSS CREEK HOMEOWNERS ASSOCIATION, INC., a corporation not for profit organized or to be organized pursuant to Chapter 617, Florida Statutes, its successors and assigns.

Section 5. "Board" means the Association's Board of Directors.

Section 6. "Common Area" means all property whether improved or unimproved, or any interest therein, which from time to time is owned by the Association for the common use and enjoyment of all Owners.

Section 7. "Declaration" shall mean and refer to this Declaration, together with any and all supplements or amendments hereto, if any.

Section 8. "Developer" means Engle Homes/Gulf Coast, Inc.,

and its successors and assigns, if such successors and assigns are designated in writing by the Developer as the successors and assigns of Developer's rights hereunder.

Section 9. "Dwelling" shall mean the residential dwelling constructed upon a lot.

Section 10. "Lot" means any platted parcel of land shown on the recorded subdivision map or plat as recorded in the Public Records of Hillsborough County with the exception of the Common Area and portions, if any, of marked acreage.

Section 11. "Maintenance" means the exercise of reasonable care to keep buildings, homes, roads, landscaping, lighting, and to their original condition, normal wear and tear excepted. 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, and which will, as a minimum, include the mowing of all grass on a Lot.

Section 12. "Master Association" shall mean Cross Creek II Master Association, Inc., or its successor pursuant to the a Master Declaration of Covenants, Conditions and Restrictions for Cross Creek II, recorded November 30, 1994, at O.R. 7597, page 825, of the public records of Hillsborough County, Florida.

Section 13. "Member" means every person or entity who holds membership in the Association.

Section 14. "Mortgage" means any mortgage, deed of trust, or other instrument transferring any interest in a Lot as security for the performance of an obligation. "First Mortgage" means any mortgage constituting a valid lien prior in dignity to all other mortgages encumbering the same property.

Section 15. "Mortgage" means any person named as the obligee under any Mortgage, or the successor in interest to such person.

Section 16. "Occupant" means the person or persons, other than the Owner in possession of a Lot, and may, where the context so requires, include the Owner.

Section 17. "Owner" means the record owner, whether one or more persons, of the fee simple title to any Lot, including contract sellers, but excluding any other person holding such fee simple title only as security for the performance of an obligation. As the context may admit, Owner includes all persons (i) claiming any right, title or interest in a Lot by, through, or under any Owner, or (ii) lawfully upon the Properties with the consent of any Owner, express or implied, such as an Occupant.

Section 18. "Plat" means the final official plat as recorded in the Public Records of Hillsborough County, and shall include the subdivided real property therein described and such additions thereto as may be brought within the jurisdiction of the Association as hereinafter provided.

Section 19. "Property" means the lands described on the attached Exhibit "A", including Lots and Common Areas.

Section 20. "Recorded" means filed for record in Hillsborough County, Florida.

Section 21. "Structure" shall mean any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse, bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, sign, signboard, temporary or permanent living quarters (including any house trailer), temporary or permanent improvement, excavation, grading, fill, ditch, diversion, dam, other thing or device which affects the flow of waters, utility shed, detached shed or other activity.

**ARTICLE II
PROPERTY RIGHTS AND COMMON AREA**

Section 1. Conveyance of Common Property. The Developer may

from time to time designate and convey to the Association easements and/or fee simple title to real property to be the Common Area for the common use and enjoyment of the Owners, subject to this Declaration. The Association hereby covenants and agrees to accept from the Developer title to all easements and all such conveyances of Common Area subject to the terms and conditions of this Developer and the obligation set forth herein.

Section 2. Owner's Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot; provided, however, that no Owner shall do any act which interferes with the use and enjoyment of the Common Area by all other Owners; and provided further, said easement shall be subject to the following rights, title and interest:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreation facility situated upon the Common Area and to impose reasonable limits upon the number of guests who may use these facilities.
- (b) The right of the Association to suspend the right to the use of the Common Area by an Owner for any period during which any Assessment, as defined herein, against his Lot remains unpaid, and for a period not to exceed 60 days for any other infraction of the Association Documents or the Homeowners Association Rules, provided that such suspension shall not interfere with such Owner's access to the Lot.
- (c) The right of Developer and the Association to grant easements in and to the Common Area for all utility services, including cable television and other public uses which benefit the subdivision as a whole.
- (d) The right of the Association to borrow money for the purpose of improving the Common Area or acquiring additional common area property; provided however, the Common Area cannot be mortgaged without the consent of the Members entitled to

cast two-thirds (2/3) of the total votes able to be cast at any regular or special meeting of the Members duly called and convened.

(e) The right of the Association to dedicate, transfer and convey all or any part of its right, title and interest in the Common Area to any public agency, authority, or utility or, subject to such conditions as may be agreed to by the Lot Owners, to any other Person for such purposes; provided, however, the Common Area cannot be conveyed without the consent of the Members entitled to cast two-thirds (2/3) of the total votes able to be cast at any regular or special meeting of the Member duly called and convened, and of the Southwest Florida Water Management District if the surface water management system is involved in such transfer.

Section 3. Responsibilities of the Association and Release of Liability.

a. Upon conveyance, the Association shall be responsible for the Common Area, including but not limited to, its operation, management, care, restoration, insurance, renovation, alteration, reconstruction, repair, maintenance, rebuilding, replacement, improvement, taxes and utilities. The Association also has the power to operate and maintain common property, specifically the surface water management system as permitted by the Southwest Florida Water Management District including all lakes, retention ponds, culverts and related appurtenances.

b. Any private streets, street lights, sidewalks, private utilities for water or sewer, other private utilities, drainage systems, fences, walls and other improvements or amenities that have been constructed, installed or created by the Developer as part of the subdivision improvements or the Work, shall be maintained by the Association in the same condition and appearance as constructed or created. The Association shall establish reserves for the replacement of the subdivision improvements.

c. By acceptance of a deed to a Lot within the Property, Owner agrees that the Association and the Developer have no

Obligations whatsoever for providing protection to persons on the Property. Furthermore, Owner acknowledges that the Property has one or more gates at the entrances to assist in attempting to limit access to the Property to the residents therein and their invitees. Owner acknowledges and agrees, however, that the gates will be open during the hours for which Developer needs access to the model homes, construction trailer(s) or for the development of the Property or construction of homes. After Developer notifies the Association through its Board of Directors that Developer no longer needs such regular access, the Association will determine the hours, if any, for which the gates will be open. Owner further acknowledges and agrees that said gates do not guarantee the security of Owner's personal safety or security of Owner's property. Owner acknowledges that the Developer and the Association have no control over said gates and Owner hereby releases Developer from all liability related to the gates. Owner agrees that it shall be the sole and exclusive obligation of Owner to determine and institute for themselves the appropriate security and any other precautions to protect from and against trespass, criminal acts and any other dangers to Owner's safety and security of their property, because the gates in and of themselves will not protect Owner from and against said risks and dangers. Owner further agrees that the Developer and the Association shall have no obligation whatsoever for providing protection to Owner or the Property from conditions existing within public or private streets, parks or common areas. Owner agrees that the Developer and the Association shall not be liable for injuries or damage suffered by Owner resulting from any failure, defect or malfunction in a gate or equipment or personnel related thereto or acting in place of the gate (i) to restrict the Property to the residents and their invitees; or (ii) that limits the ability of Owner to leave or exit the Property by means of a gate. The Associations shall have the responsibility for providing for gate access for all Owners, and of maintaining all other systems for Owner identification and access.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws and the Homeowner's Association Rules, his right of enjoyment of the Common Area and facilities to members of his family, tenants, social and business invitees or contract purchasers who reside on the Property.

Section 5. Destruction of Common Area. In the event of a total or partial destruction of the Common Area, and if available proceeds of insurance carried pursuant to this Declaration are sufficient to cover 85% of the repair or reconstruction, the Common Area shall be promptly repaired and rebuilt unless within 120 days from the date of such destruction, 75% or more of the Members entitled to vote at a duly called meeting, determine that such reconstruction shall not take place. If the insurance proceeds are less than 85% of the cost of reconstruction, reconstruction may nevertheless take place if, within 120 days from the date of destruction, a majority of the Members elect to rebuild.

Section 6. Common Area Easements.

a. Developer has dedicated and conveyed or will dedicate or convey to the Association for use and maintenance of utility, drainage, wall and landscape easements, together with a right of ingress and egress over and across the easement areas for such purposes. Water service will be provided by the City of Tampa. Sewer service will be provided by the City of Tampa. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, drainage structures or walls, or which may impede the flow of water through drainage structures in the easements. Easement areas within a Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, unless maintained by the Association. Each Owner is responsible for damage to or destruction of the easement area and all improvements on it caused directly or proximately by the acts or omissions of such Owner and any guests, invitees, residents, or other persons occupying or present upon said Lot.

b. Fire, police, health, sanitation (including trash collection) and other public service personnel and vehicles shall have and are hereby granted a permanent and perpetual easement for ingress and egress over and across the Common Areas.

c. Developer hereby grants to each Owner, their guests, invitees, residents, and visitors, and utilities providers, guests and invitees of the Association, and reserves to itself, its

employees, agents, contractors, and invitees, a perpetual and non-exclusive easement over the Common Areas constructed as streets and roadways, for the purposes of ingress and egress to any area of the Property.

d. Developer hereby reserves an easement across the Common Area and all Lots for the installation, maintenance and use of Cable Television Distribution facilities and lines. This easement may be transferred in whole or in part to any franchised cable television operator.

Section 7. Water Management Areas. The following restrictions apply to all areas within the Property, including Common Area and Lots.

a. Each property Owner within the subdivision shall have the responsibility at the time of any construction, to comply with the construction plans for the surface water management system pursuant to Chapter 40D-4, Florida Administrative Code, approved and on file with the Southwest Florida Water Management District.

b. Each Owner shall have the responsibility not to remove native vegetation (including cattails) that become established within the wet detention ponds or jurisdictional areas abutting their property, unless permitted by the Southwest Florida Water Management District. Removal includes dredging, the application of herbicide, and cutting. Lot owners should address any question regarding authorized activities within the wet detention pond to the Southwest Florida Water Management District, Tampa Permitting Department.

c. No owner of property within the subdivision may construct any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit of the subdivision, unless prior approval is received from the Southwest Florida Water Management District pursuant to Chapter 40D-4, Florida Administrative Code.

d. The Association shall maintain, as part of the Common Area, drainage structures for the Property and comply with conditions of the Permit from the Southwest Florida Water Management District (“the District”) for the drainage system (the “Drainage System”). The Association, shall when requested by Developer, accept transfer of the District Permit for the Property. The conditions may include monitoring and record keeping schedules, and maintenance.

Section 8. Private Streets. Each Owner shall have an easement across any common area necessary for access to the Owner’s Lot. The Association shall limit access to common area to Owners and residents of Lots in the subdivision.

Section 9. All Rights and Easements Appurtenances. The benefit of all rights and easements granted by this Article, or by any Supplemental Declaration, constitute a permanent appurtenance to, and shall pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as non exclusive by this Article or by any Supplemental Declaration, its benefit nevertheless is exclusive to all Lots granted such benefit by the “Article, or by such Supplemental Declaration, unless this Article, or such Supplemental Declaration expressly grants such benefit to additional Persons. In no event shall the benefit of any such easement extend to the general public.

Section 10. Failure of Owner to Repair. The Association may perform maintenance or make repairs and assess the costs of any required exterior maintenance or repairs to the Owner of any Lot under the following circumstances: (i) such Owner does not maintain in a reasonable condition any lawn or landscaped area on such Owner’s Lot that the Association is not required to maintain; or (ii) such Owner does not when reasonably necessary replace any glass surfaces or exterior doors on such Owner’s Lot; or (iii) any maintenance, repair or replacement, whether upon such Owner’s Lot, or any other Lot or Common Area, is required because of any willful act of such Owner or any member of such Owner’s family or household or any invitee of such Owner; or (iv) any Owner fails promptly to repair or replace , as the case maybe, any casualty damage to such

Owner's Lot; and (v) such Owner has failed to undertake the necessary maintenance or replacement within a reasonable period of time following written notice from the Association. Upon the occurrence of the forgoing, and after reasonable prior notice to such, Owner, and an a reasonable opportunity to be heard, the Association's Board of Directors by a vote of not less than sixty seven percent (67%) of the full Board may undertake such maintenance, replacement or repairs and may assess by specific assessment the costs of such maintenance, replacement or repairs, as the case may be, against such Owner's Lot in the manner provided by this Declaration.

Section 11. Reciprocal Easements. There are reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area adjacent thereto, and between adjacent Lots, for the maintenance, repair and reconstruction of any party wall or walls, as provided in Article X of this Declaration; for common fences between Lots; for lateral and subjacent support; for overhanging roofs, eaves and trees, if any installed by Developer, and for replacements thereof; for fences; for encroachments caused by the initial placement, settling or shifting of any improvements constructed, reconstructed or altered therein in accordance with the provisions of this Declaration; and for the drainage of ground and surface waters in the manner established by Developer. To the extent not inconsistent with this Declaration, the general rules of common law apply to the foregoing easements. The extent of such easements for drainage, lateral and adjacent support and overhangs is that reasonably necessary to effectuate their respective purposes; and such easements of encroachment extend to a distance of not more than five feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point.

To the extent that any land or improvement which constitutes part of the Property, now or hereafter supports or contributes to the support of any land or improvement constituting another part of the Property, the aforesaid land or improvement, or both land and improvement is hereby burdened with an easement for support for the benefit of the Property or Lot as the case may be. The easement for support shall be an easement appurtenant and run with the land at law.

If any portion of the Common Area encroaches upon a Lot, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Lot by virtue of the Work performed by Developer encroaches easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances with on the common Area or on the Lots for the purposes of marketability of title. In the event a building on the Common Area or a Lot or any portion thereof is destroyed and the rebuilt, the of Owners of the Lot or Lots agree that minor encroachments of parts of the Common Areas, or other Lots, because of such reconstruction shall be permitted and that an easement for such encroachment and the maintenance and repair of the same shall exist.

**ARTICLE III
GENERAL USE RESTRICTIONS**

Section 1. Use of Lots. Each Lot may be improved and used for residential purposes only and only single detached family homes, approved in accordance with Article VI may be constructed thereon. No trade, business, or profession of any kind, or any activity other than that of single family residence may be conducted on any Lot except for a home occupation as approved by Hillsborough County and the business of the Developer and its transferees in developing the Properties and advertising signs in furtherance thereof. No building or other improvements on a Lot shall be rented or leased separately from the rental or lease of the entire Lot, and no part of any dwelling may be used for the purpose of renting rooms or for transient accommodations. No duplex, garage apartment, or apartment house shall be erected, converted, or allowed to remain on any Lot. Notwithstanding the previous sentence, if permitted by County regulation, a separate but connected living area may be included in the dwelling, intended for use by related parties.

Section 2. View Obstructions. The Association or the

Developer shall have the right, but not the obligation, to remove, relocate, or require the removal or relocation of any fence, wall, berm, hedge, shrub, tree or other thing, natural or artificial, placed or located on any Lot if the location of the same will, in the sole and exclusive judgment of the Association, obstruct the vision of a motorist upon any road within the Subdivision.

Section 3. Dwellings. Only one dwelling may be constructed on any Lot. The minimum square footage of each dwelling shall be 1500 square feet of air conditioned living space, with each dwelling containing at least a two-car garage of similar architectural style as the main dwelling unless otherwise approved by Developer.

Section 4. Screening. Except for regular collection and disposal, no receptacles for rubbish, trash, garbage or other waste material or accumulations, or mechanical or other equipment, may be kept, stored erected or permitted anywhere within the Properties, except inside the improvements on each Lot, or completely concealed from view by a fence, wall, or landscaping.

Section 5. No structure of a temporary character, trailer, manufactured home, manufactured building, mobile home, tent, shack, garage, barn or other outbuilding or any portion of the same, or any structure of any kind which extends more than four feet above the surface of the ground and which is detached from the dwelling, shall be constructed or parked on any Lot at any time, except for a construction shack, security trailer, temporary structure or temporary toilet during construction of a dwelling, or if such structure is totally screened from view from any location outside the Lot by a fence, wall, or landscaping, or a garage with the capacity for at least two automobiles.

Section 6. Building Restriction Lines. Any dwelling placed on a Lot shall be in accord with the front yard, side yard and rear yard setback requirements set forth in the Hillsborough County Zoning Regulations. No variances will be permitted without written permission from the Architectural Committee, in addition to zoning requirements.

Section 7. Vehicular Parking. No motorized wheeled vehicles of any kind and no boats may be kept or parked on any Lot, unless completely inside a garage attached to the main residence or completely screened from view from outside the Lot by fence, wall, or landscaping, except that private automobiles of the occupants, bearing no commercial signs, may be parked in the driveway or parking area on the Lot, private automobiles of guests of the occupants may also be parked in such driveway or parking area, and except further that other vehicles may be parked in such driveway or parking area during such times necessary for service or maintenance of the dwelling or Lot or pickup and delivery service, provided that permission for such parking is granted by the Lot Owner solely for the purpose of such service. No inoperative vehicles shall be parked, repaired or maintained anywhere on the Property. No parking is permitted on the common areas, including streets, except in areas specifically designated by the Association's Board of Directors for parking.

Section 8. Window Air Conditioners and Fans, Solar Devices. Unless the prior approval of the Architectural Committee has been obtained, no window air conditioning units, window fans, exhaust fans, or solar heating devices shall be installed in any side of a dwelling which faces a street, Common Area, or adjacent property owned by Developer.

Section 9. Construction.

(a). Within eight months after the date of recording the deed from Developer, the Owner of any Lot sold without a dwelling shall commence actual construction of a residence thereon, with said residence to be designed and constructed in accordance with the Declaration.

(b). When the construction of any building is once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. The main residence and all related structures shown on the plans and specifications approved by the Architectural Committee must be completed in accordance with such plans and specifications within nine (9) months after the start of the first

construction upon each Lot unless such completion is rendered impossible as a direct result of strikes, fires, national emergencies, or natural calamities. Prior to completion of construction, the Owner shall install at his expense a suitable paved driveway from the paved portion of the abutting street to the Lot line and shall remove the curbing at the edge of the paved portion of the street to the extent necessary for entrance into the driveway and replace same with suitable valley curb or gutter so as to provide for entrance into the driveway and also proper and continued drainage along the edge of the paved portion of the street. The design and type of material for each such driveway and curb or gutter shall first be approved by the Architectural Committee in writing and the subsurface of the portion of the driveway between the Lot line and the paved portion of the abutting street as well as the replacement curb or gutter shall be installed prior to commencement of any construction and prior to the delivery of construction materials to the Lot. During construction on any Lot, all vehicles involved in such construction, including those delivering materials and supplies, shall enter upon such Lot from the street only over the installed replacement curb or gutter and driveway subsurface, and such vehicles shall not be parked at any time on the street or upon any place in the Property other than the Lot on which the construction is proceeding. Developer shall have the right to allow vehicles to park on the street or other Lots during construction.

Section 10. Prohibitions Prior to Construction. No picnic areas and no detached outbuildings or structures of any kind shall be erected or permitted to remain on any Lot prior to the start of construction of a permanent residence thereon.

Section 11. No trailer, basement, garage, or any outbuilding of any kind shall at any time be used as a residence, either temporarily or permanently.

Section 12. Signs. No signs of any type shall be erected on any Lot or displayed to the public on any Lot except a professional or real estate sign as described below. A professional sign shall contain only the name,

address, phone number, and occupation of a resident of the Lot, and shall be no more than one square foot in size. A real estate sign shall contain only the notation “for sale”, “for rent”, or “for lease”, the telephone number, and the name of the agent and/or real estate broker or “by owner”, as applicable, and shall not be more than four square feet in any area. No other signs may be erected or maintained on any Lot, and no sign may be erected or maintained on any Lot which contains any language, drawing, or any material other than the words noted above. This restriction shall not apply to signs used by the Developer at the entrance of the subdivision to identify and advertise the subdivision as a whole, nor to signs to advertise Lots and/or houses by the Developer or other licensed builders engaged in the business of construction and sale of houses, during the construction and development period and provided such signs are approved by the Architectural Committee. All signs permitted by this subsection are subject to the Association’s rules and regulations and the approval of the Architectural Committee, provided however that these restrictions shall not apply to signs used by the Developer or his assigns to advertise the property during the promotion and construction of dwellings and sale of Lots. Developer or the Association may enter upon any Lot and summarily remove and destroy any signs which do not meet the provisions of this section, and are hereby granted an easement for this purpose.

Section 13. Aerials. No exterior radio or television mast, tower, pole, wire, aerial, antenna, dish or appurtenances thereto, nor any other exterior electronic or electric equipment, structures, devices or wires of any kind shall be installed or maintained on the exterior of any structure located on a Lot or on any other portion of a Lot, unless approved by the Architectural Committee. No satellite dish shall be permitted except one meter or less in diameter, and any such satellite dish must comply with standards of the Architectural Committee. The Architectural Committee, created pursuant to Article VI, shall adopt standards for the placement of such satellite dishes.

Section 14. Electrical Interference. No electrical machinery, devices or apparatus of any sort shall be used or maintained in any structure located on a Lot which causes interference with the television or radio reception in

any structures located on other Lots.

Section 15. Animals. No animals, livestock, or poultry may be raised, bred or kept anywhere within the Properties, except that dogs, cats and other customary household pets, limited to not more than two (2) dogs, two (2) cats, and four (4) birds may be kept upon any Lot so long as they are not kept, bred or maintained for any commercial purpose. Each Owner shall have the responsibility to clean up the waste produced by his or her pet immediately, and all pets shall be properly leashed, caged, or controlled in whatever manner is most practical whether it is located upon or off a Lot, and shall be subject to all applicable local ordinances existing at the time.

The keeping of a dog or other pet on the Property is not a right of an Owner, but is a conditional license. This conditional license is subject to termination at any time by the Association upon a finding that a dog or other pet is vicious, is annoying to other residents, or has in any way become a nuisance. The Owner of a pet assumes liability for all damage to persons or property caused by the pet or resulting from its presence on the Property. A dog must be kept on a leash at all times when outside.

Section 16. Nuisances. No illegal, noxious, or offensive activity shall be permitted or carried out on any part of the Property, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Property, nor upon any lands contiguous thereto. No fires for the burning of trash, leaves, clippings or other debris or refuse shall be permitted on any part of the Property, except by the Developer. No Owner shall permit any use of his Lot or make any use of the Common Areas or streets within the Subdivision that will increase the cost of insurance upon the Property above the cost when the Property is used for approved purposes, or that will cause any such insurance to be cancelled or threatened for cancellation, except with the prior written consent of the Association. No bicycles, tricycles, scooters, wagons, carriages, shopping carts, chairs, benches, tables, toys, or other such items shall be parked or permitted to stand for any period of time on the streets or Common Areas, except in accordance with the Rules and Regulations.

Section 17. Trees and Surface Conditions. No Owner shall plant or place any shrubbery, hedge, tree or other planting on any part of the Property lying outside of the Owner's Lot. No living tree having a diameter greater than six (6) inches, measured at a height of four (4) feet above ground level, may be cut on any of the Property without first obtaining the written consent of the Architectural Committee. No sod, topsoil, or shrubbery shall be removed from the Property, no change in elevations shall be made, and no change in the condition of the soil or the level of the land shall be made which result in any permanent change in the flow and drainage of surface water which is not approved by the Architectural Committee.

Section 18. Maintenance. Each Owner must repair, replace and maintain the roofs, gutters, downspouts, lawns, shrubs, landscaping, walks, fencing, exterior building surfaces, windows, doors, trim members, driveways, and other exterior improvements and attachments from time to time situated on such Owner's Lot. Each Owner is required to sod his lot as appropriate. Each Owner's duty of maintenance includes any and all easement areas upon such Owner's Lot. No Owner may permit any waste to the exterior portion of such Owner's Lot. Each Owner must make all repairs, maintenance and replacements necessary to attachments and appurtenant driveways, if any, in a safe, sanitary and reasonably attractive condition. Should an Owner fail to meet the minimum standards for maintenance, then the Association may perform or have performed the necessary required maintenance and thereafter specifically assess such Owner for such costs pursuant to Article V, Section 4 hereunder.

Section 19. Rules and Regulations. The Association may adopt reasonable rules and regulations concerning the appearance and use of the Property, including both Lots and the Common Area, that may be amended from time to time by the Association in the manner provided by the Articles and By-laws. The Association shall provide copies of the regulations and amendments thereto to all Owners and residents. The Rules and Regulations

shall be binding on all Owners and residents after such copies are furnished. No Owner, invitee, or person residing within the Properties may violate the Association's rules and regulations for the use of the properties. All Owners and other persons residing within the Properties, and their invitees, at all times will do all things reasonably necessary to comply with such rules and regulations. The Association may impose reasonable monetary fines and other sanctions for violations of the rules which may be collected by liens and foreclosure as provided herein. Wherever any provision of this Declaration restricts or prohibits any activity, condition or structure within the Properties except as permitted by the Association's rules and regulations, such restriction or prohibition is self-executing until the Association promulgates rules and regulations expressly permitting such activities. Without limitation, any rule or regulation will be deemed "promulgated" when mailed to all Owners at the address shown on the Association's books or when posted at a conspicuous place on the Properties from time to time designated by the Association for such purpose. All rules and regulations may be initially promulgated by the Board, subject to amendment or rescission by a majority of both classes of membership present and entitled to vote at any regular or special meeting of its members. The Association's procedures for enforcing its rules and regulations shall provide the affected Owner with reasonable prior notice and a reasonable opportunity to be heard, in person and through representatives of the Owner's choice.

Section 20. Mining. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 21. Activities of Developer. Notwithstanding any other provision of the Declaration, until the Developer has completed all subdivision improvements and the sale of all Lots, neither the Association nor any Owner shall interfere with the completion of sales of the Lots. Developer may make such use of the unsold Lots as may facilitate sales, including maintenance of a sales office, showing of Lots and the display of signs.

Section 22. Fences. Fences shall be permitted only as designated in guidelines adopted by the Architectural Committee. The Architectural Committee created pursuant to Article VI hereof shall adopt uniform standards for the design and placement of fences, which standards shall not be limited to those specified in Section 3 of Article VI, but shall be compatible with the community as a whole. All fences shall comply with County regulations and be subject to review by the Architectural Committee as provided in Section VI.

Section 23. Replacement. In the event a residence is damaged or destroyed by casualty, hazard or other loss, then within twelve (12) months after such incident, the Owner thereof shall either rebuild or repair the damaged residence or promptly clear the damaged improvements and regrass and landscape the Lot in a sightly manner.

Section 24. Utility Lines. All telephone, electric, cable, and other utilities lines and connections between the main or primary utility lines and the dwelling or other buildings located on a Lot shall be located underground and concealed from view. The Owner of a Lot shall be responsible for all maintenance, operation, safety, repair and replacement of the entire secondary underground utility system from the applicable transformer or supply to the residence and other buildings on the Lot.

Section 25. Mailboxes. No mailbox or paper box shall be erected or installed unless approved for design and location by the Architectural Committee.

Section 26. Wells. No wells may be drilled or maintained on any Lot without the prior written approval of the Architectural Committee, which may impose individual conditions on such operation in addition to those imposed by government.

Section 27. Basketball Hoops. No basketball hoops, backboards, or pole structures may be erected in any front yard or on the front side of any dwelling.

Section 28. Clotheslines. No clotheslines or device for the air-drying of clothing may be constructed in any location on a lot which is visible from any street.

Section 29. Window Treatment and Shading. All windows visible from any street shall have white window treatment, whether consisting of curtains, blinds, shades, or other coverings.

Section 30. Swimming Pools. No above ground swimming pools shall be constructed on a lot. A screen enclosure or fence must be used to enclose in-ground pools. Pool and enclosure construction are subject to review by the Architectural Committee pursuant to the terms of Article VI.

ARTICLE IV THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot is a Member of the Association. If title to a Lot is held by more than one person, each such person is a member. An Owner of more than one Lot is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and it is transferred automatically by conveyance of title to that Lot and may not be separated from ownership of a Lot. No person except an Owner may be a Member of the Association, and membership in the Association may not be transferred except by transfer of title to a Lot. An Owner who is a contract seller may assign such Owner's membership and voting rights to such Owner's vendee in possession.

Section 2. Voting. The association shall have two classes of voting membership:

Class A. The Class A members shall be all Owners, with the exception of Developer, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in each Lot owned, 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 members shall be Developer who shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of one 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 the anniversary date seven years from the date when the first Lot is conveyed to a Class A Member.

Section 3. Common Area. Subject to the rights of Owners set forth in this Declaration, the Association has exclusive management and control of the Common Area, its improvements if any, and all related furnishings, equipment, fencing and other personal property, if any. The Association's duties with respect to the Common Area include the management and operation of, improvements, equipment, and personal property installed by the Developer on the Common Area, so as to keep all of the foregoing in good, clean substantial, attractive, sanitary, safe and serviceable condition, order and repair; the payment of all taxes validly levied, assessed, or imposed with respect to the Common Area; and the maintenance of adequate public liability and property insurance with respect to the Common Area. The initial Common areas in the subdivision are the easements containing the entry features; perimeter walls; and drainage easements which contain water retention ponds.

Section 4. Exterior Maintenance. The association has no duty of exterior maintenance with respect to any Lot; and each Owner must maintain such Owner's Lot, including any appurtenant driveways, in a safe, sanitary and reasonably attractive condition. If:

- (a) Any Owner refuses or fails to make any repairs, maintenance, or replacements required by Article III, Section 19, above, and

(b) As a result, any condition on or adjoining such Owner's Lot becomes a hazard or nuisance to any other Owner, or diminishes or impairs the value or marketability of any other Lot, or is visually objectionable to persons lawfully upon the Properties; and

(c) At least seventy-five percent (75%) of the members of the Board find that the Owner was provided reasonable notice of the failure of repair, maintenance or replacement and the Board's consideration thereof, and was given an opportunity to be heard by the Board;

then, upon the occurrence of all of the foregoing, the Association may make or perform such repairs, maintenance, or replacements as reasonably are necessary to correct such condition and assess all costs so incurred against such Owner's Lot as provided in Article V, Section 4, below.

Section 5. Access By Association. The Association has a right of entry onto the exterior portions of each Lot to the extent reasonably necessary to discharge its duties of exterior maintenance, if any, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted by this Declaration or by any applicable Supplemental or Amended Declaration. Such right of entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of its Owner or occupant for any purpose, except pursuant to Court order or other authority granted by Law. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right of exterior maintenance if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees and contractors.

Section 6. Services. The Association may obtain and pay for the services of any person to manage its affairs to the extent the Board deems advisable, as well as such other personnel as the Board determines are necessary or desirable for the proper operation of the Properties, whether

such personnel are furnished or employed directly by the Association or by any person with whom it contracts. Without limitation, the Board may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration, or the Articles, By-Laws, rules and regulations.

Section 7. Rules and Regulations. As provided in the Bylaws, the Association, from time to time may adopt, alter, amend, rescind and enforce reasonable rules and regulations governing the use of the Properties, consistent with the rights and duties established by this Declaration. The Association's procedures for enforcing its rules and regulations at all times must provide the affected Owner with reasonable prior notice and a reasonable opportunity to be heard, in person, or through representatives of such Owner's choosing, or both.

Section 8. Capital Improvements. Except for replacement or repair of items installed by the Developer, if any, and except for any personal property related to the Common Area, the Association may not authorize capital improvements to the Common Area without the prior approval of seventy-five percent (75%) of the Association Members present and voting in person or by proxy at a meeting duly convened for such purposes as provided in Article V, Section 3, below.

Section 9. Amplification. The provisions of this Declaration may be amplified by the Articles of Incorporation and By-Laws of COVINGTON AT CROSS CREEK HOMEOWNERS ASSOCIATION, INC., but no such amplification shall alter or amend substantially any of the rights or obligations of the Owners set forth in the Declaration, or any Supplemental Declaration. The Developer intends that the provisions of this Declaration and any Supplemental or Amended Declaration, on the one hand, and the Articles of Incorporation and By-Laws on the other hand, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration, or any Supplemental or Amended Declaration, control anything to the contrary in the Articles of Incorporation or By-Laws.

Section 10. Master Association. The Master Association shall have the power to veto any action taken or contemplated to be taken by the Association which the Board of Directors of the Master Association reasonably determines to be adverse to the interests of the Master Association or its members or inconsistent with the Community Wide Standard of the Master Association, or otherwise not in conformity with the Master Declaration of the Master Association. The Master Association shall also have the power to require specific action to be taken by the Association in connection with its obligations and responsibilities hereunder or under any covenants affecting the Properties. Without limiting the generality of the foregoing, the Master Association may require specific maintenance or repairs or aesthetic changes to be effected by the Association, may require that a proposed budget include certain items and that expenditures be made therefor, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by the Association.

Any action required by the Master Association, in a written notice pursuant to the foregoing paragraph, to be taken by the Association shall be taken within the time frame set by the Master Association in such notice. If the Association fails to comply with the requirements set forth in such written notice, the Master Association shall have the right to effect such action on behalf of the Association and shall assess the Owners for their pro rata share of any expenses incurred by the Master Association in connection with the foregoing.

**ARTICLE V
ASSESSMENTS**

Section 1. Assessments Established. For each Lot owned within the Properties, Developer covenants, and each Owner of any Lot by acceptance of a deed thereto, whether or not it is so expressed in such Deed, is deemed to covenant and agree, to pay to the Association:

- (a) An annual assessment, as provided in Section 2 of this Article;
- and

- (b) Special assessments, as provided in Section 3 of this Article;
and
- (c) Specific assessments; as provided in Section 4 of this Article;
and
- (d) All excise taxes, if any, that from time to time may be imposed
by law upon all or any portion of the assessments established by this
Article; and
- (e) Interest and costs of collection of such assessments, including
reasonable attorney's fees, as provided in this Declaration; and

All of the foregoing are a continuing charge on the land and secured by a continuing lien upon the Lot against which each assessment is made, as provided in Section 7, below. Each such assessment, together with excise taxes, interest and all costs and expenses of collection, including reasonable attorney's fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment fell due. Such personal obligation will not pass to an Owner's successors in title unless assumed expressly in writing, however.

The annual or special assessments on Class B lots shall be 50% of the corresponding assessments for Class A lots. As an alternative in lieu of such assessments, Developer may pay the excess expenses of the Association, including reserves, which exceed the amounts collected from Class A lot assessments, as long as Class A assessments do not exceed \$200.00 per month.

Section 2. Annual Assessment. The annual assessment must be used exclusively to promote the recreation, health, safety and welfare of the residents within the properties, including (i) the operation, management, maintenance, repair, servicing, renewal, replacement and improvements of the Common Area and the establishment of reserves accounts therefor; and (ii) the cost of labor, equipment, materials, management and, supervision of the Common Area; and (iii) all other general activities and expenses of the Association.

Section 3. Special Assessments. In addition to the annual assessment, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, renewal, repair or replacement of a capital improvement upon the Common Area, provided such assessment first is approved by seventy-five percent (75%) of the members present and voting in person or by proxy at a meeting duly convened for such purpose. Any such special assessment may be payable in one or more installments, with or without interest, as seventy-five percent (75%) of the Members so present and voting determine.

Section 4. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association, including fines, arising under the provision of this Declaration, or by contract expressed or implied, or because of any act or omission of any Owner or person for whom such Owner is responsible, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay it within thirty (30) days after written demand.

Section 5. Amount. Until the close of the first fiscal year following Developer's conveyance of the Common Area to the Association, the annual assessment will not exceed _____ per Lot, which amount is independent of and does not include any amounts due for fire protection, street lights or the Master Association. At least thirty (30) days before the expiration of each fiscal year, the Board will prepare and distribute to each Owner a proposed budget for the Association's operations during the next ensuing fiscal year. If such budget requires an annual assessment of 115% or less of the annual assessment then in effect, the assessment so proposed will take effect at the commencement of the next ensuing fiscal year without further notice to any Owner. If such budget requires an annual assessment that is either more than one hundred fifteen percent (115%) of the annual assessment then in effect, or would increase the budget by an amount exceeding the increase in the Consumer Price Index ("CPI") published by the U.S. Department of Labor for the preceding year, or a comparable index if the CPI is not available, whichever increase is greater, then however, the Board must call a membership meeting on not less than fifteen (15) days prior notice for the purpose of approving such

increase. A majority of the votes, pursuant to Article IV, Section 2, of those Members present and voting is sufficient for such approval, and the assessment approved will take effect at the commencement of the next ensuing fiscal year without further notice to any Owner. If the proposed assessment is disapproved, a majority of the votes will determine the annual assessment for the next ensuing fiscal year, which may be in any amount not exceeding that stated in the meeting notice. Each annual assessment may be payable in such number of installments, with or without interest, as the Board determines. In the absence of any action by the Board or the membership to the contrary prior to the commencement of any fiscal year, the annual assessment then in effect automatically will continue for the ensuing year.

Section 6. Commencement. The assessments provided by this Article will commence as to all Lots on the first day of the first month following Developer's first conveyance of title to any Lot to a Class A Member and will be prorated on the basis of the number of months then remaining in the Association's fiscal year.

Section 7. Assessment Lien. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorney's fees, are secured by a continuing lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any First Mortgage encumbering such Lot; but all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Declaration, whether or not such consent is set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority. The Association may, but is not required to, from time to time, record a Notice of Lien to further evidence the lien established by this Declaration.

Section 8. Association Remedies. Any assessment not paid within thirty (30) days after its due date bears interest at the maximum rate of interest allowed by law at the time. The Association may sue the Owner personally obligated to pay such assessment for money judgment, or it may

foreclose its lien against such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise, impairing the security of the Association's lien, or its priority. No Owner may waive or escape liability for the Association's assessments by non-use of the Common Area or by abandonment of such Owner's Lot.

Section 9. Foreclosure. The lien for sums assessed pursuant to this Article may be enforced by a judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In such foreclosure, the Owner is required to pay all costs and expenses of foreclosure including reasonable attorney's fees. All such costs and expenses are secured by the lien foreclosed. Such Owner also is required to pay to the Association all assessments against the Lot that become due during the period of foreclosure, which also are secured by the lien foreclosed and will be accounted and paid as of the date the Owner's title is divested for foreclosure. The Association has the right and power to bid at the foreclosure, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, use and otherwise deal with such Lot as its Owner for purposes of resale only. If any foreclosure sale results in a deficiency, the Association may petition the Court having jurisdiction of the foreclosure to enter a personal judgment against the Owner for such deficiency.

Section 10. Exempt Lots. Any and all Lots from time to time owned by the Association will be exempt from the assessments established by this Article during the period of such ownership. This Association may not own or otherwise acquire Lots except (i) pursuant to foreclosure of the Association's lien, or (ii) one Lot for use as a residence by any resident manager for the Properties who is employed by the Association or Association's manager.

Section 11. Lien Subordination. The Association's lien established by the Declaration is subordinate to the lien of any First Mortgage. Sale or transfer of any Lot does not affect the assessment lien, except that the sale or transfer of any Lot pursuant to foreclosure of any First Mortgage, or any

proceeding in lieu thereof, extinguishes the Association's lien as to payments that became due prior to such sale or transfer, without prejudice, however, to the Association's right to collect such amounts from the Owners personally liable for their payment. No such sale or transfer relieves such Lot from liability for assessment thereafter becoming due or from the lien thereof. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amount secured by the lien created by this Article; and, upon such payment, such encumbrancer will be subrogated to all rights of the Association with respect to such lien, including priority.

Section 12. Homesteads. By acceptance of a deed thereto, each Owner of each Lot is deemed to acknowledge conclusively that (i) the assessments established by this Article are for the improvement and maintenance of any homestead thereon; and (ii) the Association's lien for such assessments has priority over any such homestead; and (iii) such Owner irrevocably waives the benefit of any homestead exemption otherwise available with respect to all amounts secured by such lien.

ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE

Section 1. Authority. No dwellings, building, parking cover, shed, structure, fence, outbuilding, color change, addition, exterior alteration or substantial attachment, or construction or erection of any kind may be erected, placed, reconstructed or permitted to remain on any Lot unless and until approved by the Architectural Committee. Such approval will not be unreasonably withheld for replacements or reconstructions that conform in design, materials, appearance and quality to that of the original work.

Section 2. Design Standards. The Architectural Committee shall from time to time, subject to this Declaration and the Association documents, adopt, promulgate, amend, revoke, and enforce guidelines, hereinafter referred to as the "Design Standards" for the purposes of:

- (i) governing the form and content of plans and specifications to be submitted to the Architectural Committee for approval pursuant to this Declaration;
- (ii) governing the procedure for such submission of plans and specifications; and
- (iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of any structure or dwelling and all matters that require approval by the Architectural Committee pursuant to this Declaration.

Section 3. Review and Approval of Plans. No Structure shall be commenced, erected or maintained on any Lot, nor shall any exterior addition to or alteration thereof be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same shall have been submitted to the Architectural Control committee for written approval (i) as to conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of Covington at Cross Creek; and (ii) as to the location of the Structure in relation to surrounding structures and topography and finished ground elevation, and (iii) shall be consistent with the provisions of this Declaration. In the event the Architectural Committee fails to approved or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted in writing, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to completion thereof, approval by the Architectural Committee will not be required.

Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural Committee including, without being limited to:

- (a) a site plan showing the location of all proposed and existing structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof;

- (b) a foundation plan;
- (c) a floor plan;
- (d) exterior elevations of any proposed Structure and alterations to existing structures, as such structure will appear after all backfilling and landscaping are completed;
- (e) specifications of materials, color scheme, lighting schemes and other details affecting the exterior appearance of any proposed structure and alterations to existing structures; and
- (f) plans for landscaping and grading, especially if the proposed structure consists of such landscaping or grading/

Upon approval by the Architectural Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the Architectural Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with such plans and specifications, as approved, and any conditions attached to any such approval.

Notwithstanding anything to the contrary, the Architectural Committee may request changes in any plans or Structures that are completed or being built if required by Law and neither the Developer nor the Architectural Committee shall be liable for damages.

In regards to any plans and specifications approved by the Architectural Committee neither Developer, nor any member of the Architectural Committee, shall be responsible or liable in any way for any defects in any plans or specifications, nor for any structural defects in any work done according to such plans and specifications nor for the failure of the plans and specifications to comply with any Law. Further, neither Developer, nor any member of the Architectural Committee shall be liable in damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the exercise of any other power or right of the Architectural Committee for approval agrees, by submissions of such plans or specifications or the exercise of any other power or right of the Architectural Committee provided for in this Declaration. Every Person who submits plans or specifications to any Architectural Committee for approval agrees, by submissions of such plans and specifications, and ever owner of any Lot agrees, that he will not bring any action or suit against Developer, or any member of the Architectural Committee, to recover for any such damages.

Any employee of agent of the Architectural Committee may, after reasonable notice, at any reasonable time, enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration, or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Architectural Committee, nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 4. Committee Membership. The “Architectural Control Committee” shall mean, as follows: Until all the Lots in Covington at Cross Creek have been fully developed, permanent improvements constructed thereon, and sold to permanent residents, the Architectural Control Committee shall mean the Developer, and shall not be a committee of the Association. At such time as all of the Lots in Covington at Cross Creek have been fully developed, permanent improvements constructed thereon, and sold to permanent residents, the Developer shall notify the Association and all the Owners of Lots in Covington at Cross Creek to that effect, and,

thereupon, the Developer's rights and obligations as the Architectural Control Committee shall forthwith terminate. Thereafter, the Association shall have the right, power, authority, and obligation to establish a successor Architectural Control Committee as a committee of the Association in accordance with the Association Documents and prescribe rules and regulations pursuant to which such Committee shall act. Notwithstanding the foregoing, if additional property is annexed and subjected to this Declaration, then, as to the Lots in each subsequent phase, Developer shall be the Architectural Control Committee until such time as all such Lots have been fully developed, permanent improvements constructed thereon, and sold to permanent residents, after which the Architectural Control Committee established by the Association shall take over.

Section 5. Replacement. In the event of the death, inability to serve because of disability, or resignation of any member or members of the Architectural Committee, the remaining member or members thereof shall appoint a successor member or members, and until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers and perform the duties of the Architectural Committee.

Section 6. Standards. In reviewing any particular application, the Architectural Committee must consider whether its action will: (i) assure harmony of external design, materials and location in relation to surrounding buildings and topography within the Properties; and (ii) preserve the value and desirability of the Properties as a residential community; and (iii) be consistent with the provisions of this Declaration; and (iv) be in the best interest of all Owners in maintaining the value and desirability of the Properties as a residential community.

Section 7. Exemption of Original Construction. Notwithstanding any of the above provisions, this Article VI shall not apply to original construction of a dwelling on a lot by a licensed building contractor.

**ARTICLE VII
GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, has the right to enforce, by any appropriate proceeding, all restrictions, conditions, covenants, easements, reservations, rules, regulations, liens and charges now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If any Owner or the Association is the prevailing party in any litigation involving this Declaration, then that party also has the right to recover all costs and expenses incurred, including reasonable attorney's fees for all trial and appellate proceedings, if any. If the Association employs an attorney to enforce the provisions of this Declaration against any Owner, regardless of whether suit is brought, the costs and expenses of such enforcement, including reasonable attorney's fees, may be assessed against such Owner's Lot as provided in Article V, Section 4. Failure by the Association or any Owner to enforce any provisions contained in this Declaration does not constitute a waiver of the right to do so at any time. Developer also has the right to enforce all provisions of this Declaration relating to the use, maintenance, and preservation of the Properties; and, if Developer is the prevailing party in any litigation involving this Declaration, to recover all of Developer's costs and expenses incurred, including reasonable attorney's fees.

Section 2. Meeting Requirements. Wherever any provision of this Declaration, the Articles of Incorporation, or the By-Laws requires any action to be approved by two-thirds (2/3) or more of the votes, pursuant to Article IV, Section 2, of membership at a meeting duly convened for such purpose, written notice of such meeting must be given to all Members not less than fifteen (15) days in advance, setting forth its purpose. At such meeting the presence in person or by proxy of Members entitled to cast at least fifty percent (50%) of the votes, pursuant to Article IV, Section 2, outstanding constitutes a quorum.

Section 3. Rights of Mortgagees. By agreement between any Owner and the holder of any mortgage on such Owner's Lot, any and all membership rights of such Owner may be assigned to, and exercised by, such Mortgagee as collateral or additional security for performance of the

obligations secured by such mortgage; but no such assignment or delegation will bind the Association until the Association has received written notice thereof.

Section 4. Approval of FHA/VA. Notwithstanding anything contained herein to the contrary, any amendment to this declaration, the articles, or the bylaws; or any annexation of additional property; or any merger or consolidation of the association or any dissolution of the association; or any mortgaging, sale or dedication of any common area, must be approved by the Federal Housing Administration or the Veterans Administration as long as there is Class "B" members.

Section 5. Severability. Invalidation of any particular provision of this Declaration by judgment or court order will not affect any other provision, all of which will remain in full force and effect provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision of this Declaration when necessary to avoid a finding of invalidity which otherwise effectuating Developer's intent of providing a comprehensive plan for the use, development, sale and beneficial enjoyment of the Properties.

Section 6. Amendment. The provisions of this Declaration will run with and bind the Properties, and will inure to the benefit of and be enforceable by the Association for so long as the Properties are used in whole or in part as a residential community, and in all events, for at least twenty (20) years following the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years. This Declaration may be amended by an instrument signed by members entitled to cast not less than seventy-five (75%) of the votes pursuant to Article IV, Section 2, hereof. No amendment shall be effective which shall impair or prejudice the rights or priorities of the Developer or any Institutional Mortgagee without the specific written approval of the Developer or Institutional Mortgagee affected thereby. While there is Class B membership, 75% of each Class of Owners must approve any amendment. If necessary to obtain any governmental approval, including approval by the Federal Housing Administration or Veteran's Administration, or to correct a

scrivener's error or omission, Developer may amend this Declaration within the first year after its recording.

Section 7. Easements for De Minimis Unintentional Encroachments. Where necessary and appropriate, Developer and/or the Association, whichever is in control of the particular portion of the Properties at the time, may grant easements for de minimis unintentional encroachments.

Section 8. Interpretation. Unless the context expressly requires otherwise, the use of the singular includes the plural, and vice versa; the use of the terms "including" or "include" is without limitation; the terms "Common Area", "Lot", and "Properties" include both any portion applicable to the context and any and all improvements, fixtures, trees vegetation, and other property from time to time situated thereon; and use of the words "must", "will" and "should" is intended to have the same legal effect as the word "shall". This Declaration should be construed in favor of the party seeking to enforce its provisions to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Properties as a residential community by providing a common plan for their development and enjoyment.

Section 9. Annexation. Within five years of the date of execution of this Declaration, Developer may, subject to compliance with Section 4 above, add contiguous lands to the Property described in Exhibit "A" attached hereto by the filing of a supplemental declaration declaring such annexed lands to be subject to the provisions hereof, with such modifications and additions as may be applicable to such annexed lands. Upon the filing of such a supplemental declaration, the Lots and lands annexed thereby shall become subject to this Declaration, to the assessment provisions hereof, and to the jurisdiction of the Architectural Committee and the Association. For purposes of Article IV, Section 2, the Lots in the annexed lands shall be considered to have been part of the Property since the filing of this Declaration.

IN WITNESS WHEREOF, Developer has executed this Declaration the date stated above.

WITNESSES:

Engle Homes/Gulf Coast, Inc.,
By

Please Print Name

President

Please Print Name

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this _____ day of _____, 1998, by _____ as _____ of Engle Homes/Gulf Coast, Inc. and he acknowledged to me that they executed the same for the purposes therein expressed and in the capacity therein stated. He is personally known to me and did (did not) take an oath.

Given under my hand and official seal this _____ day of _____, 1998.

My Commission Number:

NOTARY PUBLIC,
State of Florida at large

My Commission Expires:

Please Print Name

EXHIBIT "A" **OR BOOK 8995 PAGE 0134**
CROSS CREEK PARCEL "I"
(PLAT)

DESCRIPTION: A parcel of land lying in Section 8, Township 27 South, Range 20 East, Hillsborough County, Florida, and being more particularly described as follows:

From the Northeast corner of said Section 8, run thence along the North boundary of said Section 8, N. 89° 50'46"W., 602.48 feet; thence S.00°09'14"W., 60.00 feet to the **POINT OF BEGINNING**; thence continue, S.00°09'14"W., 5.00 feet to the Northwest corner of KINNAN STREET PHASE 3, as recorded in Official Record book 8796, Page 684, Public Records of Hillsborough County, Florida; thence along the Westerly right-of-way line of said KINNAN STREET PHASE 3, the following three (3) courses: 1) S.00°09'14"W., 15.26 feet a point of curvature; 2) Southerly, 818.39 feet along the arc of a curve to the right having a radius of 1060.00 feet and a central angle of 44°14'10" (chord bearing S.22°16'19"W., 798.21 feet) to a point of tangency; 3) S.44°23'24"W., 556.20 feet to the Northwesterly corner of KINNAN STREET PHASE 2, as recorded in Official Record book 8796, Page 684, Public Records of Hillsborough County, Florida; thence along the Westerly right-of-way line of said KINNAN STREET PHASE 2, the following two (2) courses: 1) S.44°23'24"W., 311.80 feet a point of curvature; 2) Southwesterly, 154.93 feet along the arc of a curve to the left having a radius of 1140.00 feet and a central angle of 07°47'11" (chord bearing S.40°29'48"W., 154.81 feet); thence N.43°40'50"W., 0.62 feet; thence N.69°35'36"W., 18.38 feet; thence N.17°31'30"W., 22.75 feet; thence N.51°09'49"W., 25.09 feet; thence S.40°50"W., 56.40 feet; thence S.79°17'53"W., 112.34 feet; thence N.89°18'38"W., 71.66 feet; thence S.87°57'38"W., 55.52 feet; thence S.65°10'29"W., 35.00 feet; thence S.64°27'33"W., 49.86 feet; thence S.58°32'59"W., 26.05 feet; thence S.56°09'16"W., 22.15 feet; thence S.19°27'10"E., 69.97 feet; thence S. 50°27'49"W., 53.58 feet; thence S.70°37'33"W., 49.87 feet; thence N.73°13'02"W., 44.72 feet; thence N.78°46'20"W., 44.14 feet; thence N.72°06'50"W., 40.27 feet; thence S.77°16'21"W., 55.52 feet; thence N.01°21'38"W., 21.87 feet; thence N.82°07'35"E., 38.92 feet; thence N.13°56'36"E., 22.95 feet; thence N.46°29'36"W., 70.70 feet; thence N.61°03'08"W., 31.43 feet; thence N.67°17'08"W., 20.50 feet; thence N.65°10'01"W., 57.18 feet; thence N.74°20'03"W., 143.61 feet to a point on the Easterly boundary of CROSS CREEK PARCEL "H" PHASE 1, according to the plat thereof as recorded in the Plat Book 72, Page 37, Public Records of Hillsborough County, Florida; thence along said Easterly boundary, NORTH 368.77 feet to the Southeast corner of CROSS CREEK PARCEL "H" PHASE 2, according to the plat thereof as recorded in the Plat Book 74, Page 26, Public Records of Hillsborough County, Florida; thence along the Easterly boundary of said CROSS CREEK PARCEL "H" PHASE 2, the following two (2) courses: 1) continue NORTH, 159.32 feet; 2) N.35°00'00"E., 1142.68 feet; thence along a line lying 60.00 feet South of and parallel with the aforesaid North boundary of Section 8, S.89°50'46"E., 1296.71 feet to the **POINT OF BEGINNING**.

Containing 48.046 acres, more or less.

EHG-CC-017