

WESTBURY COURT, A SUBDIVISION
DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS

THIS DECLARATION, made as of the 26TH day of March, 1991, by SCHWAB DEVELOPMENTS, INC., a Florida Corporation, (the "Developer").

RECITALS:

A. The Developer is the owner of Lots 1 through and including 34, WESTBURY COURT, a Subdivision, according to Plat thereof recorded Plat Book 25, Pages 194 through and including 197 of the Public Records of Manatee County, Florida. The legal description of the property described on the Plat is attached hereto as Exhibit "A" (the "Property").

B. The Developer desires that the Property be developed into a planned zero-lot line semi-detached single-family residential community.

C. In order to develop and maintain Westbury Court as a residential community and to preserve, protect and enhance the values and aesthetics thereof, it is necessary to declare, commit and subject the Property and the improvements now and hereafter constructed thereon to certain covenants, conditions, and restrictions, and easements and to delegate and assign to a non-profit corporation certain powers and duties of administration, management, operation, maintenance and enforcement.

NOW THEREFORE, for and in consideration of the premises and for other good and valuable considerations, the Developer for itself and its respective legal representatives, successors and assigns, hereby (i) declares that the Property shall be held, sold and conveyed subject to the following covenants, conditions, and restrictions which shall run with the title to the Property, and the grantee of any deed conveying any portion of the Property shall be deemed by the acceptance of such deed to have agreed to all such covenants, conditions, and restrictions and to have covenanted to

BY: kg

O.R. 1332 PG 0919

observe, comply with and be bound by all such covenants, conditions, and restrictions and (ii) impose the easements hereinafter referred to and described which shall be perpetual in duration.

ARTICLE I

DEFINITIONS

As used in this Declaration, the terms below shall have the following meanings:

1. "Association" means the entity known as Westbury Court Homeowners Association, Inc., a Florida non-profit corporation. Unless otherwise specified herein, any actions required of the Association herein may be taken by its Board of Directors.
2. "Board" means the Board of Directors of the Association, which has been duly elected and qualified in accordance with the Articles of Incorporation and By-Laws of the Association.
3. "Articles" means the Articles of Incorporation of the Association.
4. "Bylaws" means the Bylaws of the Association.
5. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements and all exhibits attached hereto, as the same may be amended from time to time.
6. "Lot" means a lot as shown and numbered on the Plat.
7. "Developer" means Schwab Developments, Inc., a Florida corporation, and its successors and assigns, upon a specific designation to such successors or assignees of the rights of Developer under this Declaration in an instrument recorded in the public records of Manatee County, Florida.
8. "Owner" means the record owner of a Lot.
9. "Plat" means the Plat of Westbury Court, a Subdivision, recorded in Plat Book 25, Pages 194 through 197, of the Public Records of Manatee County, Florida
10. "Institutional First Mortgagee" means (a) any (i) commercial bank, (ii) savings bank, (iii) savings and loan association, (iv) life insurance company, (v) real estate

investment trust, (vi) mortgage lending corporation or association, servicing at least 100 mortgages, (vii) federal agency, corporation or association, and (viii) any affiliate, subsidiary, successor or assignees of any of the foregoing, holding a first mortgage on a Lot, and (b) Developer if and as long as Developer holds a first mortgage on a Lot.

11. "Common Expenses" shall mean the expenses and reserves properly incurred by the Association for construction, installation, improvement, maintenance, upkeep, repair and such other obligations as required or permitted by this Declaration.

12. "Governmental Body" shall mean any governmental body, agency or entity which has authority over the Subdivision or any portion thereof.

13. "Utility or Utilities" shall mean any and all utilities and other essential services for the Subdivision, including, without limitation, electric, water, sewer, telephone, gas, cable T.V., drainage and garbage disposal services.

14. "Utility Servicers" shall mean any and all utility companies, whether public or private, which provide Utilities to the Subdivision.

ARTICLE II

LAND PLAN

2.1 The Property. Each of the Lots shall be developed and used solely for single-family residential use in accordance with this Declaration. No business, commercial, religious, charitable or other enterprise of any kind shall be maintained upon or in connection with the use of any Lot. No residence or part thereof on any Lot shall be rented separately from the rental of the entire Lot.

2.2 General Easements and Dedications. Developer has granted and the Plat exhibits and reserves certain drainage and utility easements more particularly described in Article III.

2.3 Association Property. Ownership of certain common open space on the Property and common improvements thereon will be transferred by the Developer to the Association. Parcels to be transferred are described on the Plat and include the following:

Tract "A" - Private Drive

Tract "B" - Private Drainage/Retention Area and Recreational Area/Common Area including the pool, cabana and other amenities

Tract "C" - Private Drainage/Retention Area/Common Area

The foregoing tracts are collectively referred to as the "Association Property" or "Association Areas". Subject to the covenants, restrictions and regulations contained herein and contained in the other restrictive covenants of record, the Association shall own and be responsible for the perpetuation, care, and maintenance of all such common open space and common improvements. Except as otherwise provided in such restrictive covenants and subject to governmental requirements, the Association shall have the right to plant trees, hedges, grass, landscape, and otherwise improve the Association Property in any manner the Association in its sole discretion with the approval of the Board deems necessary and proper in order to enhance the aesthetics of such property.

2.4 Entrance Signage. Developer hereby reserves unto itself and its successors and assigns an easement and right to construct, maintain and illuminate on Tract "A" or on Lot #1 signs identifying the property as Westbury Court and such other signs as may be permitted by Manatee County ordinance which the Developer determines in its sole discretion to be desirable in connection with marketing of the Lots. Developer's easement for signage and illumination of such signage shall terminate when Class "B" membership terminates as hereafter provided.

2.5 Maintenance Responsibilities of Owners and the Association

(a) The responsibility for the maintenance of the Subdivision is divided between the Association and the Owners. Maintenance of each Lot is the responsibility of the Owner of such

Lot and shall be performed by the Owner in accordance with any applicable standard established by the Board. Unless otherwise provided, maintenance of Association Areas is the responsibility of the Association. Such required maintenance shall be performed in the manner provided in this Declaration and in accordance with any applicable standards established by the Board.

(b) In addition to maintaining the Association Areas, the Association shall also be responsible for maintaining all Utilities installed by Developer and not otherwise maintained by Utility Servicers. Notwithstanding the foregoing, the Association's obligation to maintain Utilities shall only extend to that portion of such Utility installments which serve more than one Lot within the subdivision, and shall not include maintenance of any such installations which serve only one Lot. Maintenance of Utility installations which serve only one Lot shall be the sole responsibility of the Owner of that Lot.

(c) For the purpose of performing the maintenance authorized by this Section, the Association through its duly authorized agents or employees shall have the right to enter upon any Lot at reasonable hours on any day, all without liability or responsibility, criminal or civil, for trespass or other action.

(d) The Association shall provide maintenance to the Association Areas as it deems necessary in its sole discretion, including but not limited to, the following:

- (i) Maintenance of drainage/retention areas, drainage swales, and drainage canals, if any;
- (ii) Maintenance of the Landscaped Areas;
- (iii) Maintenance of the Private Drive;
- (iv) Maintenance of recreational improvements;
- (v) Maintenance of buffer fencing and landscaped berms; and,
- (vi) Maintenance of Pedestrian Easements.

Provided, however, in the event that an Owner of a Lot or the guest, invitee, agent, employee, servant or tenant of any Owner damages or destroys any personal or real property which constitutes

a portion of the Association Areas, then the cost of repair or replacement thereof may be charged against such Owner as an Individual Assessment.

(e) The Association may contract for the management of the Subdivision for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration.

(f) The Association may contract with public or private utility companies for purposes of supplying Utilities to the Association Areas and other facilities maintained by the Association, and may assess the costs and expenses charged by such utility companies as part of the Common Expenses.

(g) The Association shall also have the right, but not the obligation to contract for all mowing in the Subdivision including the Lots.

2.6 Limitation Upon Improvement by Owners. Without first obtaining the written approval of the Board, which approval shall be granted or withheld in the sole discretion of the Board, as the case may be, no Owner or occupant may paint, remodel, repair, relandscape or otherwise decorate, modify, alter or make additions to his Lot or the exterior appearance of any improvements located thereon. The Association may promulgate rules to further detail the alterations and improvements which require prior Board approval.

2.7 Required Repair and Restoration by Owner.

(a) In the event that a dwelling or any other improvement on a Lot is partially or totally destroyed by fire or other casualty, then the Owner of such damaged property, at his expense and in compliance with this Article, shall cause the Lot on which the damaged property is located to be cleared and returned to its natural state and shall commence to restore and reconstruct such improvement to its condition and exact location prior to such casualty. Such removal, repair and reconstruction shall commence as soon as practicable and shall continue without interruption until such work is complete.

(b) In the event the Owner fails to take the action hereinabove required, then the Association shall have the right to enter upon the Lot and into the damaged dwelling for the purpose of removing all damaged improvements therefrom and, at its option, for the purpose of making the appropriate restoration thereof. Nothing in this Section 2.7 shall require the Association to exercise any of the rights hereinabove granted.

(c) Upon demand, the Owner shall pay to the Association all sums of money expended or to be expended or to be expended by the Association in the removal or restoration, or both, of the damaged property, as aforesaid. All such sums shall be considered Individual Assessments against the subject Lot and the Owner thereof and shall be collected and secured in accordance with the terms and provisions set forth in Article VIII hereof.

2.8 Required Fire and Casualty Insurance. In addition to any other insurance requirements contained in the Bylaws or in any one or more of the Association Documents, the Owner shall obtain and maintain in full force and effect fire and extended casualty insurance covering all improvements located upon his Lot in an amount not less than the maximum insurable replacement value of such improvements actually built on his Lot from time to time. The Owner shall provide the Association with proof of such coverage upon request. In the event an Owner fails to obtain and maintain such insurance, then the Association shall have the right, at its option and in its sole discretion, to obtain such insurance coverage and pay such insurance premiums on behalf of the delinquent Owner. In such event, the Owner shall pay, on demand, to the Association all sums of money expended by the Association in obtaining and maintaining such insurance coverage. All such sums shall be considered Individual Assessments against the subject Lot and the Owner thereof and shall be collected and secured in accordance with the terms and provisions set forth in Article VIII hereof.

2.9 Perpetuation of Covenants and Association Property. These restrictive covenants and the Association shall continue in effect so as to control the availability of the common open space and common improvements, to maintain the land and facilities for their intended functions, and to protect the development from additional and unplanned densities of use. Notwithstanding anything herein contained to the contrary, the Association shall not be dissolved, nor shall the Association dispose of any common open space (specifically including the Association Property) by sale or otherwise, except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to Manatee County or other appropriate governmental agency.

2.10 No Disturbance. No lands in the Association Areas shall be denuded, defaced, or otherwise disturbed in any manner at any time, except for maintenance or repair, without the prior written approval of the Director of the Manatee County Planning and Development Department or other public official or agency as hereafter designated by Manatee County.

2.11 Maintenance by County. In the event the Association or any successor organization shall fail to maintain the Common Area in reasonable order and condition, the provisions of the Manatee County Land Development Code allow Manatee County, upon notice and hearing, to enter upon the Common Area for purposes of maintaining same. Such entry shall not vest the public with a right to use the Common Area. The cost of maintenance by the County shall be assessed pro-ratedly against the Lots and shall be a charge on the Lots. Such charges shall be paid by the Owners within 60 days of the receipt of the statement therefor and shall become a lien on the property if not paid at the end of such period.

2.12 Consent of County to Amendments.

(a) Notwithstanding any other provision of this Declaration, no violation of federal, state, or local law shall be permitted.

(b) Notwithstanding any other provision of this Declaration relating to amendments, neither this section (b) or (a) above, 2.9, 2.10, 2.11, and Right of Entry by County, nor any provision of this Declaration affecting the mandated provisions mentioned, may be amended without the written consent of Manatee County.

ARTICLE III

EASEMENTS

3.1 Non-Exclusive Easements. Except as otherwise specifically provided herein, such easement created hereunder shall be, without the necessity of restating such herein, nonexclusive and perpetual for the limited purposes set forth herein and subject to all of the terms and conditions of this Declaration. Developer or the Association, as appropriate, shall have the right to grant any other easement over the same area so long as it does not unreasonably interfere with the easement first granted and so long as the grantor owns the land subject to such easement.

3.2 Benefit of Easements. The granting of any easement in this Declaration to any person or entity other than Developer shall be deemed to likewise include, as appropriate, without the necessity of restating such herein, the family, guests, lessees, tenants, invitees, agents, servants and employees of such person or entity. The granting of any easement in this Declaration to any Owner shall be as to his Lot rather than any specific individual, and the Owner may only use and enjoy the easements created hereunder so long as such Owner owns all or any interest in a Lot. It is specifically intended that the easements created hereunder in favor of an Owner shall run with the Lot and may only be used and enjoyed by the Owner of all or any portion thereof.

3.3 Developer's Easements.

(a) Developer reserves for itself, for so long as Developer owns any Lot in the Subdivision, easements over, under, across and through the Subdivision, as may be necessary and reasonable to permit and enable Developer to develop the

Subdivision and to exercise its rights and to perform its obligations, as the same may be created under this Declaration or otherwise.

(b) All easements created by this Declaration in favor of Developer shall, of necessity, include the right, but not the obligation, to construct or improve the facility for which the easement was created, the right to repair and maintain such improvements and the right of ingress and egress to accomplish such purposes. Incident to such easements, Developer shall have the right to obstruct any easement as more fully set forth in Section 3.10 below. The decision whether to construct or improve any facility within the Subdivision and the decision whether to repair or maintain same shall be in the sole discretion of Developer.

(c) The reservation of any easement in this Declaration by Developer shall be deemed to likewise include, without the necessity of restating such herein, its lessees, tenants, guests, invitees, agents, servants and employees. The reservation of any easement in this Declaration shall only be binding upon successors and assigns of Developer if Developer and such successor or assign so elects in writing and files an instrument evidencing such intent among the Public Records of Manatee County, Florida. Developer shall have the right to assign all or any part of its benefits herein, including, without limitation, specific easements, to any person, entity, property or any combination thereof.

3.4 Owners Easement of Use and Enjoyment.

(a) Subject to the provisions of this Declaration, including without limitation Subsection 3.10 below, Developer grants to every Owner, perpetual and non-exclusive easements for the use and enjoyment of the Association Areas which easements shall be appurtenant to and shall pass with the title to every Lot. Such easements of use and enjoyment shall include, but not be limited to, each Owner's right of ingress and egress over and across the Private Drive and walkways lying within the Subdivision for purposes of access to his Lot which rights of ingress, egress and use shall not be subject to suspension or denial through the

exercise of any power granted or reserved in Paragraphs (b) (ii), (iii), and (iv) below, and which, together with other recorded easements granted by Developer, shall provide reasonable access to the public ways.

(b) Subject to the provisions of this Declaration, Developer grants to every Owner a perpetual and non-exclusive easement for pedestrian ingress and egress over and across the Subdivision property for purposes of attending the church located adjacent to the Subdivision property.

(c) The rights and easements of use and enjoyment created hereby shall be subject to the following:

(i) the right of the Association, in accordance with this Declaration and the Bylaws, to make assessments for operating the Subdivision, among other purposes; and,

(ii) the right of the Association to suspend the use and enjoyment rights of any Owner, his guests, lessees and invitees for any period determined by the Board for any violation of this Declaration, it being understood and agreed that the suspension shall not constitute a waiver or discharge of any obligation of such Owner; and,

(iii) the right of the Association to dedicate or transfer all or any part of the Association Areas to any public agency, authority, utility or private concern for such purposes and subject to such conditions as may be agreed upon by the membership and by Developer, for so long as Developer owns any Lot within the Subdivision; provided that no such dedication or transfer, nor any determination as to the purposes therefor or as to the conditions thereof, shall be effective unless an instrument is executed by the appropriate officers of the Association certifying that such dedication or transfer was approved by the affirmative vote of not less than two-thirds (2/3) of all votes eligible to be cast at a meeting of the membership. Said certificate, together with the written approval of Developer, if required, shall be annexed to any instrument of dedication or transfer affecting the Association Areas, prior to the recording thereof. Such certificate shall be

conclusive evidence of authorization by the Association. Notwithstanding the foregoing, Developer shall be empowered to make such dedication or transfer in its sole discretion without the consent of the Association or the membership for all or any part of the Association Areas until such time as Developer no longer owns any Lot within the Subdivision; and,

(iv) the right of Developer, without approval of the Association or the Members, to add or delete parts of the Association Areas which Developer owns, to assign easements reserved herein, and to dedicate the easements and rights-of-way over the Association Areas in accordance with the terms of this Declaration; and,

(v) the right of the Association to adopt, revoke, amend and enforce, at any time, Rules governing the use of the Association Areas and all facilities situated thereon, including the right to fine Owners; and,

(vi) the right of the Association to place any reasonable restrictions upon the Private Drive including, but not limited to, the maximum and minimum speeds of vehicles using such roadways, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using such roadways. The fact that any restriction on the use of such roadways shall be more restrictive than the laws of any state or local government having jurisdiction over the Subdivision shall not make such restrictions unreasonable.

3.5 Utility, Drainage, and Irrigation Easements.

(a) Developer hereby reserves unto itself, for so long as it owns any Lot within the Subdivision, and grants to the Association, appropriate Governmental Bodies and Utility Servicers reasonable easements over, under, across and through those portions of the Subdivision designated as easement areas on the Plat for the installation, construction, maintenance, repair, alteration, and operation of Utilities to adequately serve the Subdivision, including without limitation, temporary roads, cable television and radio services, telephone services, security system services,

public utilities (including but not limited to water, sewer, electric, gas and other utility services, both publicly and privately operated), irrigation systems (including the installation of irrigation pumps and lines) and drainage systems (including the installation of drainage pipes and ditches), together with all machinery and apparatus appurtenant thereto as may be necessary or desirable for servicing the Subdivision and all improvements and facilities located thereon. Developer, the Association, any Governmental Body or Utility Servicer making the entry shall restore the property as nearly as practicable to the condition which existed prior to such entry. Further, easements reserved which necessitate entry through a building or other improvement shall only be according to the plans and specifications for such structure or as said structure is actually constructed, unless approved in writing by the Owner thereof.

(b) Developer hereby reserves unto itself for so long as it owns any Lot within the Subdivision and grants to the Association the right to grant, expand or relocate easements for ingress, egress and maintenance for the purpose of installation, construction, maintenance, repair, alteration and operation of Utilities, of a size, width and location as Developer or the Association, in its discretion, deems advisable so long as any such easement is located so as not to unreasonably interfere with the use of any improvements which then, or will be, located within the Subdivision and are in accordance with the further requirements of Subsection (a) above. Additionally, the relocation of any easement shall comply with the requirements of Section 11, below.

(c) Developer reserves for itself, its successors and assigns, an exclusive easement for the installation and the maintenance of television cables and wire within the rights-of-way and easement areas referred to hereinabove.

(d) All utility, communication and drainage lines, and where possible all plumbing and lift stations and other facilities incident thereto, contemplated by this Declaration or the Plat, or both, shall be installed underground, unless the prior written consent of Developer or the Association is obtained.

3.6 Landscaping, Repair and Maintenance. Developer hereby grants to the Association easements for ingress, egress and maintenance over, under, across and through the Subdivision to maintain, at a standard at least comparable to initial construction, the landscaping, grass, plantings and the exterior of any and all improvements and facilities located upon the Association Areas, in order to insure the continued aesthetic standard and uniform appearance of the Subdivision.

3.7 Easement for Governmental, Health, Sanitation and Emergency Services. An easement for ingress, egress and access for persons and equipment is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying mail, health, sanitation, police services and any emergency services such as fire, ambulance and rescue services, over and across the Private Drive and such other portions of the Subdivision as may be appropriate for purposes of providing their services to the Subdivision and the Owners and occupants thereof. This easement shall include, without limitation, an express easement for access in favor of law enforcement officers, health and pollution control personnel, emergency medical services personnel, and fire fighting personnel for the County of Manatee, Florida, across the Private Drive and other Association Areas. The foregoing personnel shall also have an easement to enforce cleared emergency vehicle access.

3.8 Construction, Maintenance, and Repair of Easements. Except as otherwise provided in this Declaration, the Association hereby assumes and agrees to make all repairs, perform all maintenance, and, as applicable, to construct and replace the facilities constructed or to be constructed within an easement area lying within the Subdivision. The Association shall assess the

Members, as necessary, to provide the Association with sufficient funds to enable the Association to fully comply with its obligations assumed hereunder. All construction, repair and maintenance of such easement areas and the facilities thereon shall be performed by the Association in a manner which is in keeping with the general aesthetic standards created for the Subdivision. In the event that the Association shall fail to fully and timely comply with the obligations assumed hereunder, Developer shall have the following rights and remedies: (i) to perform such construction, repair and maintenance itself, in which event the cost thereof shall be immediately due and payable by the Association to Developer, together with interest from said date of the expenditure(s) at the maximum contract rate permitted by Florida law; (ii) to apply to the appropriate court to seek to have specific performance under this Declaration; (iii) such other right or remedy which Developer may have under law; and (iv) all or any combination of the foregoing rights and remedies. Developer shall be entitled to recover and receive from the Association all reasonable attorney's fees and costs incurred by Developer in the collection of such costs, interest and other sums incurred in enforcing such remedies.

3.9 Restricted Use. The use of any easement created hereunder and any other easements hereafter granted pursuant to this Declaration shall be subject to the terms and provisions of this Declaration, Articles, Bylaws, Rules and all other Association Documents. The restrictions set forth in the preceding sentence shall not affect Developer in any manner whatsoever, except as Developer shall specifically permit in writing.

3.10 Right to Obstruct Easements.

(a) Developer, so long as it owns any Lot in the Subdivision, and the Association, shall have the right to use and to obstruct any easement for a reasonable period of time incident to any construction, improvement, repair or maintenance performed by them within the Subdivision provided that Developer and the

Association shall use their best efforts to minimize the inconvenience or disruption of use of such easement by others entitled to use such easement.

(b) Except as provided in Subsection (a), next above, in no event shall the persons or entities in whose favor easements have been or shall be created under this Declaration or any Association Document permit parking in or other obstruction of any easement or permit use of any easement for other than the permitted purposes.

3.11 Relocation of Easements. Developer, for so long as it owns any Lot within the Subdivision, and the Association or either shall have the right to relocate any easement (or portion thereof) created hereunder or which may be created at a later date pursuant to this Declaration or the Plat, provided that the following conditions are met:

(a) Developer or the Association, as appropriate, shall own both the initial easement area and the relocated easement area or shall obtain the written consent to relocate the easement from the respective Owner or Owners;

(b) In the event that the initial easement area was improved, said area shall be restored to its natural state at the cost and expense of the relocating party, and improvements in the relocated easement area shall be constructed in a comparable state and condition as that which existed in the initial easement area;

(c) The relocation of the easement shall not unreasonably prevent the use or benefit of the easement, as relocated, for the purposes which it was initially created;

(d) When required, the prior written consent of the Governmental Body shall be obtained as to any easement created in this Declaration or the Plat which is in favor of such Governmental Body; and,

(e) Developer or the Association, as the case may be, shall execute an appropriate instrument in recordable form wherein it is agreed and specified that the particular easement is

relocated from the initial area to an area described in such instrument, and such instrument shall be recorded among the Public Records of Manatee County, Florida.

There shall be no legal necessity or requirement for any other person or entity to execute or approve the legal format of the instrument referred to in Subsection (e) above. Rather, the execution of such instrument solely by Developer or the Association, as appropriate, shall be conclusively and irrefutably sufficient to cause an easement to be relocated from the area set forth in the document creating such easement to the relocated area described in such instrument, and, upon recording, the initial area for the easement shall no longer be affected in any manner whatsoever by such easement so relocated. The recordation of such instrument shall constitute constructive notice and knowledge to all third parties to the effect that all of the above conditions have been complied with and that such easement has been relocated as aforesaid. There shall be no limitation as to the number of times an easement may be relocated, provided that the conditions set forth in this Section shall be complied with in each instance in which the easement is relocated.

3.12 Additional Easements. In the event that Developer or the Association creates additional easements in the future, it shall be conclusively presumed by virtue of the Association executing this Declaration that the association has assumed all of the obligations and duties set forth in the instrument creating such easement and designated therein to be performed by the Association.

ARTICLE IV

PARTY WALLS

4.1 Declaration. Each unit constructed on a Lot will share a common wall with a unit constructed on an adjoining Lot in the Subdivision. The common wall shall be constructed to the extent

possible on the boundary between the two Lots and by recording of this Declaration shall be considered a party wall and each Owner shall have the right to use the wall jointly.

4.2 Extension. Either party, or his heirs and/or assigns may, in connection with the occupancy of his unit and only after approval by the Board, which may be denied in the Board's discretion, extend a fence horizontally from the party wall, to a height of no more than six (6) feet. At a minimum, the extension must be on the boundary line of the Lot and the extension must not impair or injure the foundations of the buildings. The other party shall have the right to use the extended part of the common wall and to join in it by paying to the construction party one-half (1/2) of the cost of the extension as he shall use. Any fenced extension shall be considered a part of the existing party wall with the same terms and conditions attendant.

4.3 Repairs or Rebuilding. If it becomes necessary or desirable to repair or rebuild the whole or any part of the party wall, the repairing or rebuilding expense shall be borne equally by the parties, or by their heirs and/or assigns who shall be using it at the time of the repair or rebuilding, in proportion to the extent of their use. Any repairing or rebuilding of the party wall shall be on the same location and of the same size as the original wall or portion thereof, and of the same or similar material of the same quality as that used in the original wall or portion thereof.

4.4 Arbitration. The parties agree that in the event of a dispute or controversy as to any matter within or arising out of this agreement, such dispute or controversy shall be submitted to the Board and the arbitration of such matter shall be an express condition precedent to any legal or equitable action or proceeding of any nature whatsoever.

4.5 Insurance. Each Owner shall fully insure his Lot and improvements thereon including his interest in the party wall as required in Section 2.8.

4.6 Duration and Effect of Agreement. The referenced benefits and obligations of the party wall covenants contained herein shall run with the land and shall bind the respective parties hereto, their heirs, legal representatives and assigns.

ARTICLE V

THE ASSOCIATION

5.1 General. The Association has been organized, among other things, to the extent set forth in this Declaration, to preserve the beauty and value of all of the Property. The Association shall act in accordance with the terms and provisions of this Declaration, the Articles of Incorporation and the Bylaws.

5.2 Membership. Each and every Owner (including Developer when an Owner) of a Lot shall be a member of the Association.

5.3 Classes. Membership shall be divided into two classes as follows:

- (1) Class "A" members shall be all Owners (other than the Developer, as long as Class "B" membership shall exist) owning Lots.
- (2) Class "B" members shall be the Developer, or its successors and assigns.

Class "A" memberships shall be appurtenant to ownership of a Lot and shall not be separated from such ownership. Class "B" membership shall not be so appurtenant, but shall remain with the Developer or its successors or assigns regardless of the conveyance of Lots to others. The Class "B" membership shall terminate when: (i) the Developer so elects by written notice to the Association; or (ii) the Developer has conveyed all Lots owned by it to unrelated third parties.

5.4 Voting Rights. Until such time as the Class "B" membership of the Developer is terminated, the Class "B" member shall have sole voting rights in the Association and the Class "A" members shall have no voting rights in the Association except in connection with amendment of the Articles or Bylaws, which rights shall be as provided in the Articles and Bylaws. After termination

of the Class "B" membership, each Class "A" member shall have full voting rights on all matters to come before the Association as provided in the Articles and Bylaws.

5.5 Right to Maintain Lots and Buildings Thereon. In order to preserve the beauty, quality and value of the Property, the Association shall have the right to enter upon any Lot on which there exists a violation of a covenant or restriction set forth herein, to summarily abate, remove and cure such violation. Without limiting the foregoing, upon and during any such violation, the Association shall have the right to repair and paint building exteriors and fixtures attached thereto and to mow, maintain and clean lawn areas. Developer hereby reserves and grants to the Association a perpetual easement appurtenant to, over and across the Lots for ingress and egress to so preserve and maintain the value of the Property. Any and all costs of any maintenance or repair of a Lot or structure thereon shall be located and assessed by the Board upon the Lot so maintained or repaired, and the Association shall have the right (i) to impose a lien on such Lot as provided in Section 2.7, and (ii) to enforce such lien as provided in Article VIII.

ARTICLE VI

ARCHITECTURAL CRITERIA AND BUILDING RESTRICTIONS

6.1 Residential Building. No building shall be erected, placed or permitted to remain on any Lot other than one (1) zero-lot line semi-detached single-family dwelling and attached garage.

6.2 Building Lines. No dwelling shall be located nearer than twenty (20) feet from the front lot line (i.e., the lot line adjacent to the street or road right-of-way established by the Plat). No dwelling shall be located nearer than twenty (20) feet to the rear lot line.

6.3 Non-Interference With Easements. No structure, planting or other material shall be placed or permitted to remain on a Lot which may damage or interfere with the installation and maintenance by the Association of any entryway, hedge, planting, tree, grass,

or other improvement or landscaping located on Association Property. Any easement area located on each Lot shall be maintained continuously by the Lot Owner.

6.4 Utility Connections. Connections for all utilities, including, but not limited to water, sewage, electricity, telephone and television shall be run underground from the connecting point therefore to the building structure in such a manner as is acceptable to the respective utility authority or company and the Board.

6.5 Air Conditioning Units. No window or wall air conditioning units shall be permitted on any Lot. Compressors and fans for central air conditioning or heat pump systems which are located outside the exterior of a building shall be adequately walled, fenced or landscaped to prevent their being viewable from any street.

6.6 Mailboxes. The Board shall approve the location, size, design and material of any mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material to a dwelling. In the event the United States Postal Service makes available delivery service of mail to individual dwellings located on Lots, the Board may require that all mailboxes, paperboxes or other such receptacles previously utilized by Owners be attached to dwellings in a form and manner acceptable to the Board.

6.7 Antennae and Aerials. No antennae, aerial, satellite dish or similar receiver shall be placed upon any Lot or affixed to the exterior of any building, and no antennae or aerial placed or affixed within a building shall extend or protrude beyond the exterior of such building.

6.8 Clothes Drying Area. No clotheslines or other facilities or apparatus for the drying of clothes outside of a dwelling shall be constructed or maintained on a Lot.

6.9 Signs. The size and design of all signs located on a Lot shall be subject to the approval of the Board. No sign of any kind shall be displayed to general view on any Lot except under the following circumstances:

(a) Directional or traffic signs may be installed by the appropriate governmental authority, by Developer or by the Board and entrance or other identification signs may be installed by the Developer or the Board;

(b) Developer may display signs on Lots owned by the Developer;

(c) One "For Sale" sign not more than four square feet (when measured on one side thereof) may be displayed on a Lot by the Owner or the agent for the Owner thereof; and

(d) A name plate and address plate in size and design approved by the Board.

6.10 Temporary Structures. No structure of a temporary character, whether a trailer, tent, shack, garage, barn or any other such building, shall be placed on any Lot; provided, however, a temporary storage or out-building for materials and supplies may be used in connection with and during the construction of a dwelling provided that it shall be removed immediately from the Lot upon the completion of such construction.

6.11 Completion of Construction and Repairs. The construction of any new building or the repair of the exterior of any building damaged by fire or otherwise shall be completed with reasonable promptness.

6.12 Sales Office of Developer. Notwithstanding anything in this Declaration to the contrary, Developer may construct and maintain a sales office, together with a sign or signs relating thereto, on Lots or a Lot of its choosing until such time as all of the Lots have been sold by Developer.

ARTICLE VII

USE RESTRICTIONS AND COVENANTS

7.1 Residential Use. The Lots shall be used solely for single-family residential purposes and for no other purpose. No business or commercial building may be erected on any Lot and no business or commercial activity may be conducted on any Lot except for a sales and marketing program of the Lots by Developer and the construction and sale by builders-Owners of speculative homes on Lots in accordance with the terms and provisions of this Declaration.

7.2 Further Subdivision. No Lot shall be divided, subdivided or reduced in size unless each divided or subdivided portion thereof is consolidated with one or more contiguous Lots.

7.3 Maintenance of Exteriors. Each Owner shall maintain the exteriors of all structures on a Lot and any and all fixtures attached thereto in a sightly manner.

7.4 Noxious Vegetation. No Owner shall permit the growth of noxious weeds or vegetation upon a Lot or any part between the street pavement and the front lot line of a Lot. All Lot areas shall be properly irrigated and maintained in a landscaped and sightly manner.

7.5 Litter, Trash, Garbage. No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any lots except in closed sanitary containers approved by the Board. Such containers shall be kept in a sanitary condition in (i) an enclosed area attached to the dwelling and constructed in a manner approved by the Board. Such containers may be placed on the Lot for pick up at the times and in accordance with the requirements of the franchised garbage removal company for the Property; however, such containers shall be returned to and kept in the enclosed area promptly after pick up.

7.6 Nuisances. No Owner shall cause on a Lot or permit to come from his Lot any unreasonable noises or odors. No Owner shall commit on his Lot or permit to be carried on his Lot any nuisance, any immoral or illegal activity or anything which may be an annoyance or a noxious or offensive activity to the neighborhood.

7.7 Commercial and Recreation Vehicles. No commercial vehicle, recreation vehicle, trailer or boat of any kind shall park or be parked at any time on a Lot unless such a vehicle is enclosed in a garage or is a commercial vehicle in the process of being loaded or unloaded.

7.8 Maintenance and Storage of Boats and Vehicles. No maintenance, repair or storage of any boat or vehicle, shall be permitted upon any Lot except within an enclosed garage. No boats shall be permitted to remain adjacent to any structure.

7.9 Garage Doors. Garage doors shall be kept closed except when opened to permit vehicles to enter and exit from a garage.

7.10 Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and that they do not cause an unreasonable nuisance or annoyance to other Owners.

7.11 Vehicles and Repair. No inoperative cars, trucks or trailers or other type of vehicles will be allowed to remain on or adjacent to any Lot for a period in excess of forty-eight (48) hours; however, this provision shall not apply to such vehicle which is kept within an enclosed garage.

7.12 Association Property. The use of Association property by Owners shall be subject to any rules and regulations now in existence or hereafter adopted by the Association. In addition to such rules and regulations, the following restrictions shall apply:

(i) no motor vehicles, including but not limited to automobiles, motorcycles, and go-carts, shall be permitted on the Association Property except in connection with the maintenance of such property by the Association, (ii) the Association Property and improvements located thereon may be used only by the Owners of Lots.

7.13 Parking. All vehicles shall be parked in the garage or driveway on the Lot. The Board may permit an enlargement of the driveway if the configuration of the Lot permits an enlargement; provided the enlargement is constructed of shell or concrete and the plans are approved by the Board prior to commencement of the work.

ARTICLE VIII

ASSOCIATION EXPENSES, ASSESSMENTS AND LIENS

8.1 General. In order for the Association to cause the covenants contained in this Declaration to be fulfilled; to maintain and preserve the Property in the manner contemplated by this Declaration, the Association will incur certain expenses, which expenses are referred to herein as the "Association Expenses."

8.2 Affirmative Covenant to Pay Association Expenses. Association Expenses shall be paid by the Association from funds assessed and collected from the Owners in the manner set forth in this Declaration, and there is hereby imposed upon each Lot and Owner the affirmative covenant and obligation to pay its respective share of the Association Expenses, which covenant shall run with the land. Each Owner, by acceptance of a deed or other instrument of conveyance, whether or not it shall be so expressed in such deed or instrument, does hereby agree and personally covenant to pay the share of Association Expenses allocated pursuant to this Declaration to the Lot of such Owner. Where record title to a Lot is in the names of more than one party, each party owner or recorded interest in the Lot shall be jointly and severally liable

for all such Association expenses allocated to such Lot. No Owner shall be relieved of liability for payment of his respective share of Association Expenses by non-use or abandonment of his Lot.

8.3 Annual Assessments. The Association shall assess each Owner for his respective share of Association Expenses by Annual Assessments determined and payable in the manner provided in Section 8.6 and 8.7 of this Declaration.

8.4 Uniform Assessments. Each Lot shall share equally in all Assessments except as provided in Section 8.6 and 8.7.

8.5 Interest of Owners. No Owner shall have during the term of the existence of the Association any interest, right or claim to any of the funds of the Association or funds received or held by the Association under or pursuant to any Annual Assessment or otherwise.

8.6 Annual Assessment Until Termination of Class "B" Membership. Prior to the expiration of the fiscal year of the Association in which the Class "B" Membership of the Developer is terminated, the Annual Assessment for Association Expenses which will be assessed upon each Lot which is not owned by the Developer shall be established by the Board; provided, however (i) no lot or portion thereof which has been subdivided in accordance with the provisions hereof shall be assessed, and (ii) when two adjoining Lots are owned by the same Owner then the two such Lots shall be assessed as one Lot. Commencing on the date of the closing of the purchase of a Lot from the Developer, each such Owner shall be subject to an Annual Assessment (prorated as of time of closing for the fiscal year in which closing with the Developer shall occur) during such period in such an amount payable annually, and each Owner shall timely pay any and all such assessments. The Board, in its sole discretion, may permit such Annual Assessment to be paid in quarterly or semi-annual installments.

8.7 Annual Assessment Commencing After Termination of Class "B" Membership. For each and every fiscal year of the Association in which the Class "B" Membership of the Developer is terminated, Annual Assessments for Association Expenses shall be determined in

the manner set forth in this Paragraph. The total anticipated expenses for each fiscal year, including reserves as reasonably estimated by the Board, shall be set forth in a budget adopted by the Board no later than one month preceding the fiscal year for which the budget is adopted (the "Budget"). The total anticipated Association Expenses set forth in such Budget shall be the Annual Assessment for Association Expenses for all of the Lots for such fiscal year (the "Aggregate Annual Assessment"). The Aggregate Annual Assessment shall be divided equally between all the Lots provided, however (i) no Lot or portion thereof which has been subdivided in accordance with the provisions hereof shall be assessed, and (ii) when two adjoining Lots are owned by the same Owner then the two such Lots shall be assessed as one Lot. The Annual Assessment allocated to each such Lot as aforescribed shall be due and payable by the Owner thereof or, if more than one Owner, the Owners, jointly and severally, of each such Lot in advance on the first day of the fiscal year of the Association. The Board, in its sole discretion, may permit such Annual Assessment to be paid in advance in quarterly or semi-annual installments. The Association shall mail to each and every Owner a copy of the Budget specifically indicating the total Association Expenses anticipated for the forthcoming fiscal year and the Annual Assessment upon each such Lot.

8.8 Certificate of Payment. The Association shall furnish to any Owner or any institutional mortgagee, upon request, a certificate in writing setting forth the remaining unpaid balance, if any, of any outstanding Annual Assessment, if any, assessed upon the Lot of such Owner and stating whether such Owner has failed to pay when due any such assessment or installment thereof. The Association may charge a reasonable fee for providing the certificate.

8.9 Lien. Upon the assessment on a Lot of an Annual Assessment determined in the manner set forth in this Declaration, such Annual Assessment, together with interest thereon from time the same become delinquent, at the rate of eighteen percent per

annum or the highest rate permitted by law, whichever is less, and costs of collection, if any, including court costs and reasonable attorneys' fees at trial and appellate levels, shall be, and are hereby declared to be, a charge and continuing lien on such Lot; provided, however, such lien shall be effective only from and after the time of recording among the Public Records of Manatee County, Florida, of a claim of lien by the Association setting forth the amount of such lien as of the date of execution of such claim of lien. Upon full payment of all amounts secured by such lien, the party making such payment shall be entitled to receive from the Association a satisfaction of lien in form for recording.

8.10 Remedies. In the event any Owner fails to pay any Annual Assessment or installment thereof within fifteen (15) days after the same becomes due and payable (whereupon the same shall be deemed delinquent), then the Board shall have the right to elect on behalf of the Association either some or all of the following remedies, which remedies shall not be mutually exclusive, and the election of any one of such remedies shall not be deemed to a waiver of any other such remedies:

(a) Acceleration. To accelerate the entire amount of any Annual Assessment allocable to the Lot for the remainder of the fiscal year notwithstanding provisions for the payment thereof in installments;

(b) Foreclosure. To file at any time after the effective date of a lien arising under Paragraph 7.9, an action to foreclose such lien in like manner as a foreclosure of a mortgage on real property; and

(c) Action at Law. Without waiving any lien rights and rights of foreclosure, to file an action at law against the Owner to collect such unpaid assessment, plus interest thereon at the highest rate permitted by law, and costs of collection, including court costs and reasonable attorneys' fees at trial and appellate levels.

8.11 Institutional First Mortgagees. The lien for assessment provided for in this Declaration shall be subordinate to the lien of any first mortgage on a Lot held by an Institutional First Mortgagee that is recorded amongst the public records of Manatee County, Florida prior to the recording of the claim of lien for assessment.

ARTICLE IX

GENERAL PROVISIONS

9.1 Incorporation of the Land Use Documents. Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

9.2 Release From Minor Violations. Where a building has been erected on a Lot or the construction thereof substantially advanced, in such manner that the same constitutes a violation or violations of the covenants, either the Developer or the Board may and each of them shall have the right at any time to release such Lot from such Paragraph or Paragraphs as are violated, provided, however, that neither the Developer or the Board shall release a violation or violations of such Paragraph or Paragraphs except as to violations that the party releasing the same shall determine to be minor.

9.3 Disputes. In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Declaration, such dispute shall be referred to the Board, and the determination rendered by the Board with respect to such dispute shall be final and binding on all parties thereto.

9.4 Enforcement. The covenants and restrictions contained in this Declaration may be enforced by Developer, the Association, any Owner or Owners, and any Institutional First Mortgagee in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or suit seeking damages, injunction, specific performance or any other form of relief, against any

person, firm or entity violating or attempting to violate any covenant or restriction herein. The failure by any party to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of such covenant or restriction or the right of such party to thereafter enforce such covenant or restriction. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees and court costs at all trial and appellate levels.

9.5 Notices to Owners. Any notice or other communication required or permitted to be given or delivered under this Declaration to any Owner shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to the last known address of the person whose name appears as the Owner on the records of the Association at the time of such mailing.

9.6 Notice to Association. Any notice or other communication required or permitted to be given or delivered under this Declaration to the Association or to the Board shall be deemed properly given and delivered upon the delivery thereof or upon the mailing thereof by certified United States mail, postage prepaid to the Board at 2610 - 59th Street, Sarasota, Florida, 34243, or at such other address as the Board may hereafter designate by notice to Owners.

9.7 Captions. Captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms or provisions of this Declaration.

9.8 Context. Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any noun or pronoun herein may be deemed to mean the corresponding plural form thereof and vice versa.

9.9 Severability. In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect

any of the other provisions hereof, which shall remain in full force and effect. Without limitation of the foregoing, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or a reduction in the term of the same by reason of the legal rule against perpetuities shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

9.10 Term. This Declaration (but excluding the easements herein created which are perpetual) and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein, including, without limitation, the provisions for assessment of Lots, shall run with and bind the Property and inure to the benefit of Developer, the Association, Owners and their respective legal representatives, heirs, successors and assigns for a term of ninety (90) years from the date hereof, after which time this Declaration shall be automatically renewed and extended for successive periods of twenty-five (25) years each unless at least one (1) year prior to the termination of such ninety year time or to each such twenty-five-year extension there is recorded in the Public Records of Manatee County, Florida, an instrument agreeing to terminate this Declaration signed by two-thirds (2/3) of all Owners and two-thirds (2/3) of all Institutional First Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the ninety (90) year term or the twenty-five (25) year extension during which such instrument was recorded.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered
in the presence of:

Polina J. Green

Geraldine A. Mills
As to Developer

SCHWAB DEVELOPMENTS, INC.
a Florida Corporation

By: Ralph E. Bodzjak
RALPH E. BODZJAK
Vice President

"DEVELOPER"

STATE OF FLORIDA
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 20th
day of March, 1990, by RALPH E. BODRIAK, the Vice President
of SCHWAB DEVELOPMENTS, INC., a Florida Corporation, on behalf of
the Corporation.


Notary Public

My Commission Expires:

4/29/94

jdg/westbury court
pm/101790