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MARTHA O. HAYNIE, COMPTROLLER
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MIRABELLA AT LA VINA HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION, made and executed as of the 19th day of May, 2004, by C&G REAL ESTATE GROUP, INC., a Florida corporation, whose mailing address is 706 Turnbull Avenue, Suite 102, Altamonte Springs, Florida 32701, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain property in the City of Orlando, County of Orange, State of Florida (the "City"), which is more particularly described as follows:

Lots 1 through 107, inclusive, and Tracts G and AA, La Vina Phase 2, as per plat thereof, recorded in Plat Book 57, Page 666, in the Public Records of Orange County, Florida.

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold, conveyed, leased, encumbered and otherwise dealt with subject to the easements, restrictions, covenants, and conditions, reservations, charges and lien rights hereinafter set forth, all of which are for the purpose of protecting the value, desirability and attractiveness of, and which shall run with, said real property and be binding upon, and inure to the benefit of, all parties having or acquiring any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms. The following words and phrases, when used in this Declaration or any supplemental declaration hereto, shall have the following meanings:

- (a) **"Additional Property"** shall mean real property, other than the Property (hereafter defined), which may in the future be brought within the jurisdiction of the Association and this Declaration by amendment or supplement to this Declaration.
- (b) **"Architectural Review Committee"** and **"ARC"** shall refer to the committee established and described in Article VI hereof.
- (c) **"Articles"** shall mean the Articles of Incorporation of the Association as they may exist from time to time. The initial Articles are attached hereto as **Exhibit "A"** and incorporated herein by reference.
- (d) **"Association"** shall mean Mirabella at La Vina Homeowners Association, Inc., a Florida corporation not for profit, its successors and assigns.
- (e) **"Board"** shall mean the Board of Directors of the Association.
- (f) **"Builder"** shall mean any person or entity purchasing a Lot from the Declarant for the purpose of constructing a house on the Lot for sale to a third party.
- (g) **"By-Laws"** shall mean the By-Laws of the Association as they may exist from time to time. The initial By-Laws are attached hereto as **Exhibit "B,"** and incorporated herein by reference.
- (h) **"Common Expenses"** shall mean expenditures for maintenance, operation and other services required or authorized to be performed by the Association with respect to the Common Area, enforcement of the provisions of this Declaration, or otherwise.
- (i) **"Common Area"** shall mean and refer to those areas of land shown on any recorded subdivision plat of the Property which are intended to be devoted to the common use and enjoyment of the Owners (any reference to Common Area shall include the Streets (as hereinafter defined) and any Private Recreation Tract as shown on the Plat including Tract AA); all real property, including any improvements thereon, owned by the Association for the common use and enjoyment of the Owners; any real property subsequently deeded by the Declarant to the Association for the common use and enjoyment of the Owners; and the Surface Water Management System.
- (j) **"Declarant"** shall mean **C&G Real Estate Group, Inc.**, a Florida corporation. Wherever the term Declarant is used in this Declaration, the Articles or By-Laws, it

shall be deemed to include the successors and assigns of the Declarant, but only to the extent specifically so identified by an instrument in writing executed and recorded by the Declarant.

(k) **"Declaration"** shall mean this Declaration of Covenants, Conditions and Restrictions as it may, from time to time, be amended or supplemented.

(l) **"Institutional Lender"** shall mean the owner and holder of a mortgage encumbering a Lot when such owner and holder shall be a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, public or private pension fund, the Veteran's Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, a credit union, real estate or mortgage investment trust, or other lender generally recognized in the community as an institutional lender.

(m) **"Lot"** shall mean any parcel of land shown on any recorded subdivision Plat of the Property upon which shall be located a residential dwelling unit.

(n) **"Maintenance"** shall mean, but not be limited to, cleanup, landscaping and ground care, and upkeep of the Common Area, if any, and the repair, maintenance and upkeep of the entry features, if any. The Surface Water Management System, located within the Property shall be maintained by the Narcoossee Community Development District (the "NCDD").

(o) **"Member"** shall mean all Owners who are Members of the Association as provided in this Declaration.

(p) **"Notice"** shall mean delivery to the person or entity who appears as Owner in the records of the Association of any document by mail with postage prepaid to the last known address reflected in the records of the Association. Notice to one of two or more co-owners of a Lot shall constitute notice to all Owners of such Lot.

(q) **"Owner"** shall mean the owner as shown on the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Lot located within the Property or any Additional Property. Owner shall not mean the holder of any mortgage or lien unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure nor shall the term include any lessee or tenant of any Owner.

(r) **"Plat"** shall mean any recorded plat of any portion of the Property and Additional Property within La Vina Phase 2 as recorded in Plat Book 57, Page 106 of the Public Records of Orange County, Florida.

(s) **"Private Recreation Tract"** shall mean those areas designated as Private Recreation Tract on the Plat, and shall be included as part of the Common Area.

(t) "Property" shall mean Lots 1 through 107, inclusive, and Tracts G and AA, La Vina Phase 2, as per Plat thereof and, when added in accordance with the terms and conditions hereof, any Additional Property which may be made subject to this Declaration in the manner provided herein.

(u) "Streets" shall mean the areas designated for vehicular traffic and more particularly designated as Tract G on the Plat, which area is not included in a Lot.

(v) "Surface Water Management System" shall mean that portion of the Property constituting a system designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, *Florida Administrative Code*, the maintenance of which shall be the responsibility of the NCDD as required by the St. John's River Water Management District ("WMD").

Section 1.2. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation." This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions hereof to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development and preservation thereof. The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

ARTICLE II

EASEMENTS AND PROPERTY RIGHTS IN THE COMMON AREA

Section 2.1. Utility Easements. The Declarant reserves the right to grant easements to any public or private utility or governmental authority providing utility and other services within the Property over, under, upon and through the Property. Any such easement granted by the Declarant pursuant hereto shall be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, lift stations, effluent disposal lines, pipes, wires, power lines, telephone service, gas lines, cable television service, alarm systems, and the machinery, equipment and apparatus appurtenant to all of the forgoing as may be necessary or desirable for the installation and maintenance of utilities providing services to Owners, the Property and the Common Area. All such easements shall be of such size, width and location as the Declarant, in its discretion, deems appropriate; provided, however, such discretion will be exercised in such a manner so as to not unreasonably interfere with the use of any improvements which are now, or may hereafter be, located upon the Property.

Section 2.2. Owners' Easement of Enjoyment. Except as to (i) the Surface Water Management System(s) which shall be operated and maintained by the NCDD as required by the WMD, and (ii) Retention, Landscape and Wall, Detention and Conservation Tracts, all of which shall be owned and maintained by NCDD, every Owner shall have a right and easement of enjoyment in and to the Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot.

Section 2.3. Conveyance of Common Area. On or before such time as ninety percent (90%) of the Lots have been sold and conveyed from the Declarant to the individual Owners, Declarant shall convey by quit claim deed to the Association its fee simple right, title and interest in and to those areas designated as Common Area on the Plat, such deed to be recorded among the Public Records of Orange County, Florida; and whereupon the Association shall assume the responsibility for the maintenance and repair of such Common Area in accordance with the terms and provisions of this Declaration.

Section 2.4 Streets. Easements and property rights in the Streets within the property shall be governed by the provisions of Article IX.

ARTICLE III **RULES AND REGULATIONS**

Section 3.1. Residential Use. Each Lot shall be used for single-family residential purposes only, and no trade or business of any kind may be carried on therein or thereon; provided, however, the lease or rental of a residence shall not constitute a violation of this covenant.

Section 3.2. Antennas. No television antennas may be erected and maintained on a Lot if cable television is available to serve the Properties. If cable television is not available, a single television antenna may be erected and maintained solely within the attic area and not otherwise visible from the exterior, which antenna shall be removed within three (3) months from the date of availability of cable television. Satellite dishes, one meter or greater in diameter, including support structures appurtenant thereto, which are no higher than four (4) feet from ground level, may be installed in rear yards so long as the entire rear yard is fenced in the manner provided herein. A Satellite dish which is less than one meter in diameter shall be installed so that the same is not visible from the Street, provided, however, that this restriction shall not apply if installation in a location visible from the Street is necessary in order for reception to be received by the satellite dish.

Section 3.3. Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind.

Section 3.4. Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Lot or in the Common Area which would be in violation of this Declaration or any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any

governmental body. No damage to, or waste of, the Common Area shall be committed by any Owner or any Tenant or invitee of any Owner; and each Owner shall indemnify and hold the Association and other Owners harmless against all loss resulting from any such damage or waste caused by him or his Tenants or invitees, to the Association or other Owners. No noxious, destructive or offensive activity shall be permitted on any Lot or in the Common Area, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing on the Property.

Section 3.5. Signs Prohibited. No sign on any kind shall be displayed to the public view on any Lot or the Common Area without the prior written consent of the Association, except customary name and address signs and no more than one (1) lawn sign of not more than four and one-half (4 ½) square feet in size (or such lesser amount as may be required by applicable governmental regulations) advertising the property for sale (as opposed to signs indicating availability for rental or lease, which signs are expressly prohibited) provided the same are otherwise in accordance with rules and regulations adopted by the Association.

Section 3.6. Parking. No truck or van with more than 3/4 ton capacity, boat, trailer, recreational vehicle or commercial vehicle shall be parked, stored or otherwise kept on any portion of the Property for more than twenty-four (24) hours, except that any of the foregoing vehicles may be stored in the garage on a Lot so long as the garage door is fully closed while such vehicle is located therein. The term "commercial vehicle" shall include, without limitation, all autos, trucks, vans and other vehicular equipment, which bear signs or shall have printed thereon any reference to a commercial undertaking or enterprise. Commercial vehicles in the process of loading or unloading shall not be considered to "parked" so long as such vehicles shall not be kept on the Property overnight. Further, the Association may promulgate further rules and regulations affecting the parking of any vehicles on the Lot which appear in the best interests of all Owners.

Section 3.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or the Common Area, except that dogs, cats and other customary household pets may be kept on Lots *subject to* limitations, which may be imposed from time to time by applicable governmental authority and further *subject to* rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose. Each Owner shall be responsible at all times for the prompt collection and proper removal and disposal of all excrement from their pets. The Association may prohibit the keeping of any pet anywhere upon the Property which the Association reasonably determines may constitute a threat to the safety or health of persons lawfully upon the Property. All Owners at all times shall comply with all rules, regulations, ordinances, statutes, and laws adopted, promulgated, or enforced by any public agency having jurisdiction of the Property and relating to animals, and shall at no times allow such animals to constitute a nuisance within any portion of the Property.

Section 3.8. Trash and Garbage. No trash, garbage, or other waste material shall be kept or permitted upon any Lot or the Common Area except inside the improvements on each

Lot or in sanitary containers concealed from view and otherwise in conformity with rules and regulations adopted by the Association. There shall be no burning of trash or any other waste material.

Section 3.9. Provisions Are Inoperative As to Initial Construction. Nothing contained in this Declaration shall be interpreted or construed to prevent the Declarant, its transferees, or its or their contractors, or sub-contractors, from doing or performing on all or any part of the Property owned or controlled by the Declarant, or its transferees, whatever they determine to be reasonably necessary or advisable in connection with the completion of the construction, marketing and sale of improvements on the Lots and the Common Area, including, without limitation:

- (a) erecting, constructing, and maintaining thereon such temporary structures or uses otherwise conforming with applicable zoning regulations of the City, as may be reasonably necessary for the conduct of Declarant's business of completing such construction and establishing the Property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or
- (b) maintaining such sign or signs thereon conforming with applicable zoning regulations of the City as may be reasonably necessary in connection with the sale, lease, or other transfer of the Property in parcels.

As used in this Section and its sub-paragraphs, the term "its transferees" specifically does not include purchasers of Lots improved as completed residences.

Section 3.10. Recreational Equipment. Subject to prior approval of the ARC as to specific location, all basketball backboards, fixed or otherwise, and any other fixed game and play structures shall be located at the rear of the dwelling, or in the case of corner Lots on the inside portion of the Lot within the setback lines. Treehouses or platforms of the like kind or nature shall not be constructed on any part of the Lot. Skateboard ramps or equivalent structures shall not be permitted on any Lot.

Section 3.11. Fences. The composition of all fences or walls shall be either of wood, wrought iron, brick or stucco type material ("finish" side out) and must be approved in writing on a case by case basis by the ARC. Wood fences shall be limited to shadow box style and must be stained, as approved by and in accordance with the guidelines published from time to time by the Association. Repainting of the fence or wall, as applicable, shall be performed on an as-needed basis but in any event by no later than the date set forth in any notice from the ARC that the fence or wall, as applicable, requires repainting; the color to be applied to the fence or wall, as applicable, must be first approved by the ARC if the color to be applied is different from the original color, all to be in accordance with the provisions of Article VI, as set forth hereafter. Further, no fence or wall shall be located any closer than twenty (20) feet behind the front line of any residential dwelling unit, except as approved by the ARC.

Section 3.12. Swimming Pools. Any swimming pool and the screening or fencing thereof to be constructed on any Lot shall be subject to the approval of and the requirements of the ARC. The materials, design, location and construction shall meet standards generally accepted by the industry and shall comply with applicable governmental regulations. Above-ground swimming pools shall not be allowed.

Section 3.13. Air Conditioning Equipment. Heating and cooling of residences with systems of active or passive solar, wind and other forms of energy other than gas or electric shall be subject to prior approval of the ARC. Components of such systems that are affixed to the exterior of a residence shall not be permitted unless the design thereof shall have first been approved by the ARC. Exterior components of any cooling or heating system (or a combination thereof) shall be substantially screened from view from the Street fronting the residence.

Section 3.14. Transmission Facilities. No radio or television signals nor any other form of electromagnetic radiation shall be permitted to originate from any Lot which interferes with the reception of television or radio received upon any other Lot.

Section 3.15. Maintenance of Lots. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or other waste. All setback areas, yards, walkways, driveways and parking areas shall be maintained and kept in a neat and clean condition, free of refuse and debris. All landscaped areas (up to the edge of pavement on the public right-of-way adjacent to each Lot) shall be maintained in live, healthy and growing condition, properly watered and trimmed. Any planting of grass, shrubs or trees which become dead or badly damaged, shall be replaced with similar sound and healthy plant materials.

Section 3.16. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view from front or side Streets or adjacent properties, but may be installed within the main dwelling house, within a walled in or screened area, or buried underground, and shall be approved by the ARC prior to construction.

Section 3.17. Mailboxes. All mailboxes shall meet the requirements of the United States Postal Service and shall otherwise conform with the criteria of the applicable governmental authority as to type of mailboxes and the specific distance allowed for the house. Further, all mailboxes will be subject to ARC approval and shall be in accordance with any mailbox guidelines published, from time to time, by the ARC.

Section 3.18. Inoperative Vehicles and Repair. No inoperative cars, trucks, trailers or other types of vehicles shall be allowed to remain on the Property for a period in excess of two (2) days. There shall be no major maintenance, repair or restoration performed on any motor vehicle on or adjacent to any Lot in the Property; provided, however, such maintenance, repair or restoration may be done if solely within an enclosed garage. All vehicles shall have current license plates. Moreover, no stripped, unsightly, offensive, wrecked, junked, or dismantled vehicles or portions thereof, shall be parked, stored or located upon any Lot at any time.

Section 3.19. Garage Doors. All single family residences shall be constructed so as to include operational garage doors. All garage doors shall remain closed at all time when not in use for entry or exit to or from the garage.

Section 3.20. Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Lots and the Common Area, as the same are from time to time adopted by the Association. The prohibitions and restrictions contained in this Article shall be self-executing without implementation by further rules and regulations; provided, however, the foregoing shall not be construed as an implied prohibition preventing the Association from extending the scope of such prohibitions and restrictions from time to time by adopting further rules and regulations consistent with this Declaration.

Section 3.21. Safe Neighborhood Improvements District. The City may require or permit the Declarant to form one or more safe neighborhood improvements districts, as provided for in Part IV of Chapter 163, Fla. Stat., as the same is amended from time to time, for maintenance and operation of street lights to be installed on the Property, maintenance of stormwater drainage and retention systems on the Property, or the performance of other services beneficial to the Owners. All Lots shall be encompassed within any such district(s) which may be established and shall be subject to the restrictions, limitations and assessments as may be imposed upon the property within any such district(s). All Owners shall be bound by any agreement or resolution creating a Safe Neighborhood Improvement District and all Owners shall join in and execute any instrument which may be required in connection with the establishment of such district(s).

ARTICLE IV **MEMBERSHIP AND VOTING RIGHTS**

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant, each of whom shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant 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 either of the following events, whichever occurs earlier:

(a) when ninety percent (90%) of all Lots which are subject to the Declaration are deeded to Class A Members;

(b) on the date which is ten (10) years after the recording of this Declaration;

or
(c) Declarant, in its sole and absolute discretion, elects to terminate the Class B membership by written notice of such election delivered to the Association.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual, special and other assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date when the assessment became due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by such successor; provided, however, in no event shall assumption by a successor relieve the former Owner of any personal liability arising hereunder. In the case of co-ownership of a Lot, all such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of the Lots, their guests, lessees and business invitees; for the improvement, repair, replacement and maintenance of the Common Area, the Streets, and the improvements located thereon (including budgeted reserves); for payment of all taxes assessed to the Association, if any, in respect to the Common Area, or the improvements or personal property thereon, or both; for maintenance of the interior portion of the wall along Alafaya Trail (the NCDD has the obligation to maintain the exterior portion of the wall and to pay the cost of reconstruction of the wall); for the general purpose of enabling the Association to perform and fulfill its authorized or required rights, powers, duties and obligations.

Section 5.3. Annual Assessments. The Association shall have the power to levy annual assessments against the Lots and the Owners thereof in the manner and for the purposes provided herein. The Association shall have the further right to require the payment of annual assessments

annually or in monthly, quarterly or semi-annual installments as the Association may deem necessary and appropriate.

Section 5.4. Maximum Annual Assessment. Until January 1 of the year immediately following the date of the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment shall be \$350.00 Lot, plus any amounts that may be assessed under Sections 5.5 or 5.6 of this Article V. The actual amount of the annual assessment shall be determined by the Board on an annual basis subject to the following:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot by the Declarant to an Owner, the maximum annual assessment may be increased each year without a vote of the Members by an amount not more than twenty-five percent (25%) over the maximum assessment for the preceding year.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot by the Declarant to an Owner, the maximum annual assessment may be increased by more than the amount permitted pursuant to Subparagraph (a), above, by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

(c) The Board or Directors may fix the annual assessment at an amount not in excess of the amount set forth herein.

Section 5.5. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of the Common Area, any Lot or the improvements on any Lot is not in conformity with the standards adopted by the Association or which increases the maintenance cost to the Association above that which would result from compliance by the Owner with such use restrictions imposed by this Declaration. The maximum amount of such assessment shall be equal to such cost incurred plus ten percent (10%) to cover the cost of administration and may be enforced in the manner provided for other assessments.

Section 5.6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may (i) levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or Streets, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose; and (ii) levy a special assessment upon authorization by the Board of Directors of the Association, for the purpose set forth in Section 10.1 hereafter.

Section 5.7. Notice and Quorum for Any Action Authorized Under Sections 5.4 and 5.6. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.4 or 5.6 shall be sent to all Members not less than thirty (30) days nor more than sixty

(60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast majority of all the votes of each class of Membership shall constitute a quorum.

Section 5.8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, except that as long as there is a Class "B" membership, the Declarant will have the following options with respect to the annual assessments:

- (i) the Declarant may pay the annual assessment at the rate of up to 25% at the rate fixed for Class "A" membership on all unoccupied Lots owned by the Declarant and, in addition, shall pay any operating expenses that exceed the assessments receivable from other Members and other income of the Association; or
- (ii) the Declarant may pay the full rate of annual assessment at which time the obligation to pay any operating expenses that exceed the assessments receivable from other Members and other income of the Association will cease.

The Declarant shall be bound to pay annual assessments in accordance with (i) above until such time as the Declarant gives written Notice to the Association that (ii) above will be the method of fixing assessments against the Declarant. This right, benefit and obligation may be specifically assigned to a Builder to be applicable to the Lot or Lots owned by the Builder, provided that the Builder affirmatively accepts such assignment. In the event of such assignment, and if applicable, the Association shall bill the Builder for its pro rata share or percentage of the "operating expenses exceeding the assessments receivable from other Members and other income of the Association," such pro rata share or percentage to be determined by dividing the number of Lots owned by the Builder by the number of Lots constituting the Property, with the resulting quotient being the Builder's share or percentage of the "operating expenses that exceed the assessments receivable from other members and other income of the Association."

Section 5.9. Initial Assessment In addition to the annual, special and individual assessments provided for hereunder, the Association shall have the right to collect from each party purchasing a Lot a one-time Initial Assessment in the amount of \$350.00. The Initial Assessment shall be due and payable only at the time of the conveyance of the Lot to the purchaser of the Lot, including a Builder, provided, however, that the Builder shall have the right to collect the Initial Assessment from the party purchasing the Lot from the Builder at the time of Closing and shall have the right to retain the Initial Assessment with no obligation to remit the same to the Association. The Initial Assessment may be utilized in the discretion of the Declarant to offset any obligation of the Declarant to deficit fund the operation of the Association or for any other lawful purpose as set forth herein for the use of Annual Assessments. At the time of payment of the Initial Assessment provided herein, the Owner shall likewise pay to the Association that portion of the Annual Assessment provided in Section 5.3 prorated from the date of purchase through the end of the then current calendar year.

Section 5.10. Date of Commencement of Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on such date as shall be determined by the Board in conformity with the provisions of this Declaration, but in any event shall commence no later than the date of the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates of periodic installments shall be established by the Board. The Association shall, upon request, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 5.11. Determination of Allocation of Assessments. The number of Lots used for the calculation of the annual assessment shall be determined as of the ownership of record thirty (30) days prior to the commencement of the fiscal year of the Association and when so determined shall be controlling for the entire fiscal year. The amount of the annual assessment for each lot shall apply to all lots within any Additional Property added during the fiscal year of the Association.

Section 5.12. Effect on Nonpayment of Assessments; Remedies of the Association. If any assessment is not paid on the date due as determined in the manner provided in this Article V then such assessment shall become delinquent and shall, together with accrued and accruing interest and costs of collection as herein provided, become due and payable and be a continuing lien on such Lot which shall bind such Lot and the then Owner. The Association may record a notice of lien for delinquent assessments in the Public Records of Orange County, Florida, and foreclose the lien in the same manner as a mortgage. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments, interest and costs of collection accruing thereafter until satisfied of record. If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, there being added to the amount of such assessment interest at the aforesaid rate and all costs of collection, including reasonable attorneys' fees incurred in connection therewith at trial and all appellate levels.

Section 5.13. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an Institutional Lender encumbering a Lot; provided, however, such subordination shall apply only to the assessments with respect to such Lot to the extent they have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure judgment or in any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot from the liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. An Institutional Lender shall, upon request, be entitled to written notification from the Association

of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days. Furthermore, the Association may provide such notice without receiving a request from an Institutional Lender.

Section 5.14. Reserves. The Association shall include within the annual assessment a reasonable amount (but not limited by the matters for which reserves may be collected as hereafter stated) to be collected as reserves for replacement, repair and/or maintenance of the Streets and other improvements situate upon or within the Common Area. In particular, the reasonable amount for such reserves shall be determined by the Board, to be collected and held as reserves against and for the future periodic maintenance, repair or replacement of all or any portion or portions of the Common Area, including, without limitation, the Common Area landscaping, or for such other purpose or purposes as shall be determined by the Board, in its reasonable discretion. Such portion of the annual assessment representing amounts collected as reserves, whether established pursuant to this section 5.14 or otherwise, shall be deposited by the Association in a separate interest bearing bank account, certificate (s) of deposit or in United States treasury bonds of appropriate maturity, to be held in trust by the Association until used for the purpose or purposes for which the same are established and shall be segregated from and not commingled with the general funds or any other funds of the Association. An annual audit or other financial report (in acceptable form and substance) shall be submitted to any governmental regulatory agency requiring same confirming the receipt by the Association of said reserve funds. This section shall not abrogate, modify, amend, or supercede the provisions of any other section of this Article.

ARTICLE VI **ARCHITECTURAL CONTROL**

Section 6.1. Establishment of Architectural Review Committee. There is hereby established an Architectural Review Committee (the "ARC") which shall consist of three (3) or more persons designated and appointed by the Declarant. At such time as the Declarant no longer owns any Lot within the Property (or earlier at the option of the Declarant), the Declarant shall assign to the Association all rights, powers duties and obligations of the ARC, whereupon the Board shall appoint the members of the ARC and shall provide for the terms of the members of the ARC. Members of the ARC need not be officers, directors or Members of the Association.

Section 6.2. ARC Authority. The ARC shall have full authority to regulate the use and appearance the Property and all improvements constructed thereon to assure harmony of external design and location in relation to surrounding improvements and topography and to protect and preserve the value and desirability of the Property as a residential community. The power to regulate shall include the power to prohibit those exterior uses or activities deemed inconsistent with the provisions of this Declaration, or contrary to the best interests or the Association in maintaining the value and desirability of the Property as a residential community, or both. The ARC shall have authority to adopt, promulgate, rescind, amend and revise rules and regulations in connection with the foregoing; provided, however, such rules and regulations shall be

consistent with the provisions of this Declaration and, in the event the Board has not constituted itself as the ARC, such rules and regulations shall be approved by the Board prior to the same taking effect. Violations of the rules and regulations of the ARC shall be enforced by the Board, unless such enforcement authority is delegated to the ARC by resolution of the Board.

Section 6.3. ARC Approval. No building, fence, hedge, wall, walk, dock, pool, planting, sign, or enclosure or addition to any improvement located upon a Lot shall be constructed, erected, removed, planted or maintained nor shall any addition to, or any change or alteration thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of same shall have been submitted to, and approved in writing by, the ARC. Any change in the exterior appearance of any improvement, including, without limitation, repainting in the same or different color, exterior refinishing, re-roofing, or the addition of architectural details, decorative sculptures or wrought iron grills, construction of fences or other enclosures, shall likewise require written approval of the ARC before any such work is commenced. The ARC shall have the right to refuse approval of plans, specifications or locations upon any grounds, including purely aesthetical considerations, which the ARC, in its sole and absolute discretion, deems appropriate.

Section 6.4. Submissions of Plans and Specifications. As part of the application process to the ARC, two (2) complete sets of plans and specifications (including the landscape plan) prepared by an architect or other person found to be qualified by the ARC and two (2) site plans shall be submitted for approval by written application on such form as may be provided, required or approved by the ARC. In addition, the anticipated commencement date and estimated time for completion shall be included in the application to the ARC. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

Section 6.5. Standards. No approval shall be given by the ARC pursuant to the provisions of this Article unless the ARC determines that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding improvements and topography within the Property; (ii) shall protect and conserve the value and desirability of the Property as a residential community; (iii) shall be consistent with the provisions of this Declaration; and, (iv) shall be in the best interests of the Association in maintaining the value and desirability of the Property as a residential community. The ARC may deny any application upon the ground that the proposed alteration will create an undue burden of maintenance upon the Association. In the event additional maintenance may be required, then the ARC shall require an agreed method of payment for such maintenance cost and require security for the payment of same. The ARC may condition the approval of any application upon the Owner providing reasonable security that the contemplated work will be completed substantially in accordance with the plans and specifications therefor submitted to the ARC.

Section 6.6. Drainage. All plans submitted to the ARC shall contain a drainage plan which shall be consistent with the master drainage plan and the Surface Water Management System for the Property or, in the alternative, contain an affirmative statement that none of the

work contemplated by the plans will have any effect on the existing drainage of the Lot. In all events, each Owner shall be and remain fully liable for any and all damage caused directly or indirectly by any change in the design of function of drainage on or from any Lot, or the grade of any Lot, in connection with the construction, installation or maintenance of any approved changes by the Owner. In the event of any change to the drainage design, function or grade, the Association may, but shall not be required to, restore the drainage design, function or grade and may charge the Owner for all reasonable costs incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of such Owner. In connection with any such restoration, the Association may exercise powers granted to it under Section 5.5 of Article V.

Section 6.7. Completion. All improvements for which approval of the ARC is required and has been obtained pursuant to the terms and provisions of this Declaration shall be completed within the time period specified in such approval. In the event the improvements are not completed within the required time, the Association may, thirty (30) days following written notice from the ARC to the Owner, complete such improvements at the sole expense of the Owner in accordance with the plans and specifications previously approved by the ARC and may charge the Owner for the expenses incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of the Owner. In connection with any such restoration, the Association may exercise powers granted to it pursuant to Section 5.5 of Article V.

Section 6.8. Right of Entry. There is specifically reserved to the Association and the ARC, the right of entry and inspection upon any Lot for the purpose of determining and/or correcting the existence of any activity or condition which violates the terms of any approval given by the ARC or the terms of this Declaration. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to enforce the terms of this Declaration, or to remove any improvements which have not been approved by the ARC or have not been constructed in conformity with approval granted by the ARC, the prevailing party shall be entitled to recover all costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold the ARC and its members harmless from any and all costs, expenses and liabilities, including reasonable attorneys' fees, incurred by virtue of service as a member of the ARC.

Section 6.9. Violations. In each instance where improvements have been constructed, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration, including, activities carried out which are not consistent with plans and specifications approved by the ARC, the ARC (if it has knowledge of such violation) shall notify the Board in writing and the Board may thereafter direct the violating Owner to immediately remove any/or cure such violation. For purposes hereof, all Owners specifically consent and agree to comply with the provisions of this Section as of the time such Owner shall become vested with title to any portion of the Property.

Section 6.10. Waivers. The ARC shall have the right, but not the obligation, to grant waivers for minor deviations and infractions of the covenants, conditions and restrictions contained herein. The granting of any waiver may be given or withheld in the sole discretion of the ARC and any prior grant of a similar waiver shall not impose upon the ARC the duty to grant new or additional waivers for like or similar conditions.

Section 6.11. Disclaimer of Liability. The Association, the Declarant, the ARC and all officers, employees, directors or members thereof shall in no way be liable to any person or persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of, or in connection with, the approval, disapproval or failure to approve any such plans and specifications. Each person who submits plans and specifications for approval agrees, by submission thereof, that it will not bring any action or suit whatsoever against the Association, the Declarant, the ARC, or any officer, employee, director or member thereof.

ARTICLE VII ANNEXATION OF ADDITIONAL PROPERTY

Section 7.1. Annexation without Association Approval. At any time prior to ten (10) years from the date hereof, Additional Property may be annexed, in whole or in part, by the Declarant and made subject to the governing provisions of this Declaration without the consent of Class "A" Members of the Association. The Lots and the improvements thereon, together with the rights and obligations of the Declarant and other Owners thereof, upon all or any portion of such Additional Property shall become subject to the provisions of this Declaration upon recording of an appropriate supplement or amendment hereto executed by the Declarant without the consent of the Class "A" Members.

ARTICLE VIII RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 8.1. Maintenance. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, control and maintenance of the Streets, and the Common Area (including Tract G) together with all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, substantial, attractive and sanitary condition, order, and repair.

Section 8.2. Right of Entry. The Association, through its employees, contractors and agents, is hereby granted a right of entry into and upon each Lot to the extent reasonably necessary to discharge the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration, including, the discharge of any duty of maintenance or replacement, or both, imposed upon any Owner. Such right to entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever the circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of the Owner or occupant thereof except when such entry is reasonably necessary for the

immediate preservation or protection of the health or safety of any person lawfully upon the Property or of any such person's property. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by the foregoing Sections of this Article, provided such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner.

Section 8.3. Services of Association. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems appropriate and advisable, together with such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it may contract. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration.

Section 8.4. Services for Owners. The Association may contract, or otherwise arrange, with any person or entity to furnish water, trash collection, sewer services, maintenance, replacement, and other common services to all Lots. Any Owner additionally may voluntarily contract with the Association for the Association to perform, or cause performance of, any services benefiting such Owner's Lot at the cost and expense of such Owner. All sums due the Association pursuant to such contract shall be added to and become a part of the assessment against such Owner's Lot. Notwithstanding the foregoing, the Association may not contract with any Owner to provide any service at such Owner's expense which it is the duty of the Association to provide at its own expense under any provision of this Declaration.

Section 8.5. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

Section 8.6. Rules and Regulations. The Association may from time to time adopt, alter, amend, and rescind rules and regulations further governing the use of the Lots and of the Common Area, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

Section 8.7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles, or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege granted herein or reasonably necessary to effectuate the exercise of any right or privilege granted herein.

Section 8.8. Restriction on Capital Improvements. Except for replacement or repair of those items installed by the Declarant, and except for personal property related to the maintenance of the Streets and Common Area, the Association may not authorize capital improvements to the Common Area without consent of the Declarant during a period of five (5) years from the date of this Declaration. At all times hereafter, all capital improvements to the Common Area, except for replacement or repair of those items installed by the Declarant and

except for personal property related to the maintenance of the Common Area, shall require approval of the Board.

ARTICLE IX SUBDIVISION STREETS

Section 9.1. Maintenance: Assessments. Unless the maintenance of Tract G is now or hereafter assumed by a governmental entity, the Association shall maintain Tract G and assess the cost of maintenance of Tract G to the Members. The estimated maintenance cost shall be included in each annual budget and assessed to each Lot. The Association shall have the right to propose a special assessment, if necessary, to defray the cost of any extraordinary repairs of Tract G. The procedure for the adoption and collection of regular and special assessments or maintenance of Tract G shall be as set forth in this Article IX. Notwithstanding the foregoing sentence, the Board of Directors of the Association, if it finds that an emergency road repair is needed to promote or insure the health, safety or welfare of the community, may take such curative action as may be necessary and assess the cost thereof as a special assessment without the necessity of a prior meeting of Members.

Section 9.2. Street Parking. No vehicle may remain parked on a Street area for more than one hour, except that vehicles of guests who are visiting an Owner may park in the Street for a period not exceeding four hours if there is no room on the Owner's driveway. However, any cars so parked must not be parked in such a way as to hinder ability to pass on the Street, hinder access to any driveway, or to create a safety hazard. The Association shall have the right to tow repeat offenders' vehicles after placing a warning notice on the offending car one time.

Section 9.3. Prohibited Vehicles. As long as Tract G is not dedicated to a local government, each of the following vehicles are prohibited from using Tract G: motor-scooters, all-terrain vehicles, dune buggies, or similar vehicles.

Section 9.4. Security. As long as Tract G is not dedicated to a local government, the Association shall have right to provide for security in order to keep unauthorized persons or vehicles off Tract G and the Property. The security provisions may include a restricted access point at the subdivision entrance.

Section 9.5. Access. Unless otherwise stated herein, all of the Streets located in Tract G are not required for public use and such Streets and easements are not and will not be a part of the City of Orlando, Florida, system of public roads. Said Streets and easements shall remain private and the sole exclusive property of the Declarant, its successors and assigns, and shall be conveyed to Mirabella at La Vina Homeowners Association, Inc. by fee simple quit claim deed as provided for elsewhere herein. The Declarant does hereby grant to the present and future owners of adjacent Lots and their guests, invitees and domestic help, and to delivery, pick up and emergency protection services, police, fire and other authorities of the law, United States Postal Service mail carriers, gas, power, telephone, cable television, street lighting and solid waste service providers, representatives of utilities authorized by the Declarant to serve the Lots and

Common Area, holders of mortgage liens on such Lots and such other persons as the Declarant, from time to time, may designate, the non-exclusive and perpetual right of ingress and egress over and across said Streets. The City of Orlando, Florida, is also granted the right, in perpetuity, to enter, operate, construct, reconstruct, repair, maintain and inspect all City of Orlando, Florida facilities which have been or will in the future be constructed or installed for the public good and welfare, and which may include but not be limited to the following: water, sanitary sewer, and stormwater sewers. In the event that the City of Orlando, Florida open cuts Tract G, including the pavement, to replace, repair or service a City of Orlando, Florida facility, then the City of Orlando, Florida, shall only be required to replace that portion of Tract G within the limits of the open cut.

Section 9.6. Rights of Declarant. There is hereby granted a perpetual easement to Declarant, its successors and assigns for the purpose of providing access to prospective purchasers of Lots or of constructed homes. No plan of restricted access through the use of a guard gate or check point may be commenced without the Declarant's consent. This easement will terminate automatically if the access ensured hereby is provided by dedication of Tract G to a local government.

Section 9.7. Construction Vehicles. Access for construction vehicles shall be permitted only during daylight hours for the purpose of constructing improvements which have received prior approval of the ARC.

Section 9.8. Speed Limits. Subject to applicable law in the event Tract G is dedicated to a local government, traffic through Tract G within the Property shall be limited to a maximum speed of fifteen (15) miles per hour. The Association may establish a different limit or may establish other traffic regulations as it deems necessary.

Section 9.9. Annual Inspection; Remedial Work. The Association shall require an annual inspection of the Streets and the drainage system by a registered engineer to determine the level of maintenance and identify any needed repairs. A copy of the annual inspection written report shall be submitted to the City of Orlando, Florida, within fifteen (15) days of its completion. The Association shall complete all reasonable remedial work recommended by the report within sixty (60) days of its receipt, unless a longer period of time is approved by the City of Orlando, Florida engineer.

Section 9.10. Periodic Resurfacing. The Association shall require that the Streets be resurfaced every twelve (12) years unless a longer period of time is approved by the City of Orlando, Florida engineer.

Section 9.11. Transfer to City of Orlando, Florida. Any transfer of property rights concerning the Streets to the City of Orlando, Florida or other governmental entity shall require the concurrence of all Owners.

Section 9.12. City of Orlando, Florida Liability. The Declarant (to the extent and limited to (i) the period during which the Declarant controls the homeowners' association, and (ii) the extent the Declarant has a right, title, interest and/or estate in or to any platted lots) and the Association hereby expressly hold City of Orlando, Florida harmless from any cost arising directly or indirectly, out of maintenance, repair and/or reconstruction of, or tort liability to or stemming from, tract G and/or the Streets, or the Surface Water Management System.

Section 9.13. Sales Contracts; Disclosure. All sales contracts concerning Lots should expressly and directly (not by reference) disclose the provisions of Sections 5.14 and 9.9 through 9.12 hereof and that no tax discount or credit may be available to Lot owners for the maintenance or repair of the Streets and the drainage system by the Association. The failure to include the disclosure required by this part shall not act in any way to impair the effectiveness or enforceability of any such sales contract concerning a Lot.

Section 9.14. Rights of City of Orlando, Florida. The Association shall recognize and agree that the City of Orlando, Florida, at its option, after written notice to the Association that the Association is not in compliance with any of the Sections 5.14 and 9.9 through 9.12 hereof, and after the failure of the Association to comply with such Section or to proceed diligently to comply with same within sixty (60) days after receipt of such notice, may remove any Street gates, and assume responsibility for the repair and maintenance of the Streets and drainage system using available reserve revenues of the Association or other standard financing methods, whether provided for in the Declaration or otherwise, as the City of Orlando, Florida may properly elect.

Section 9.15. Duration of Requirements of City of Orlando, Florida Amendment. Section 5.14, Section 9.5 and Sections 9.9 through 9.14 are conditions and restrictions imposed and required by the City of Orlando, Florida, which Sections shall remain in full force and effect for so long as the Property remains a gated community with privately owned Streets. Such provisions shall automatically cease to be effective upon the removal of the gates and dedication of the Streets to the City of Orlando, Florida. Notwithstanding any other provisions to the contrary, Section 5.14, Section 9.5 and Sections 9.9 through this Section 9.15 may not be amended without the prior written consent of the City of Orlando, Florida, and the execution and recording in the Public Records of Orange County of a proper joinder and consent to such Amendment by the City of Orlando, Florida.

Section 9.16. Conveyance of Streets. On or before such time as eighty percent (80%) of the Lots have been sold and conveyed from the Declarant to owners, Declarant shall convey by quit claim deed its fee simple right, title and interest in and to the Tract G Streets as shown on the Plat to the Association, which deed shall be recorded among the public records of the City and whereupon the Association shall assume the responsibility for the maintenance and repair of such Streets in accordance with the terms and provisions of this Declaration

ARTICLE X

RECONSTRUCTION OR REPAIR AFTER CASUALTY

Section 10.1. Damage to Common Area. In the event that any portion of the Common Area is damaged or destroyed by casualty, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction. Repair or reconstruction of the Common Area shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds are insufficient, the deficit shall be assessed against all Owners as a special assessment. If there is a surplus of insurance proceeds, it shall become the property of the Association. Each Owner shall be responsible to the Association for damage to the Common Area caused by such Owner or the tenants, guests or business invitees of such Owner and the Association shall have the right to recover its expenses, including reasonable attorneys fees, in the event it should become necessary for the Association to initiate an action to recover damages from an Owner.

Section 10.2. Damage to the Lots. In the event of damage or destruction to any portion of the improvements on a Lot, the improvements shall be repaired or restored in accordance with the provisions of the applicable insurance requirements. In the event the Owner is unable to rebuild the improvements on the Lot, such Owner shall clear the debris and have the Lot leveled and restored within sixty (60) days from the date of destruction or damage.

ARTICLE XI

GENERAL PROVISIONS

Section 11.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by, or pursuant to, the provisions of this Declaration; and the party enforcing the same shall have the right to recover all costs and expenses incurred, including reasonable attorneys' fees. In the event the Association enforces the provisions hereof against any Owner, the costs and expenses of such enforcement, including reasonable attorneys' fees, may be assessed against such Owner's Lot as a special assessment pursuant to the provisions hereof. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so at any time. If these restrictions are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the costs and expenses incurred, including reasonable attorneys' fees, in the discretion of the Board. Additionally, the City of Orlando, Florida shall have the right, but not the obligation, to enforce, by proceedings at law or in equity, the provisions contained in the Declaration as they may relate to the construction, reconstruction, maintenance, operation and repair of the Streets.

Section 11.2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 11.3. Duration and Term. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended and renewed for successive ten (10) year periods.

Section 11.4. Amendment. Unless provided otherwise herein, this Declaration may be amended by the affirmative vote of seventy-five percent (75%) which the Members present or represented by proxy are entitled to cast at any meeting at which a quorum is present as provided in the Bylaws when written notice of such meeting specifies the proposed amendment and amendments to be considered at such meeting. If an amendment is approved by the Members in the foregoing manner, the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date thereof, the date of the meeting of the Association at which such amendment was adopted, the date upon which notice of such meeting was given, the number of votes required to constitute a quorum at such meeting, the number of votes necessary to adopt the amendment, the total number of votes cast in favor of the amendment, and the total numbers of votes cast against the amendment. Anything contained herein to the contrary notwithstanding, there shall be no amendments to the Declaration that materially or adversely affect rights granted or reserved herein to the Declarant without its written consent. In addition, the Declarant expressly reserves the right, so long as it is a Class "B" Member, to amend this Declaration without the necessity of concurrent action or approval of the owners so long as such amendment does not materially or adversely affect the interests of the Owners. Furthermore, any amendment to this Declaration which would tend to alter or affect the Surface Water Management System shall require prior written approval of the St. John's River Water Management District. Any amendment to this Declaration which would tend to alter or affect any drainage or utility easements, if any, as shown on the Plat shall require prior written approval of the City of Orlando, Florida. All amendments to this Declaration shall be recorded in the Public Records of Orange County, Florida.

Section 11.5. HUD/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of HUD/VA: annexation of Additional Properties, mergers and consolidations, mortgaging of the Common Area, dedication of Common Area, dissolution and amendment of this Declaration.

Section 11.6. Effect of Recording. Any Lot situated within the Property shall be deemed to be "subject to assessment," as such term is used in this Declaration, the Articles or the By-Laws, upon recording of this Declaration; and, any Additional Property annexed pursuant to the provisions hereof shall be deemed "subject to assessment" upon recording of the appropriate supplement or amendment to this Declaration annexing the same.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be duly executed the day and year first above written.

Signed, sealed and delivered
in the presence of:

Print Name:

Allan Goldberg

Print Name:

JK Froehlich

C&G Real Estate Group, Inc.,
a Florida corporation

By:

William W. Cole, Jr.
President

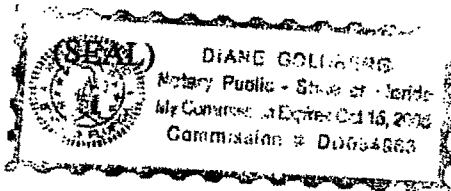
STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing Declaration of Covenants, Conditions and Restrictions for Mirabella at La Vina Homeowners Association, Inc. was acknowledged before me this 19th day of May, 2004, by William W. Cole, Jr. as President of C&G Real Estate Group, Inc., a Florida corporation, who

☒ is personally known to me or

☐ has produced _____

as identification.



Diane Goldberger
Notary Public

Print name: Diane Goldberger

My Commission Expires: 10/15/05