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BRANDYWINE

BOOK

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DECLARATION OF COVENANTS AND RESTRICTIONS

BRANDYWINE, UNIT 1 AND FUTURE UNITS,

029208

AS FILED OF RECORD IN VOLUSIA COUNTY, FLORIDA, BY THE DEVELOPER

AND

NOTICE OF PROVISIONS OF THE BRANDYWINE HOMEOWNERS

ASSOCIATION, INC.

MAY 26 10 21 AM '76

THIS DECLARATION, made this 26th day of May

FILED FOR RECORD
RECORD VERIFIED
J. Smith
CLERK OF DIST. CT.
VOLUSIA CO. FLA.
1976, MAY 26

FIRST OF DELAND CORPORATION, a Florida Corporation, with its principal place of business at 345 North Woodland Boulevard, DeLand, Volusia County, Florida. (hereinafter sometimes referred to as the "Developer");

W I T N E S S E T H:

WHEREAS, the Developer is the record owner in fee simple absolute of certain real property located in Volusia County, Florida, and more particularly described in the "Schedule of Legal Description" which is attached hereto as Exhibit "A" and made a part hereof; and,

WHEREAS, in accordance with the applicable provisions of State law and local ordinance, the Developer caused the above described real property to be subdivided into a platted subdivision known as Brandywine, Unit 1, and a subdivision plat thereof duly filed in the Office of Clerk of the Circuit Court, Volusia County, Florida, on March 23, 1976, and recorded in Map Book 34 at pages 66 and 67 of the Public Records of Volusia County, Florida; and,

WHEREAS, it is the present intention of the Developer to develop Brandywine, Unit 1, as a low density, high quality, residential subdivision; and,

WHEREAS, the Developer has subdivided Brandywine, Unit 1, into 53 initial dwelling units and intends to cause further units of contiguous lands owned by the Developer to be subdivided in the future as additional units of Brandywine; and,

WHEREAS, there is a need to specify, make and impose covenants, and to grant necessary easements for the proper use of the subdivision, and any additional units thereof, and to provide for an effective administration of the common areas in the subdivision, and any additional units thereof; and,

WHEREAS, the Developer has arranged to be incorporated in Florida a non-profit corporation known as Brandywine Homeowners Association, Inc. which is being formed to manage the common areas, collect assessments, and generally provide for the orderly enjoyment of Brandywine, Unit 1 and any future units of Brandywine hereafter filed by Developer.

NOW THEREFORE, this Declaration is made, filed and recorded by the Developer so that from the effective date hereof, the real property described in the Schedule of Legal Description which is attached hereto as Exhibit "A", is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied, and used subject to the restrictions, conditions, easements, charges, burdens, assessments, affirmative obligations, and liens (all hereinafter sometimes referred to as the "covenants") hereinafter set forth. This Declaration shall become effective for Brandywine, Unit 1 on the date and at the time it is filed and recorded in the Public Records of Volusia County, Florida, and shall become effective as to additional units of Brandywine on the date and at the time the respective plats of said additional units are recorded in the Public Records of Volusia County, Florida.

ARTICLE I

DEFINITIONS AND DESCRIPTION OF PROPERTY

Section 1.1 Definitions - The following words and terms when used in this Declaration and any supplemental declaration, unless the context shall clearly indicate otherwise, shall have the following meanings:

- (a) "Association" shall mean and refer to the Brandywine Homeowners Association, Inc., a Florida Corporation not for profit, and its successors and assigns, the membership of which will be owners of "Dwelling units" or "lots", not only of Brandywine, Unit 1, but also future units of Brandywine filed of record in Volusia County, Florida, by the Developer.
- (b) "Developer" shall mean and refer to First of DeLand Corporation, a Florida Corporation, its successors and assigns.
- (c) "Common Areas" shall mean and refer to those tracts of land, described in Section 1.2 hereof, together with any improvements

thereon which are conveyed or leased under a long term lease to the Association or platted on subdivision maps and designated in the Deed, recorded plat or lease as "common areas". The term "common areas" shall also include any tangible personal property acquired by the Association if such property is designated as such by the Association. All common areas are to be devoted to and intended for the common use and enjoyment of the residential owners of property included in Brandywine, Unit 1 and additional units thereof, their families, guests of owners, persons occupying dwelling units on a house guest or tenant basis, and visiting members of the general public (but only to the extent authorized by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by said Association; provided, however, that any land or other property which is leased to the Association for use as common areas or common property, shall lose its character upon the expiration of the lease.

- (d) "Residential Lot" or "Lot" shall mean any unimproved parcel of land located within Brandywine, Unit 1 and subsequent recorded units bearing a lot or unit number upon the plat of said subdivision or combinations of such parcels or portions thereof intended to be used as a single residential lot. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are substantially complete or are subject to ad valorem tax as improved property.
- (e) "Dwelling Unit" shall mean an improved numbered parcel of ground as indicated on the recorded plat, or combinations of such parcels or portions thereof used as a single residential lot.
- (f) "Subdivision" shall mean Brandywine, Unit 1 as recorded in Map Book 34, at pages 66 and 67 of the Public Records of Volusia County, Florida and all subsequent recorded units thereto.
- (g) "Architectural Review Board" shall mean a committee appointed by the Board of Directors of First of DeLand Corporation or its successors in accordance with Section 2.3.
- (h) "Pedestrian/Bicycle Easement" shall mean and refer to these tracts of land described in Section 1.2 hereof, together with any improvements for the use and common enjoyment of the residents, as access and egress areas for pedestrians and bicyclists only.

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No motorized vehicles shall be allowed in these areas other than for maintenance of the areas.

Section 1.2 Common Areas and Pedestrian/Bicycle Easements - The Common Area and Pedestrian/Bicycle Easement property is described as follows:

Those tracts of land designated on the plat as "common area" or "pedestrian/bicycle easements" all as recorded in Map Book 34, pages 66 and 67 in the public records of Volusia County, Florida as Brandywine, Unit 1. Additional common areas or pedestrian/bicycle easements shall be described by exhibit upon recording of future plats.

ARTICLE II

RESTRICTIVE COVENANTS

Section 2.1 - No lot shall be used for any purpose except residential. No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family residence (which shall not exceed 35 feet in height) and an attached or unattached garage sufficient for not less than two full sized automobiles. Nothing herein contained shall prohibit the construction of single-family cluster homes, patio homes or condominiums in future units of Brandywine as shall be used for single-family dwelling units.

Section 2.2 - No building or structure shall be erected on, placed upon, have its exterior altered, or be permitted to remain on any lot unless and until the owner submits to the Architectural Review Board, hereinafter provided for, the floor plan, elevation, site clearing plan, and abbreviated specifications (including exterior materials and colors) and such plans have been reviewed and approved by the Architectural Review Board, as hereinafter provided. The Architectural Review Board (hereinafter referred to as "ARB") shall review the proposed building or structure (including plans and specifications for same) as to the materials, the harmony of the external design and location of the building or structure with respect to topography, vegetation and the finished grade and elevation of the lot, and any other relevant considerations which are based on acceptable standards of planning, zoning, and construction - including considerations based exclusively

on aesthetic factors, compatible with other structures and the general area, these restrictions and the "guidelines" furnished by the developer to persons building in the area.

Section 2.3 - The ARB shall be composed of not less than three (3) nor more than five (5) persons. Until control of said Board is released to the Association as hereinafter provided, the members of the ARB shall be appointed for staggered, three-year terms by the Board of Directors of First of DeLand Corporation, a Florida Corporation. In the event of death, resignation, inability to serve or other vacancy in office of any member of the ARB, the Board of Directors of First of DeLand Corporation shall promptly appoint a successor member who shall serve for the duration of the unexpired term of the member replaced. The membership, rules of procedure and duties of the committee shall be prescribed by and, from time to time, changed or modified by the Board of Directors of First of DeLand Corporation. When the Board of Directors of First of DeLand Corporation, in their exclusive determination, deem the circumstances appropriate, they shall cause control of the ARB to be turned over to the Board of Directors of The Brandywine Homeowners Association, Inc. The Association shall then have the same control thereof as the Board of Directors of First of DeLand Corporation and shall appoint the membership of the ARB which shall assume the duties and perform the functions as set forth in this Declaration.

Section 2.4 - The ARB shall indicate its approval or disapproval of the matters required in Section 2.2 hereof to be acted upon by them, by a written instrument filed with the Secretary of the Board of Directors of First of DeLand Corporation or the Secretary of the Board of Directors of the Brandywine Homeowners Association, Inc. if control of the ARB has been released to the Association, and served personally or by certified mail upon all interested parties, identifying the proposed building or structure and the reasons for any disapproval. The decision of the ARB may be appealed in writing within ten (10) days of the receipt of the decision to the Board of Directors of First of DeLand Corporation or the Board of Directors of The Brandywine Homeowners Association, if control of the ARB has been released to the Association, and the said Board of Directors

shall take action on such appeal and either fully or partially approve or disapprove the decision of the ARB within two weeks after the receipt of said appeal to the Board of Directors, and the action of the Board of Directors shall be final. If there is no appeal, then the decision of the ARB shall be final. If the ARB fails or refuses to approve or disapprove the aforesaid matters within thirty (30) days after the application or request for action is made and after a floor plan, elevation, site clearing plan and abbreviated specifications (including exterior material and colors) have been received by the Board, then it shall be conclusively presumed, as to all owners and interested persons, that the plans as submitted have been approved by the ARB if there is neither an ARB nor a Brandywine Homeowners Association in existence, said approval shall not be required.

Section 2.5 - All front, side and rear setback lot line construction restrictions in the subdivision shall be as prescribed for single family residences Community Development Plan Resolution, approved February 11, 1975 by the West Volusia Zoning Commission, Volusia County, Florida. No residence shall contain less than 1,200 square feet of enclosed living area, nor shall any residence contain less than 1,700 square feet of total area covered by roof (including attached porticos, garages, porches). All garages shall be of sufficient size so as to accommodate at least two regular-size automobiles. No unenclosed garages or carports shall be permitted.

Section 2.6 - No structure of a temporary nature or character, including but not limited to, a trailer, house trailer, mobile home, camper, tent, shack, treehouse, garage, barn, or other similar structure or vehicle, shall be used or permitted to remain on any lot as a storage facility or residence, or other living quarters whether temporary or permanent. Nothing herein contained shall prevent the construction of a permanent storage facility which has been approved by the ARB in accordance with procedures set forth herein.

Section 2.7 - No automobile, truck, boat, boat and trailer, trailer, house trailer, mobile home, camper, or other similar vehicle shall be parked on the street (including the right-of-way thereof) overnight or for a continuous period of time in excess of ten consecutive hours.

Section 2.8 - No boat, boat and trailer, camper, motorized home, house trailer or other trailer shall be parked for any period of time in excess of 48 consecutive hours or stored or otherwise permitted to remain on any lot except in an approved boathouse, enclosure or garage at the residence. No automobile, truck or other commercial vehicle which contains lettering or advertising thereon or which is identified with a business or commercial activity, shall be parked (for any period of time) or stored or otherwise permitted to remain on any lot except in a garage at the residence.

Section 2.9 - No livestock, poultry, or animals of any kind or size shall be raised, bred, or kept on any lot; provided, however, that dogs, cats, or other domesticated household pets may be raised and kept provided such pets are not kept, bred or maintained for any commercial purposes. Said pets shall be kept and maintained in such a manner that they do not constitute an annoyance or nuisance to residents of the area.

Section 2.10 - No sign of any kind shall be erected, permitted to remain on or displayed to public view on or from any lot, except an approved sign giving the name of the contractor and owner during construction and giving the name of the occupant of the residence located on said lot or one approved sign advertising the premises for sale or rent. All signs shall be approved by the ARB.

Section 2.11 - No noxious or offensive activity shall be carried on or suffered to exist upon any lot, nor shall anything be done or permitted to exist on any lot that may be or may eminently become an annoyance or private or public nuisance.

Section 2.12 - No lot shall be used or maintained for dumping or discharge of rubbish, trash, garbage, or other solid waste material. All lots shall be kept free of the accumulation of rubbish, trash, garbage, other solid waste materials, and unsightly weeds and underbrush.

Section 2.13 - Restrictions regarding the fence, wall, hedge or shrub planting on corner lots at intersections shall be as prescribed, from time to time, in the applicable provision of the Zoning Ordinance of Volusia County, Florida.

Section 2.14 - No wall, fence, or hedge over six feet in height shall be erected, placed, altered, maintained, or permitted to remain on any lot unless and until the height, type and location thereof have been approved by the ARB in accordance with the procedure and criteria set forth in Section 2.2 hereof.

Section 2.15 - No discharge, overflow, or accumulation of sewage effluent from any drain field, mobile home storage tank, or other similar container shall be permitted to exist on any lot. No private sewage disposal system shall be permitted on any residential lot.

Section 2.16 - No driveway shall be constructed, maintained, altered, or permitted to exist on any lot if the driveway obstructs or would obstruct or significantly impede the flow of surface drainage in the area adjacent to the lot or in the street right-of-way or swale area adjoining or abutting the lot.

Section 2.17 - The system from primary utility lines, including but not limited to water, sewer, electric, telephone and cable TV (if any), shall all be underground and the cost of the installation and maintenance thereof shall be at the expense of the lot owner.

Section 2.18 - Trees situated on the lot, having a diameter of six inches or more (measured four feet from ground level) may not be removed without the prior approval of the ARB. All requests for approval of tree removal shall be submitted to the ARB along with a plan specifically locating such tree(s).

Section 2.19 - Anyone violating the provisions of Section 2.18 may be required to replace such trees with trees of like size and condition within thirty days after demand by the ARB. If the owner fails or refuses to replace the trees as demanded, the ARB may cause suitable replacements to be planted and the cost thereof shall be a lien against

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the lot. The owner grants to the ARB, its agents, and employees an easement of ingress and egress over and across said lot to enable it to accomplish compliance with Section 2.18 and this Section.

Section 2.20 - No driveway access for ingress or egress shall be permitted on to Brandywine Road or Spring Garden Avenue. All driveways shall abut the adjoining residential street as shall be approved by the ARB.

Section 2.21 - All structures started on "standard" lots shall be completed within six (6) months of the beginning of construction; all structures started on "estate" lots shall be completed within one (1) year of the beginning of construction.

ARTICLE III

ASSOCIATION

Section 3.1 - To effectively and efficiently provide for the administration of the common areas by the owners of lots or dwelling units in Brandywine, Unit 1, and future units hereafter filed by the Developer, a non-profit corporation (known and designated as the Brandywine Homeowners Association, Inc., a non-profit Florida Corporation) is being created. The Association shall operate and manage the common areas, assist in the enforcement of the restrictions and covenants contained herein, and undertake and perform all acts and duties necessary and incident to such duties, all in accordance with the provisions of this Declaration and the Articles of Incorporation and By-Laws of said Association. The Articles of Incorporation and By-Laws of the Association are expressly made a part hereof by reference thereto and are available for examination at either the office of the developer or the office of the Brandywine Homeowners Association.

Section 3.2 - The owner of each lot or dwelling unit within Brandywine, Unit 1, and future units of Brandywine filed in the Public Records of Volusia County, Florida, by the Developer, shall automatically become members of the Association upon his, her or their acquisition of an ownership interest in title to any lot or dwelling units. The

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membership of such owner shall terminate automatically at the time that such person divests himself or is divested of such ownership interest or title to such lot or dwelling unit, regardless of the means by which such ownership may have been divested.

Section 3.3 - No person, corporation, or other entity holding any liens, mortgage or other encumbrance upon any lot or dwelling unit shall be entitled, by virtue of such lien, mortgage, or other encumbrance to membership in the Association or to any of the rights and privileges, or be charged with any of the duties of such membership; provided, however, that nothing contained herein shall be construed as prohibiting membership in the Association of a person, corporation, or other entity which acquires title to a lot or dwelling unit either by foreclosure or by voluntary conveyance from its mortgagor or his successor or assign.

Section 3.4 - In the administration, operation and management of the common areas and pedestrian/bicycle pathways and the enforcement of these covenants and restrictions, the Association shall have and is hereby granted full power and authority to enforce all the provisions of this Declaration, to levy and collect assessments in accordance herewith, and to adopt, promulgate, and enforce such rules and regulations governing the use and enjoyment of the common areas and pedestrian/bicycle pathways and the administration of the aforesaid covenants and restrictions as the Board of Directors of the Association may from time to time deem appropriate and in the best interests of the Association.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 4.1 - Creation of Lien and Personal Obligation. Each owner of each and every lot and dwelling unit shall by acceptance of a deed or other instrument of conveyance therefore, whether or not it shall be so expressed in any such deed or instrument, be deemed to have covenanted and agreed to all the terms, covenants, conditions, restrictions, and other provisions of this Declaration and to have agreed to promptly pay to the Association or its successors or assigns

the following:

- (a) All annual assessments or charges and,
- (b) All special assessments or charges for the purposes set forth in Section 4.2 of this article. Such assessments or charges shall be fixed, established, levied, and collected from time to time as hereinafter provided. The annual and special assessments (together with such interest thereon and the cost of collection including reasonable attorney's fees as hereinafter provided) shall be a charge and continuing lien on the real property and improvements thereon against which such assessment is made. Each such assessment (together with such interest thereon and the cost of collection including reasonable attorney's fees) shall also be the personal obligation of the person who was the "owner" of such real property at the time when the assessment first became due and payable. In the case of co-ownership of a residential lot or dwelling unit such co-owners shall be jointly and severally liable for the entire amount of the assessment and the aforesaid interest, collection costs, and attorney's fees.

Section 4.2 - Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement, and operation of the Common Areas and Properties designated by easement as pedestrian or bicycle pathways, and to provide services which the Association is authorized to provide including, but not limited to, the payment of taxes (including special district taxes, i.e. street lights), governmental assessments, insurance premiums, construction of improvements, repairs, replacements, and to acquire additions to the Common Areas and Properties, payment of the cost to acquire labor, services, equipment, materials, management, and supervision, necessary to carry out the authorized functions of the Association, and for the payment of principal, interest and other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized functions, including the payment of mortgages if any covering the Common Area and Property at the time of conveyance to the Association. No initiation fee may be charged to members of the Association as a

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pre-condition to use of such facilities. The Association shall not be bound in setting assessments in subsequent years by the amount of the assessments set in earlier years. Notwithstanding any of the provisions of this Article, in no event shall the assessments and other revenues collected by the Association exceed its expenses and reasonable reserves to an extent which would violate the Association's non-profit status.

Section 4.3 - The initial regular monthly assessment is hereby set at a maximum of \$10.00 per lot or dwelling unit. Lots or dwelling units owned by Developer shall not be subject to assessments, either regular or special. The developer shall determine the amount of the assessment until the owners, excluding the Developer, have 75% of the votes in the Association or December 31, 1981, whichever event occurs first, but Developer agrees that during such period the assesement shall not exceed \$15.00 per month per lot or dwelling unit. After said event has occurred, regular monthly assessments shall be determined at the annual meeting of the directors of the Association. The regular assessment may be increased beyond that set at the annual meeting upon approval by 75% of the voting members in attendance in person or by proxy at any regular or special meeting of the Association, but only after notice of the recommendation is given to all members at least ten (10) days prior to the date of said meeting; provided, however, that nothing herein shall be construed to preclude the Board of Directors of the Association from fixing and levying an emergency assessment not to exceed one month's regular assessment, which emergency assessment may be levied only after ten (10) days notice to the membership.

Anything in the preceeding paragraph to the contrary notwithstanding, for one year after the date of conveyance of a lot by the Developer to an owner, the owner shall not be obligated to pay the regular monthly assessment. One year after the date of conveyance by the Developer, the owner shall commence paying the regular monthly assessments then in force and effect.

Section 4.4 - Nothing herein shall prohibit the owner of a dwelling unit from leasing or renting such dwelling unit. In that event, however, the lessor may deliver his written proxy to the tenant for

one vote and permit the tenant to exercise the vote as he sees fit. Such proxy shall be in full force and effect so long as it has not been revoked in writing and delivered to the Association, and the tenant has legal possession of the dwelling unit.

Section 4.5 - Assessments which are not paid on or before the date the same shall become due shall be delinquent, and each delinquent assessment shall bear interest at ten percent (10%) per annum until it is paid in full. In addition to the accrual of interest, when an assessment becomes delinquent in payment, the Association may file a claim of lien to perfect the lien of such assessment as against third persons, against the dwelling unit and other property of the owner(s) who defaulted in the payment of such assessment. There shall be no exemption from the payment of such assessment except as otherwise provided herein. There shall be no exemption from the payment of any assessment or installment thereof by waiver of the use of the common areas by abandonment of the lot or dwelling unit, by extended absence from the subdivision, or by or for any other reason, except as provided in Section 4.3.

Section 4.6 - The Association, upon written request of any owner, shall furnish to a prospective purchaser or prospective mortgagee or other authorized person a statement of the current status of the assessments on such owner's lot or dwelling unit. When executed by the Treasurer of the Association, the statement shall be binding on the Association, and any purchaser or mortgagee may rely upon such statement as an accurate statement of the status of assessments.

Section 4.7 - All revenue collected by the Association shall be segregated, held and used as the separate property of the Association, and such revenue may be applied by the Association, at the discretion of the Board of Directors, towards the payment of any expenses of operation and maintenance of the common areas. Revenue collected by the Association from an owner of a lot or dwelling unit may be co-mingled with monies collected from other owners.

Section 4.8 - Although all funds and other assets of the Association, and any profits derived therefrom, shall be held for the benefit of the members of the Association, no member of said Association shall have the right to assign, encumber, hypothecate, pledge, or in any manner transfer his membership or interest in or to said funds and assets, except as an appurtenance to his lot or dwelling unit. When an owner of a lot or dwelling unit shall cease to be a member of the Association by reason of the divestment by him of his ownership of said lot or dwelling unit, by whatever means that occurs, the Association shall not be required to account to said owner for any share of the funds or assets of the Association.

Section 4.9 - Recognizing that proper management and operation of the common area and property (including improvements thereto) result in benefit to all members of the Association, the Association is hereby granted the right of lien upon all real property within Brandywine, Unit 1 and future units hereafter filed by the Developer, and the present and future interests of each member of the Association in the common area and property and improvements thereto, to secure the prompt payment of each and all assessments made and levied in accordance with this Declaration and each owner shall be liable for, and this lien shall secure, the full amount of said assessment, and the costs and expenses, including attorney's fees, which may be incurred by the Association in enforcing this lien or the provisions of this Declaration.

Section 4.10 - The lien herein established may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida. The lien granted herein shall also secure such payment of or advances for taxes and payments on superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to protect its interests, and the Association shall be entitled to interest computed on the basis of advances made from time to time at the highest legal rate of interest on all such advances.

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Section 4.11 - All persons, firms, corporations, and other entities, which shall acquire, by whatever means, any interest in the ownership of any lot or dwelling unit, or who may be given or who may acquire a mortgage, lien or other encumbrance of a lot or dwelling unit are hereby placed on notice of the lien rights granted to the Association under this Declaration, and all such persons, firms, corporations, and other entities shall acquire their rights, title and interest in and to said lot or dwelling unit expressly subject to the lien rights provided herein.

Section 4.12 - Any liens created pursuant to this Declaration shall be effective from and after the recording in the Public Records of Volusia County, Florida of a "claim of lien" stating the description of the property encumbered by the lien, the name of the record owner of the property, the amounts due and the date when the same became due. The lien shall continue in effect until all sums secured by the lien have been fully paid. The claim of lien may include assessments which are due and payable when the claim is made and recorded, plus interest, collection costs, attorney's fees, and advances to pay taxes and prior encumbrances and interest thereon, all as provided herein. The claim of lien shall be signed and verified by the President or Vice President of the Association. When full payment of all sums secured by such lien is made, the claim of lien shall be satisfied of record by the President or Vice President of the Association. The claim of lien filed by the Association shall be subordinate to the lien or any mortgage or any claim of lien if the said mortgage or claim of liens is recorded prior to the Association's claim of lien.

ARTICLE V

AMENDMENT AND TERMINATION

The Developer hereby reserves the right to amend, modify, rescind or terminate such parts or all of these restrictions and this document as it in its sole discretion deems necessary or desirable so long as it is (a) the sole owner of the property to which these restrictions apply, or in the alternative, (b) such amendment or modification does

not substantially change the character, nature, or general scheme of development of Brandywine, Unit 1 and future units hereafter filed by the Developer.

In addition to the manner of amendment set forth in the preceeding paragraph, the record owners of seventy-five percent (75%) of lots or dwelling units in Brandywine, Unit 1 and of any planned lots or dwelling units in future units of Brandywine Subdivision proposed by the Developer (including the Developer) may amend or modify rescind or terminate such provisions of this Document as they deem necessary or desirable.

In such event, the President and Secretary of the Association shall execute a certificate under oath reciting that the amendment was adopted at a meeting duly called and at which a quorum was present in person (or by proxy) and that at least seventy-five percent (75%) of those entitled to cast a vote approved the amendment. Such certificate, together with the amendment adopted, shall be filed in the Public Records of Volusia County, Florida. It shall not be necessary for the record owners to join in any document to effectuate such amendment.

ARTICLE VI

USE OF COMMON PROPERTY

The common areas and pedestrian/bicycle easements as hereinabove specifically described, or hereafter designated by developer, shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the owners of lots and dwelling units lying within Brandywine, Unit 1, and as herein above described, and any future unit of Brandywine Subdivision hereinafter filed in the Public Records of Volusia County, Florida, by First of DeLand Corporation, for the use of such owners and the use of their immediate families, guest, lessees, invitees, and others similarly situated, for all proper and normal residential purposes, for the furnishing of services and facilities for which the same are reasonably intended, and for the quiet enjoyment of said owners.

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By accepting any instrument of conveyance or by taking possession or occupancy of any dwelling unit or lot in any existing unit of Brandywine, Unit 1 or any future unit of Brandywine Subdivision hereafter filed in the Public Records of Volusia County, Florida, by First of DeLand Corporation, each such person does agree to abide by and comply with all rules and regulations promulgated by the Association now in effect or which may hereafter be adopted, it being understood that the compliance with such rules and regulations is necessary for the orderly enjoyment of all common areas and recreational facilities and pedestrian/bicycle facilities now existing or which may hereafter be designated by First of DeLand Corporation.

ARTICLE VII

COVENANTS AGAINST PARTITION

AND

SEPARATE TRANSFER OF MEMBERSHIP RIGHTS

Recognizing that the full use and enjoyment of any lot or dwelling unit within Brandywine, Unit 1 and any future unit of Brandywine Subdivision hereinafter filed in the Public Records of Volusia County, Florida, by First of DeLand Corporation, is dependent upon the use and enjoyment of the common areas and the improvements made thereto, and that it is in the interests of all of the owners that the membership rights in the common areas be retained by the owners of lots and dwelling units, it is therefore declared that the membership rights of any owner in the common area shall remain undivided, and such owners shall have no right at law or equity to seek partition or severance of such membership rights in the common areas. In addition, there shall exist no right to transfer the membership rights in the common areas in any other manner than as an appurtenance to and in the same transaction with, a transfer of title to or lease of the lot or dwelling unit in Brandywine, Unit 1 and any future unit of Brandywine Subdivision hereinafter filed in the Public Records of Volusia County, Florida, by First of DeLand Corporation, provided, however, that nothing herein shall preclude a conveyance by the Developer herein of any undivided interest in the common areas to the owners of lots or dwelling units within the subdivision for the purpose of effectuating the intent of this Declaration. Any conveyance

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or transfer of a lot or dwelling unit in Brandywine, Unit 1 and any future units of Brandywine Subdivision shall include the membership rights in the common areas appurtenant to such unit whether or not such membership rights shall have been described or referred to in the deed by which said lot or unit is conveyed.

ARTICLE VIII

CONVENANTS TO RUN WITH LAND

The restrictions and burdens imposed by the provisions and covenants of this Declaration shall constitute covenants running with the land, and each shall constitute an equitable servitude upon the owner of each lot and dwelling unit and any appurtenant undivided interest in the common areas and upon the heirs, personal representatives, successors, and assigns of each owner. This Declaration shall be binding and in full force and effect for a period of 30 years from the date this Declaration is recorded, after which time this declaration shall be automatically extended for successive ten (10) year periods, unless an instrument signed by seventy-five percent (75%) of the then recorded owners of the lots or dwelling units in Brandywine, Unit 1, and of any future unit of Brandywine Subdivision hereinafter filed in the Public Records of Volusia County, Florida, is recorded containing the agreement of the said owners with respect to the alteration, change, modification or repeal, in whole or part, of the provisions of this Declaration.

ARTICLE IX

OPTIONS PRIOR TO TRANSFER OF ASSOCIATION RIGHTS

In each instance where this document grants to the Brandywine Homeowners Association, Inc., certain rights, privileges, authority or options, said rights, privileges, authority or options shall be exercised exclusively by the Developer in the same manner as if the Developer had been named in each such instance instead of the Association until such time as the Developer is the owner of less than twenty-five percent (25%) of the lots or dwelling units platted in Brandywine, Unit 1 and platted in subsequent plats of future units filed in the

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Public Records of Volusia County, Florida, and planned or proposed to be platted in additional units of contiguous land proposed to be so filed. Provided, however, the Developer, in its sole discretion, from time to time, prior to the date when it owns less than said twenty-five percent (25%), may partially or fully relinquish any or all of said rights, privileges, authority or options in favor of said Association to be thereafter exercised exclusively by said Association.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal the day and year first above written.

WITNESSES:

John B. Blalock, Jr.
Jane E. Hunt

FIRST OF DELAND CORPORATION

By: Wayne G. Sanborn

Attest: Robert T. Northridge

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 26th day of May, 1976 by Wayne G. Sanborn and Robert T. Northridge president and secretary, respectively, of FIRST OF DELAND CORPORATION, a Florida Corporation, on behalf of the Corporation.

Jane E. Hunt
Notary Public, State of Florida
My Commission Expires:

Notary Public, State of Florida
My Commission Expires Jan. 22, 1977
Bonded by American Fire & Casualty Co.

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