MASTER COVENANTS
FOR
EAGLE CREEK

THIS DECLARATION OF ASTER COVENANTS is made this 18th day of January, 1986, by MAXXAM Properties Inc., a New York corporation, which declares hereby that "The Properties" as described in Article II hereof are and 'shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Architectural Control Committee" or "Committee" shall mean and refer to the committee of the Community Association responsible for performing the architectural review and approval functions set forth in Article VIII of this Declaration.

(b) "Assessments" shall mean and refer to the various forms of payment to the Association which are required to be made by Owners, as more particularly defined in Article VI, Section 1 of this Declaration.

(c) "Association" or "Community Association" shall mean and refer to EAGLE CREEK COMMUNITY ASSOCIATION, INC., a Florida corporation not for profit, which is (or is to be) incorporated.

(d) "Board" or "Board of Directors" shall mean and refer to the duly constituted Board of Directors of the Association.

(e) "Common Areas" shall mean and refer to the land within Eagle Creek which is not (i) a Lot, (ii) common elements of a condominium, (iii) common areas of a Neighborhood Association, (iv) dedicated to the public or (v) dedicated to or owned by a governmental or quasi-governmental body or public or private utility (including cable television) company. As used herein, "Common Areas" shall also include M. all improvements to the aforesaid land including, without limitation, private roadways and signage located thereon or adjacent thereto, the main gatehouse for Eagle Creek, entry features, swales and berms, structures, street lights, pedestrian paths and irrigation systems (except to the extent owned or operated by the Country Club), (ii) the perimeter fence for Eagle Creek, (iii) lakes and other water bodies (even if controlled or maintained by the Country Club), (iv) special 'grading, 'landscaping, signage or improvements of common benefit to Eagle Creek abutting but not located within the land constituting the Common Areas, and (v) Common Areas declared as such in a Supplemental Declaration. It is intended that the main roadway and abutting landscaped areas within Eagle Creek, and all street lighting and common irrigation systems (wherever located) shall be a part of the Common Areas, but that the roadways and abutting land between the roadways and the adjoining Lots within each area administered by a Neighborhood Association.
be a common area of that Association. In no event shall public or private utility installations or systems located within the Common Area be deemed a part thereof unless same are by the Community Association.

(E) "Declarant" shall mean and refer to MAXXAM Properties Inc., a New York corporation, its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned. Declarant may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Development. In the event of such a partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of Declarant specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

(g) "Country Club" shall mean and refer to Eagle Creek Country Club, Inc., a Florida corporation (being the entity operating the country club located within Eagle Creek) and its successors and assigns and, where the context so requires, the portion of Eagle Creek owned and/or operated by the Country Club (such portion being, for the most part, the "Golf Course" or "GC" tracts shown on the Master Plan for Eagle Creek, as amended from time to time.

(h) "Eagle Creek" shall mean and refer to all property legally described in Exhibit A attached to this Declaration which is intended to be made part of a common scheme of development in the manner specified hereunder.

(i) "Lot" shall mean and refer to an individual parcel of land within Eagle Creek which is shown as an individual lot on the various site plans (or similar plans) adopted by the Declarant from time to time and, after the conveyance thereof by Declarant to an Owner other than the Declarant or the Country Club, the lot legally described in the deed of such conveyance. In the case of a condominium hereafter made subject to this Declaration, if any, the "Lots" therein shall be the individual condominium units thereof and not the parcel(s) of real property on which the condominium is constructed.

(j) "Member" shall mean and refer to all those Owners and others who are Members of the Community Association as hereinafter provided (including, without limitation, the Declarant and the Country Club).

(k) "Member's Permittees" shall mean and refer to those persons described in Article IX of this Declaration to whom certain privileges hereunder are afforded.

(l) "Neighborhood Association" shall mean any association created or to be created to administer specific portions of Eagle Creek and common areas or elements lying within such portions pursuant to a declaration of condominium or declaration of covenants and restrictions affecting such portions.

(m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties.

(n) "The Properties" and "Eagle Creek" shall mean and refer to all such existing properties, and additions thereto, as are now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions.
hereof in accordance with the procedures set forth in this Declaration.

(o) "Supplemental Declaration" shall mean and refer to an instrument executed by the Declarant (or the Community Association, if permitted by Article II, Section 4 hereof) and recorded in the Public Records for the purpose of adding to The Properties, withdrawing any portion(s) thereof from the effect of this Declaration or designating a portion of The Properties as a Common Area hereunder or a common area of a Neighborhood Association.

(p) "Unit" shall mean and refer to any dwelling unit constructed on a Lot or any condominium dwelling unit in any condominium building that may be erected on any parcel of land within The Properties, which land is designated by Declarant by recorded instrument to be subject to this Declaration (and to the extent Declarant is not the Owner thereof, then by Declarant joined by the Owner thereof).

All references in this instrument to recording data refer to the Public Records of Collier County, Florida.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION:
SUPPLEMENTAL DECLARATIONS

Section 1. Legal Description. The initial real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Collier County, Florida, and is more particularly described in Exhibit A attached hereto and shall initially constitute The Properties. To the extent all or any portion thereof is not owned by the Declarant, the respective Owners thereof shall have joined in this Declaration for the purpose of subjecting that portion of The Properties owned by each of them to this Declaration.

Section 2. Supplements. Declarant may from time to time, bring other land in and outside Eagle Creek (including, without limitation, all or portions of the Country Club, as provided in Article V hereof) under the provisions of this Declaration by recorded supplemental declaration (which shall not require the consent of then existing Owners or the Community Association) and thereby add to The Properties. It is the present intention of the Declarant that all real property within the general, Eagle Creek development owned by Declarant or its affiliates shall eventually be made a part of The Properties. Nothing in this Declaration shall, however, obligate Declarant to add to the initial portion of The Properties or to develop future portions of Eagle Creek under a common scheme, nor to prohibit Declarant from rezoning and changing the development plans with respect to such future portions. All Owners, by acceptance of a deed to or other conveyance of their Lots, thereby automatically consent to any such rezoning, change, addition or deletion thereafter made by the Declarant and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general effect of this provision). With respect to property, not owned by the Declarant and its affiliates, the Declarant shall have the"right to impose (and retain for its own account) fees for the privilege of allowing such other property to be made subject to this Declaration as aforesaid.
Section 3. Withdrawal. Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties then owned by the Declarant or its affiliates or the association from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for Eagle Creek desired to be effected by the Declarant; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development of Eagle Creek.

Section 4. Common Areas. In the event of any doubt, conflict or dispute as to whether any portion of Eagle Creek is or is not a Common Area under this Declaration or a common area of a Neighborhood Association, the Declarant may, without the consent of the Community Association or then existing Owners, record in the Public Records a Supplemental Declaration resolving such issue and such Supplemental Declaration shall be dispositive and binding. After the Declarant no longer owns any portion of Eagle Creek, the Community Association may, without the consent of then existing Owners, record the aforesaid Supplemental Declaration, which shall have the same dispositive and binding effect. Notwithstanding the foregoing, no Supplemental Declaration may change the common elements of a condominium.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is an Owner shall be a member of the Community Association. Notwithstanding the foregoing, any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a Member of the Community Association.

Section 2. Voting Rights. The Community Association shall have such classes of Voting Members, who shall cast such votes, as are provided in the Articles of Incorporation of the Association.

Section 3. General Matters. When reference is made in this Declaration, or in the Articles, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of their respective Voting Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members or Voting Members themselves or their Lots.

ARTICLE IV
COMMON AREAS AND CERTAIN EASEMENTS

Section 1. Ownership. The Conson Areas are hereby dedicated to the joint and several use, in common, of the Declarant, the Country Club (as hereinafter provided) and the owners of all Lots that may from time to time constitute part of The Properties, in the manner specified in this Declaration, and all of the Declarant's, the Country Club's and such Owners' respective lessees, guests and invitees, all as provided and regulated herein or otherwise by the Community Association (subject to applicable exemptions therefrom in favor of Declarant and the Country Club). When all improvements proposed by Declarant to be constructed within The Properties have been completed and conveyed to the Owners, or sooner at Declarant's option exercisable from
time to time as to any portion or all of the Common Areas, the Declarant, or its applicable assign, shall convey and transfer (or cause to be conveyed, and transferred) the record fee simple title to the Common Areas (except those areas lying within dedicated areas or not capable of being legally described) to the Community Association, and the Community Association shall accept such conveyance, holding title for the owners and Members and the Country Club as stated in the preceding sentence. Beginning upon the date these covenants are recorded, the Community Association shall be responsible for the maintenance of all Common Areas (whether or not conveyed or to be conveyed to the Community Association) in a continuous and satisfactory manner without cost to the general taxpayers of Collier County. It is intended that all real estate taxes assessed against that portion of the Common Areas owned or to be owned by the Community Association shall be (or have been, based upon the purchase prices of the Lots one Units already having taken into account their proportionate shares of values of the Common Areas) proportionally assessed against and payable as part of the taxes of the Lots within The Properties. However, in the event that, notwithstanding the Foregoing, any such taxes are assessed directly against the Common Areas, the Community Association shall be responsible for the payment (subject to protest or appeal before or after payment) of the same, including taxes on any improvements and any personal property thereon accruing from and after the date these covenants are recorded, and such taxes shall be prorated between Declarant (or the then Declarant-affiliated owner thereof) and the Community Association as of the date of such recordation.

Declarant and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of The Properties (including, without limitation, Lots and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere in The Properties that Declarant and its affiliates, as appropriate, elect to effect, and Declarant and its affiliates shall have the right to use the Common Areas for sales, displays and signs during the period of construction and sale of any of the land owned by Declarant and its affiliates within Eagle Creek. All of the foregoing shall apply notwithstanding the fact that the Community Association holds title to the applicable Common Areas as of any relevant time.

Section 2. Easements. Each Member of the Community Association, and each Member's Permittee, shall have a permanent and perpetual non-exclusive easement for the use and enjoyment of all Common Areas in common with all other such Members and member's Permittees, their tenants, agents and invitees.

All rights of use and enjoyment are subject to the following:

(a) Easements over and upon the Common Areas it favor of all Neighborhood Associations and their members, provided, however, that this subsection shall not in itself be deemed to grant any easements or use rights which are not specifically granted elsewhere herein or in any other documents to which The Properties are now or hereafter made subject.

(b) The right and duty of the Community Association to levy assessments- against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with the restrictions on the plats of portions of. The Properties from time to time recorded.
(c) The right of the Community Association to suspend the right of an Owner (or Member) and his designee to use the Common Areas (except for legal access) and common facilities for any period during which any applicable assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of lawfully adopted and published rules and regulations.

(d) The right of the Community Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Areas, provided that such right is now or hereafter granted to or adopted by the Community Association.

(e) The right of the Community Association to adopt at any time and from time to time and enforce: rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to fine Members as elsewhere provided herein. Any rule and/or regulation so adopted by the Community Association shall apply until rescinded or. modified as if originally set forth at length in this Declaration.

(f) The right of the Community Association, by a 2/3rds affirmative vote of the entire membership, through their Voting Members, to dedicate portions of the Common Areas to a Neighborhood Association or a public or quasi-public agency, community development district or similar entity under such terms as the Community Association deems appropriate and, by majority vote of the Board of Directors of the Community Association, to contract with Collier County, community development and special taxing districts and the Country Club for lighting, roads, irrigation, recreational or other services deemed appropriate by the Community Association (to which such creation or contract all Owners hereby consent).

(g) Anything to the contrary in this Declaration notwithstanding, the Declarant shall have the right to permit persons other than Members to use certain portions of the Common Areas and any recreational facilities that may be constructed thereon under such terms as Declarant, its successors and assigns, may from time to time desire without interference from the Community Association.

(h) The right of the Declarant and the Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.

(i) The rights of the Country Club as elsewhere provided in this Declaration.

Section 3. Easements Appurtenant. The easements provided in Section 2 shall be appurtenant to and shall pass with the title to each lot.

Section 4. Maintenance. The Community Association shall at all times maintain in good repair, operate, manage and insure, and shall replace as often as necessary, the Common Areas, any and all improvements situated on the Common Areas (upon completion of construction by Declarant or its affiliates, if applicable), including, but not limited to, all recreational facilities, landscaping, paving, drainage structures, private roads, street lighting fixtures and appurtenances, sidewalks, swimming pools and structures, except public utilities (to the extent same have not been made Common Areas); all such work to be done as
ordered by the Board of Directors of the Community Association. Maintenance of street lighting fixtures within Eagle Creek shall be performed by the Community Association, regardless of whether such systems are located within the Common Areas, and such maintenance shall include and extend to payment for electricity consumed in their illumination. Without limiting the generality of the foregoing, the Community Association shall assume all of Declarant's, its affiliates' (and its and their predecessors') responsibility to Collier County of any kind with respect to the Common Areas, including, but not limited to, roads and entry features, and shall indemnify Declarant and its affiliates and hold Declarant and its affiliates harmless with respect thereto.

Notwithstanding the foregoing, all lakes and drainage areas located within the Common Areas shall not be maintained by the Community Association, for so long as the Country Club is doing so, the right to elect to perform or not perform such duties being hereby vested in the Country Club.

All work pursuant to this Section and all expenses hereunder or otherwise allocated to the Community Association shall be paid for by the Community Association through assessments imposed in accordance herewith. The Community Association, on behalf of itself and/or all or appropriate Neighborhood Associations, shall have the power to incur, by way of contract or otherwise, expenses general to all or applicable portions of Eagle Creek, or appropriate portions thereof, and the Community Association shall then have the power to allocate portions of such expenses among, the Community Association and/or the Neighborhood Associations, based on such formula as may be adopted by the Community Association or otherwise provided in this Declaration. The portion so allocated to the Community Association or any Neighborhood Association shall be deemed a general expense thereof, collectible through its own assessments. No Owner may waive or otherwise escape liability for the assessments for such maintenance by nonuse (either voluntary or involuntary) of the Common Areas or abandonment of his right to use the Common Areas.

Section 5. Utility Easements. Public utilities installed in the Common Areas for the service of the Properties shall be installed underground. The Declarant and its designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots for the installation, operation, maintenance, repair, replacement, alteration and extension of such utility and other systems as the Developer shall deem appropriate to have located within the Properties.

Section 6. Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

ARTICLE V
THE COUNTRY CLUB

Section 1. Conveyance of Country Club. All persons, including all owners, are hereby advised that no representations or warranties have been or are made by the Declarant or any other person or entity with regard to the continuing ownership or operation of the Country Club as same presently exists, and no purported representation or warranty in such regard shall ever be effective without an amendment hereto executed or joined into by the Declarant. Further, the ownership or operational duties of
and as to the Country Club may change at any time and from time to time by virtue of, but without limitation, (i) the sale or assumption of operations of the Country Club by/to an independent person or entity, (ii) the conversion of the Country Club membership structure to an "equity" or similar arrangement whereby the members of the Country Club or an entity owned or controlled thereby become the owner(s) and/or operators of the Country Club, (iii) the conveyance, pursuant to contract, option or otherwise, of the Country Club to one or more affiliates, shareholders, employees or independent contractors of Declarant or the Country Club or (iv) the conveyance of the Country Club to the Community Association, with or without consideration and subject or not subject to mortgage(s) or other encumbrance. As to any of the foregoing or any other alternative, no consent of the Community Association, any Neighborhood Association or any Owner shall be required to effectuate same, even in the case of a conveyance of the Country Club to the Community Association, for or without consideration and subject to or not subject to any mortgage, covenant, lien or other encumbrance on the applicable land and other property.

Section 2. Rights of Access and Parking. The Country Club and its members (regardless of whether same are Owners hereunder), employees, agents, contractors and designers shall at all times have a right and nonexclusive easement of access and use over all roadways located in Eagle Creek reasonably necessary to travel from/to the entrance to Eagle Creek: to/from the Country Club and, further, over those portions of Eagle Creek (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair and replacement of the Country Club and its facilities. Without limiting the generality of the foregoing, members of the Country Club and permitted members of the public shall have the right to park their vehicles on the roadways located within the Common Areas at reasonable times before, during and after golf tournaments and other approved functions held by/at the Country Club.

Section 3. Assessments. In consideration of the fact that the Country Club will perform certain functions within Eagle Creek which will be of benefit to the community at large, the costs of which may not be allocable as provided in Section 3 hereof, neither the Country Club nor any of its property shall be subject to assessment hereunder or under any declaration or similar document for any Neighborhood Association. The foregoing shall not prohibit, however, the Association from entering into a contractual arrangement with the Country Club whereunder the Country Club will contribute funds for, among other things, Common Area maintenance; provided, however, that no lien hereunder on the Country Club's property shall be deemed to exist as a means of enforcing any such obligations.

Section 4. Sharing of Expenses with Country Club. To the extent that the Country Club provides the use of lands, facilities and services, portions of the costs of which may be reasonably allocated to the Community Association based upon percentage of usage or otherwise, the Country Club shall have the right to assess, and the Community Association shall be obligated to pay (as a common expense thereof), all such allocated costs in the amounts determined by the Country Club in its reasonable discretion. The foregoing may include, without limitation, costs related to irrigation systems, water quality control equipment and the use of Country Club facilities for Community Association purposes such as office space and equipment maintenance and storage.

Section 5. Architectural Control. Neither the Community Association, the Architectural Control Committee, nor any Neighborhood
Association or similar committee or board thereof, shall approve or permit any construction, addition, alteration, change or installation on or to any portion of Eagle Creek which is adjacent to, or otherwise in the direct line of sight from, the Country Club without giving the Country Club at least fifteen (15) days prior notice of its intent to approve or permit same together with copies of the request therefor and all other documents and information finally submitted in such regard. The Country Club shall then have fifteen (15) days in which to approve or disapprove the matter so submitted to it on such grounds as the Country Club may elect in its reasonable discretion (which may include, without limitation, purely aesthetic considerations). The failure of the Country Club to respond to the aforesaid notice within the fifteen (15) day period shall constitute a waiver of the Country Club's right to object to the matter so submitted. This Section shall also apply to any work on the Common Areas hereunder or any common areas/elements of a Neighborhood Association.

Section 6. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Country Club, no amendment to this Article, and no amendment in derogation hereof to any other provisions of this Declaration, may be made without the written approval thereof by the Country Club. The foregoing shall not apply, however, to amendments made by the Declarant. The foregoing shall also apply to any other provisions of this Declaration which are, in the sole discretion of the Country Club, for the benefit of the Country Club.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. As used herein, Assessments shall include:

(a) General Assessments - which shall be those assessments regularly levied against the Lots by the Association pursuant to a budget thereof.

(b) Capital Improvement Assessments - which shall mean those Assessments levied for the purposes described in, and subject to, Section 3 of this Article.

(c) Special Assessments - which shall mean Assessments levied for a specific purpose(s) which is of a nonrecurring nature.

(d) Personal Assessments - which shall mean Assessments levied against one or more Lots but not all Lots, as provided in Section 11 of this Article and elsewhere in this Declaration.

Except as provided elsewhere herein, the Declarant (and each party joining in this Declaration or in any supplemental declaration), for each Lot owned by it (or them) within The Properties, hereby, respectively, covenant and agree, and each Owner of any Lot by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Community Association general assessments for the maintenance, operation, management and insurance of the Common Areas and the Community Association as provided herein, including such reasonable reserves as the. Community Association may deem necessary, and capital improvement, special and personal assessments as also
provided herein, all such assessments to be Fixed, established and collected from time to time as hereinafter provided. All assessments, together with late charges, interest and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with late charges, interest and costs of collection thereof as hereinafter provided, shall also be the personal obligation of all Owner(s) of such property from time to time. All general, capital improvement and special assessments shall be imposed equally against all Lots within The Properties and those that may in the future be Subject to liens of the Community Association.

Section 2. Purpose of Assessments. The assessments levied by the Community Association shall be used for maintenance, operation, management and insurance of the Common Areas and the Community Association as provided herein, to promote the health, safety, welfare and recreational opportunities of the Members of the Community Association and their Member's Permittees, to pay such other obligations of the Community Association as may be imposed hereby or otherwise become binding upon the Community Association and for such other purposes as are provided for in this Declaration.

Section 3. Capital Improvements. Funds in excess of the lesser of (1) $5,000 or (ii) 5% of the then-current operating budget of the Association, in any one case, which are necessary for the addition or replacement of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas and which have not previously been collected as reserves or are otherwise available to the Community Association may be levied as capital improvement assessments by the Community Association upon approval by a majority of the Board of Directors of the Community Association and upon approval of 66 2/3 % favorable vote at a meeting as may be provided by the By-Laws of the Community Association. It is the intent of this Section that any capital improvements having a cost of less than the aforesaid amount be paid for by general assessments, with an appropriate adjustment to the budget of the Community Association and the assessments levied thereunder to be made, if necessary or a special assessment to be levied pursuant to Section 11 of this Article.

Section 4. Date of Commencement of General Assessments; Due Dates. The general assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of such year. Each subsequent general assessment shall be imposed for the year beginning January 1 and ending December 31.

The general assessments shall be payable in advance in monthly installments, or in semi-annual or quarter-annual installments if so determined by the Board of Directors of the Community Association. The general assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other general assessment that is in the future adopted. The original general assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, every six (6) months), but the amount of any revised general assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any special assessment or capital improvement or personal assessment shall be fixed in the Board resolution authorizing such assessment.
Section 5. Duties of the Board of Directors. The Board of Directors shall fix the date of commencement and the amount of the general assessment against each Lot for each assessment period, to the extent practicable, at least thirty (30) days in advance of such year, and shall, at that time, prepare a roster of the Lots, the Owners thereof and general assessments applicable thereto, which shall be kept in the office of the Community Association and shall be open to inspection by any Owner.

Written notice of the applicable general assessment shall thereupon be sent to every Owner subject thereto or every Neighborhood Association thirty (30) days prior to the date the first payment at the then-established assessment rate is due in the event notice of changes in the general assessment for a new period is not given, the general assessment amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

The Community Association shall upon demand at any time furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Community Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of such assessment to the Community Association therein stated to have been paid.

The Community Association, through the action of its Board of Directors, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more Units for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Declarant) for management services. The Community Association shall have all other powers provided in its Articles of Incorporation and By-Laws.

Section 6. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association. If any installment of a general assessment is not paid on the dates when due (being the date specified by the Board from time to time), or if any other type of assessment is not paid, then such assessment (or the applicable installment(s) thereof) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the appropriate Lot, which shall bind such Lot in the hands of the then Owner, his heirs, personal representatives, successors and assigns. Except as provided in Section 7, of this Article, the personal obligation of the then Owner to pay such assessment shall pass to his successors in interest and recourse may be had against either or both.

If any assessment (or installment thereof) is not paid within fifteen (15) days after the due date, at the option of the Community Association, a late charge not greater than the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges, provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) or the next 12 months' of installments may be accelerated and become immediately due and payable in full, and all sums due shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, 101 per annum) and the Community Association
may bring an action at law against the Owner(s) personally obligated to pay the same or may record a claim of lien (as evidence of its lien rights as herein above provided for) against the property on which the assessment and late charges are unpaid, or may foreclose the lien against the property on which the assessments and late charges are unpaid, or pursue one or more of such remedies at the same time or successively, and attorneys' Lees and costs of preparing and filing the claim of lien and the complaint (if any) in such action, and in prosecuting same, shall be added to the amount of such assessments, interest and late charges, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred in the applicable action together with the costs of the action, 'and the Community Association shall be entitled to attorneys' fees in connection with any appeal of any such action.

In the case of an acceleration of the next 12 months' of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent 'increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due and payable by reason of such an increase and special assessments against such Lot shall be levied by the Community Association for such purpose.

In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring the title to or the interest in a Lot as to which the assessment is delinquent, including, without limitation, persons acquiring title by operation of law and by judicial sale, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid, and no sale or other disposition of Lots shall be permitted until an estoppel letter is received from the Community Association acknowledging payment in full of all assessments and other sums due; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 7 of this Article.

Unless delegated to a Neighborhood Association by the Community Association, it shall be the legal duty and responsibility of the Community Association to enforce payment of the assessments hereunder. Failure of a collecting entity to send or deliver bills or notices of assessments shall not, however, relieve owners from their obligations hereunder.

All assessments, late charges, interest, penalties, fines, attorneys' fees and other sums provided for herein shall accrue to the benefit of the Community Association.

Owners shall be obligated to deliver the documents originally received from the Declarant, containing this and other declarations and documents, to any grantee of such owners.

The Community Association shall have such other remedies for collection and enforcement of assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

Section 7. Subordination of the Lien. The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and to the lien of any first mortgage recorded prior to recordation of a claim of lien, which mortgage encumbers any Lot and is in favor of any bona fide lender.
generally recognized as an institutional-type lender and is now or hereafter placed upon a portion of The Properties subject to assessment; provided, however, that any such mortgagee acquiring a deed in lieu of Foreclosure, and all persons claiming by, through or under any such mortgagee, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an assessment divided among, payable by and a lien against all Lots as provided in Section 1 of this Article, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place. Liens, for assessment under this Article shall be superior to liens for assessments of the Neighborhood Associations which may be referred to in declarations of restrictions and protective covenants recorded with respect to certain lots. In the event only a portion of the assessments of the Community Association and Neighborhood Associations are collected, the amount collected shall be applied first to assessments of the Community Association and the balance, if any, shall then be paid to such Neighborhood Associations.

Section 8. Collection of Assessments. Assessments levied pursuant hereto shall be collected in the manner established pursuant to Article X, Section I of this Declaration. In the event that at any time said manner provides for collection of assessments levied pursuant hereto by an entity other than the Community Association, all references herein to collection (but not necessarily enforcement) by the Community Association shall be deemed to refer to the other entity performing such collection duties and the obligations of Owners to pay assessments shall be satisfied by making such payments to the applicable collecting entity.

Section 9. Effect on Declarant. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Declarant (or any of its affiliates) is the owner of .any Lot or undeveloped property within Eagle Creek, the Declarant shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it, (ii) pay assessments only on certain designated Lots (e.g., those under construction or those containing a Unit for which a certificate of occupancy has been issued) or (iii) not paying assessments on any Lots and in lieu thereof funding any resulting deficit in the Association’s operating expenses not produced by assessments receivable from Owners other than the Declarant. The deficit to be paid under option (iii), above, shall be the difference between (i) actual operating expenses of the Community Association (exclusive of capital improvement costs, reserves and management fees) and (ii) the sum of all monies receivable by the Community Association (including, without limitation, assessments, interest, late charges, fines and incidental income) and any surplus carried forward from the preceding year(s). The Declarant may from time to time change the option stated above under which the Declarant is making payments to the Community Association by written notice to such effect to the Community Association. If Declarant at any time elects option (ii) above, it shall not be deemed to have elected option (iii)' as to the Lots which are not designated under option (ii). When all Lot's within The Properties are sold and conveyed to purchasers, neither the Declarant, nor its affiliates, shall have further liability of any kind to the Community Association for the payment of assessments, deficits or contributions. In no-event shall Declarant ever be obligated to pay a Personal Assessment.
Section 1.0. **Association Funds.** The portion of all regular assessments collected by the Community Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Community Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.

Section 11. **Special Assessments.** In the event that the Board of Directors determines that it is necessary for the Community Association to obtain funds for a specific purpose(s) which is of a non-recurring nature, for which no reserve funds have been collected or allocated, and which is not the appropriate subject of a capital improvement assessment, then the Board of Directors may levy a special assessment for such purpose. Such special assessment may, in the discretion of the Board of Directors, be payable in one lump sum or in appropriate installments; provided, however, that (i) the Board of Directors shall use reasonable efforts to fund an expense for which a special assessment would otherwise be levied by changing the Association's budget and, therefore, the general assessments and (ii) the requirements set forth above as to the approval by the Members of capital improvement assessments shall also apply to Special Assessments.

Section 12. **Personal Assessments.** Owners (on their behalf and on behalf of their Member's Permittees) causing damage to any portion of the Common Areas as a result of misuse, negligence, failure to maintain or otherwise shall be directly liable to the Community Association and a personal assessment may be levied therefor against such Owner or Owners. Such personal assessments shall be subject to all of the provisions hereof relating to other assessments, including, but not limited to, the lien and foreclosure procedures.

**ARTICLE VII**

**RULES AND REGULATIONS**

Section 1. **Compliance by Owners.** Every Owner and Member's Permittee shall comply with any and all rules and regulations adopted by the Community Association as contemplated herein.

Section 2. **Enforcement.** Failure to comply with such rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. The Community Association shall also have the right to suspend rights of use of Common Areas as specified herein.

Section 3. **Fines.** In addition to all other remedies, in the sole discretion of the Board of Directors of the Community Association, a fine or fines may be imposed upon an Owner for failure of an owner or his Member's Permittees to comply herewith or with any rule or regulation; provided the following procedures are adhered to:

(a) **Notice:** The Community Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors at which time the Owner shall present reasons why penalties should not be imposed. At least six (6) days notice of such meeting shall be given.
(b) **Hearing:** The non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why a fine should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board of Directors’ meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses. If the impartiality of the Board is in question, the Board shall appoint three (3) impartial Members to a special hearing panel.

(c) **Amounts of Fines:** The Board of Directors (if its or such panel's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

1. First non-compliance or violation: a fine not in excess of one Hundred Dollars ($100.00).
2. Second non-compliance or violation: a fine not in excess of Five Hundred Dollars ($500.00).
3. Third and subsequent non-compliance, or violation or violations which are of a continuing nature: a Fine not in excess of one Thousand Dollars ($1,000.00).

(d) **Payment of Fines:** Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) **Collection of Fines:** Fines shall be treated as a personal assessment subject to the provisions or the collection of assessments as set forth herein.

(f) **Application of Fines:** All monies received from fines shall be allocated as directed by the Board of Directors.

(g) **Non-exclusive Remedy:** Those fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Community Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages. *which* the Community Association may otherwise be entitled to recover by law from such Owner.

Section 4. **Initial Rules and Regulations.** Attached to this Declaration as Schedule A are the initial rules and regulations of the Community Association which are incorporated into this Declaration by this reference and which may be modified, in whole or in part, at any time by the Board without the necessity of recording such new or modified rules and regulations in the public records:

**ARTICLE VIII**

**ARCHITECTURAL CONTROL; GENERAL POWERS**

The following provisions of this Article VIII are subject to those of Article X hereof. Accordingly, this Section shall be operative only so long at the Community Association is performing (subject to later delegation) architectural control duties and powers in the manner provided in Article X. This Article is also subject to Article V, Section 4 of this Declaration with respect to the Country Club.
Section 1. Members of Committee. The Architectural Control Committee, sometimes referred to in this Declaration as the "Committee", shall consist of three (3) members. The initial members of the Committee shall consist of persons designated by Declarant. Each of the initial members shall hold office until all Lots and improvements planned for the Development have been constructed and conveyed (if appropriate), or sooner at the option of Declarant. Thereafter, each new member of the Committee shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed by the Board of Directors at any time without cause.

Section 2. Review of Proposed Construction. Subject to Section 9 below, no building, fence, wall or other structure or improvement (including, but not limited to, landscaping, hurricane protection, basketball hoops, birdhouses, other pet houses, walls, asphalt or other improvements or changes of any kind) shall be commenced; altered, painted, erected or maintained in The Properties, nor shall any addition, change or alteration (including paint or exterior finishing) visible from the exterior of any Unit be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the Committee. The Committee shall review proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of Eagle Creek as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and landscaping and is otherwise desirable. If the proposed construction, alterations or additions are to common elements of a condominium, said approval shall also be subject to the prior approval of the applicable condominium association. The Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved. All work done by a Member after receiving the approval of the Committee shall be subject to the inspection by, and final approval of, the Committee in accordance with its procedural rules adopted as herein provided.

All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees as well as the approval of the Country Club as provided in Article V, Section 5 hereof, if applicable.

Section 3. Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee representative (who may, but need not, be one of its members) to take any action.
or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 0 hereof. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

Section 4. No Waiver of Future Approvals. Time approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Compensation of Members. The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 6. Committee Rules. The Committee shall adopt reasonable rules of procedure and standards for the submission and review of any matter to be brought before it and the inspection and final approval of any completed work done pursuant to an approval of the Committee. Such rules shall be (i) subject to the prior approval of the Board of Directors, (ii) consistent with the covenants and restrictions set forth in this Declaration and (iii) published or otherwise made available to all Members and their contractors, subcontractors and other appropriate designees. All rules of the Committee shall be adopted and/or amended by a majority vote thereof, provided that no amendment shall be applicable to any matter submitted to the Committee prior to the making of such amendment.

Section 7. Non-Liability of Committee Members. Neither the Community Association, the Board of Directors, the Committee nor any member thereof, nor any duly authorized representative of any of the foregoing, shall be liable to any Neighborhood Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of the Committee’s duties hereunder. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic considerations and the benefit or detriment which would result to the immediate vicinity and to Eagle Creek generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, or warranty as to, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 8. Variance. The Committee may authorize variances from compliance with any of the architectural control provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in this Declaration, or (iii) stop the Committee from denying a variance even in other circumstances.

Section 9. Exemptions. Declarant and its affiliates and the Country Club shall be exempt from the provisions hereof-with
respect to alterations and additions desired to be effected by any of them and shall not be obligated to obtain Committee approval for any construction or changes which any of them may elect to make at any time.

Section 10. General Powers of the Community Association. The Community Association (and the Committee; as appropriate) shall have the absolute power to veto any action taken or contemplated to be taken, and the Community Association shall have the absolute power to require Specific action to be taken, by any Neighborhood Association in connection with applicable sections of Eagle Creek. Without limiting the generality or the foregoing, the Community Association (and the Committee, as appropriate) may veto any decision of any Neighborhood Association (or architectural control board or other committee thereof), and the Community Association may require specific maintenance or repairs or aesthetic changes to be effected, require that proposed budget include certain items and that expenditures be made therefor, veto or cancel any contract providing for maintenance, repair or replacement of the property governed by such Neighborhood Association and otherwise require or veto any other action as the Community Association deems appropriate from time to time.

Any action required by the Community Association in a written notice to be taken by a Neighborhood Association shall be taken within the time frame set by the Community Association in such written notice. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Community Association shall have the right to effect such action on behalf of the Neighborhood Association and shall assess the Lots and Units governed by the Neighborhood Association for their pro-rata share of any expenses incurred by the Community Association in connection therewith, together with an administrative charge to be determined by the Community Association under the circumstances (to cover the Community Association's administrative expenses in connection with the foregoing and to discourage the Neighborhood Association from failing to comply with the requirements of the Community Association). Such assessments may be collected as special assessments hereunder and shall be subject to all lien rights provided for herein.

ARTICLE IX
RESALE, LEASE AND OCCUPANCY RESTRICTIONS

Section 1. Estoppel Certificate. No owner may sell or convey his interest in a Lot unless all sums due the Association shall be paid in full and an estoppel certificate in recordable form to such effect shall have been received by the Owner. If all such sums shall have been paid, the Association shall deliver such certificate within ten (10) days of a written request therefor.

Section 2. Leases. No portion of a Lot or Unit (other than an entire Lot and Unit together) may be rented (other than by way of a "ground lease" having a term of twenty (20) years or more). The leasing of a Lot and Unit shall be subject to the requirements of the applicable Neighborhood Association, provided that the Neighborhood Association may require a security deposit not to exceed $1,000 in the case of a lease, such deposit to be held and applied, if necessary, by the Neighborhood Association first to compensate the Community Association for any damage to the Common Areas or loss incurred by the Association by virtue of a violation of this Declaration or any rules of the Association caused by the applicable tenant, and then to compensate the Neighborhood Association for any damage to its common areas or
for a violation of its declaration or rules. In no event, however, shall the giving or application of a security deposit serve to limit any tenant's (or applicable Owner's) liability for damages to the Common Areas, or for the violation of this Declaration or any applicable rules.

Section 3. Members' Permittees. No Lot or Unit shall be occupied by any person other than the Owner(s) thereof and the applicable Members' Permittees and in no event other than as a residence. For purposes of this Declaration, "Member's Permittees" shall be the following persons and such persons' families, provided that the Owner or other permitted occupant must reside with his/her family: (i) an individual Owner(s), (ii) an officer, director, stockholder or employee of a corporate owner, (iii) a partner in or employee of a partnership owner, (iv) a fiduciary or beneficiary of an ownership in trust, or (v) occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration. Under no circumstances may more than one family reside in a Unit at one time, except for guests. In no event shall occupancy (except for temporary occupancy by guests) exceed two (2) persons per bedroom and one (1) person per den (as defined by the Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms and the like). The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above. The provisions of this Section shall not be applicable to Units used by the Declarant for model apartments, sales offices or management services. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parent's, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guests" or other words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to leases and lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Article and the Board of Directors of the Association shall enforce, and the Owners comply with, same with due regard for such purpose.

Section 4. Applicability to Developer. The provisions of this Article IX shall not be applicable to Developer.

ARTICLE X

COMMUNITY ASSOCIATION, NEIGHBORHOOD ASSOCIATIONS AND DECLARANT

Section 1. Preamble. In order to ensure the orderly development, operation and maintenance of Eagle Creek, and the properties subject to the administration of the Neighborhood Associations as integrated parts of Eagle Creek, this Article has been promulgated for the purposes of (1) giving the Community Association certain powers to effectuate such goal, (2) providing for intended (but not guaranteed) economies of scale and (3) establishing the framework of the mechanism through which the foregoing may be accomplished.
Section 2. **Cumulative Effect; Conflict.** The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Neighborhood Associations and the Community Association may, but shall not be required to, enforce the latter; provided, however, that in the event of conflict between or among such covenants, restrictions and provisions, or any Articles of Incorporation, By-Laws, rules and regulations, policies or practices adopted or carried out pursuant thereto, those of the Neighborhood Associations shall be subject and subordinate to this Declaration. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Community Association and the Neighborhood Associations as provided for herein. As to any Neighborhood Association which is a condominium association, no duties of same hereunder shall be performed or assumed by the Community Association if same are required by law to be performed by the Neighborhood Association or if the performance or assumption of such duties would be contrary to the purpose and intent of Article XI, Section 13 of this Declaration.

Section 3. **Architectural Control, Maintenance and Use Restrictions.** All architectural control; Lot and Unit maintenance requirements and use restrictions provided for in or pursuant to this Declaration shall, initially, be exercised and enforced by the Community Association. However, the Community Association may delegate to a Neighborhood Association(s) all or any part of such rights/duties, on an exclusive or non-exclusive basis, upon written notice recorded in the Public Records of Collier County, Florida. As long as the Community Association performs architectural control functions, no Neighborhood Association shall do so unless such functions are specifically delegated to it by the Community Association; provided, however, that a Neighborhood Association for a condominium may perform such functions to the extent required by its Declaration of Condominium or by applicable law.

Section 4. **Collection of Assessments.** The Neighborhood Associations shall, initially, collect all assessments and other sums due the Community Association and the applicable Neighborhood Association from the members thereof. The Neighborhood Association will remit the assessments so collected to the respective payees pursuant to such procedures as may be adopted by the Community Association. The sums so collected shall be applied first to the assessments of the Community Association and then to those of the collecting Neighborhood Association. No sums collected by a Neighborhood Association on behalf of the Community Association shall be deemed a common expense of the collecting Neighborhood Association. Notwithstanding the priority of disbursements of collected lump sums as provided above, all capital improvement assessments, special assessments, personal assessments, interest, late charges, recovered costs of collection and other extraordinary impositions shall be remitted to the respective entity imposing same separate and apart from the priorities established above.

The Community Association shall notify the various Neighborhood Associations, by written notice given at least thirty (30) days in advance, of any changes in the amounts of the assessments due it or the frequency at which they are to be collected. The aforesaid notice period shall also apply to capital improvement assessments, but may be as short as five (5) days before the next-due regular assessment installment in the case of special assessments, and personal assessments of the Community Association.
The Neighborhood Associations shall not be required to record liens or take any other actions with regard to delinquencies in assessments 'payable to the Community Association unless the Community Association gives them written notice of its election to have them do so. In the event that the Community Association does, however, make such election, then all of the Community Association's rights of enforcement provided in this Declaration shall be deemed to have automatically vested in the applicable Neighborhood Association, but all costs and expenses of exercising such rights shall nevertheless be paid by the Community Association (which shall be entitled to receive payment of any such costs and expenses which are ultimately recovered).

The Community Association may, from time to time by sixty (60) days' prior written notice to the affected Neighborhood Association(s), change the procedures set forth in this Section 4 in whole or in part. Such 'change may include, without limitation, the assumption by the Community Association of all or some of the collection functions (including those for a Neighborhood Association) provided for herein or in the declaration for a Neighborhood Association(s) (to which assumption the Neighborhood Association and its members shall be deemed to have automatically agreed). All fidelity bonds and insurance maintained by a Neighborhood Association shall reflect any duties performed by it pursuant here to and the amounts to be received and disbursed by it and shall name the Community Association as an obligee/insured party for so long as its assessments are being collected and remitted by the Neighborhood Association.

To the extent lawful, a Neighborhood Association may delegate, or contract for the performance of, any duties performed by it pursuant hereto to/with a management company approved by the Community Association, provided that (1) the Neighborhood Association shall remain ultimately liable hereunder, (2) the management company, as well as the Neighborhood Association, shall comply with the requirements of the foregoing paragraph and (3) the approval of the management company may be withdrawn, with or without cause, at any time upon thirty (30) days' prior written notice. Any management agreement or similar contract entered into by the Neighborhood Association shall be subject to the provisions of this Article and shall not require the Neighborhood Association to pay fees for the performance of duties which would otherwise be 'delegated to the company in connection with this Article if such duties are performed by the Community Association as provided above.

In the event of any change in assessment collection procedures elected to be made by the Community Association, the relative priorities of assessment remittances and liens (i.e., the Community Association first and the applicable Neighborhood Association second) shall nevertheless still remain in effect, as shall the Community Association's ability to modify or revoke its election from time to time.

Section 5. Delegation of other Duties. The Community Association shall have the right to delegate to a Neighborhood Association, on an exclusive or nonexclusive basis, such additional duties not specifically described in this Article as the Community Association shall deem appropriate. Such delegation shall be made by written notice to the Neighborhood Association, which shall be effective no earlier than thirty (30) days from the date it is given. Any delegation made pursuant hereto may be modified or revoked by the Community Association at any time.
Section 6. **Acceptance of Delegated Duties.** Whenever the Community Association delegates any duty to a Neighborhood Association pursuant to this Article, the Neighborhood Association shall be deemed to have automatically accepted same and to have agreed to indemnify, defend and hold harmless the Community Association for all liabilities, losses, damages and expenses (including attorneys' fees actually incurred and court costs, through all appellate levels) arising from or connected with the Neighborhood Association's performance, non-performance or negligent performance thereof.

Section 7. **Expense Allocations.** The Community Association may, by written notice given to the affected Neighborhood Association at least thirty (30) days prior to the end of the Neighborhood Association' fiscal year, allocate and assess to the Neighborhood Association a share of the expenses incurred by the Community Association which are reasonably allocable to the Neighborhood Association and/or the portion of Eagle Creek within its jurisdiction (e.g. for street lighting systems). In such event, the expenses so allocated shall thereafter be deemed common expenses of the Neighborhood Association payable by it (with assessments collected from its members) to the Community Association.

In the event of a failure of a Neighborhood Association to budget or assess its members for expenses allocated as aforesaid, the Community Association shall be entitled to pursue all available legal and equitable remedies against the Neighborhood Association or, without waiving its right to the foregoing, specially assess the members of the Neighborhood Association and their Lots for the sums due (such special assessments, as all others, to be secured by the lien provided for in this Declaration).

Section 8. **Non-Performance of Neighborhood Association Duties.** In addition to the specific rights of the Community Association provided in Section 7, above, and subject to the limitations set forth in Section 2 of this Article and Article XI, Section 12 of this Declaration, in the event that a Neighborhood Association fails to perform any duties delegated to, or required of, it under this Declaration or to otherwise be performed by it pursuant to its own declaration, articles of incorporation, by-laws or related documents, which failure continues for a period in excess of thirty (30) days after the Community Association's giving notice thereof, then the Community Association may, but shall not be required to, assume such duties. In such event, the Neighborhood Association shall not perform such duties unless and until such time as the Community Association directs it to once again do so.

Section 9. **Conflict.** In the event of conflict between this Article X, as amended from time to time, and any of the other covenants, restrictions or provisions of this Declaration or the Articles of Incorporation, By-Laws or rules and regulations of the Association all as amended from time to time, the provisions of this Article shall supersede and control.

**ARTICLE XI**

**GENERAL PROVISIONS**

Section I. **Duration.** The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Declarant, the Community Association, the Country Club, any Neighborhood Association, the Owner of any land subject to this Declaration and the Committee and their respective legal representatives,
heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% and the mortgagee, of 100% of the Lots agreeing to revoke said covenants has been recorded and the Community Association has given its prior written consent thereto. No such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such agreement and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

Section 2. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Community Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be accomplished by means of a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure of the Community Association, the Country Club, the Declarant, the Committee, any Neighborhood Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants may also be enforced by any architectural control committee established in other covenants that may from time to time be recorded.

Section 4. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 5. Amendment. In addition, but subject, to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, casements, charges and liens of this Declaration may be amended, changed or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Declarant, for so long as it or its affiliate holds title to any Lot or Unit affected by this Declaration; or alternatively, by an instrument signed by the President of the Community Association, attested to by its Secretary and certifying that the amendment set forth in the instrument was adopted by a vote of at least 66-2/3 of the Owners at a duly called meeting thereof (and not through their Voting Members), provided that so long as the Declarant or its affiliates is the Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained if such amendment, in the sole opinion of the Declarant, affects its interest. In the event MAXXAM Properties, Inc. is not the Declarant, no amendment may be made which, in the opinion of MAXXAM Properties, Inc., adversely affects its interest without its consent. The foregoing sentence may not be amended.

Section 6. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Association and the Articles shall take precedence over the By-Laws.
Section 7. Effective Date. This Declaration shall become effective upon its recordation in the Collier County Public Records.

Section 8. Standards for Consent, Approval, Completion, Other Action, and Interpretation. Whenever this Declaration shall require the consent, substantial completion, or other action by the Declarant or its affiliates, the Community Association or the Architectural Control Committee; such consent, approval or action may be withheld in the sole and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Declarant or its affiliates, the Community Association or the Committee shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Declarant, Community Association or Committee, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel of the Community Association that a particular interpretation is not unreasonable shall conclusively establish the validity of such interpretation.

Section 9. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally to have been granted the benefit of such easement and the Owners designate hereby the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may thereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 10. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless same is approved by a vote of seventy-five percent (75%) of the Members through their respective voting Members. In the case of such a vote, and notwithstanding anything contained in this Declaration or the Articles of Incorporation or By-Laws of the Association to the contrary, the Voting Members shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five percent (75%) of all members of the Neighborhood Association represented by the Voting Member. This Section 10 shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) the imposition of personal assessments as provided in Article VII hereof, (iii) proceedings involving challenges to ad valorem taxation or (iv) counterclaims brought by the Association in proceedings instituted against it. Notwithstanding the provisions of Section 5 of this Article, this Section 10 shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 11. Covenants Running with the Land. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the' limitations) of Section 1 hereof, it is the intention of all parties affected hereby (and their
respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the land and with title to the Properties. Without limiting the generality of Section 4 hereof, if any provision or application of this Declaration would prevent this Declaration’ from running with the land as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties affected hereby (that these covenants and restrictions run with the land as aforesaid) be achieved.

Section 12. Limitation on Community Association: Anything in this Declaration to the contrary notwithstanding, the existence or exercise of any easement, right, power, authority, privilege or duty of the Community Association as same pertains to any condominium located within Eagle Creek which would cause the Community Association to be subject to Chapter 718, Florida Statutes, or any related administrative rules or regulations, shall be null, void and of no effect to the extent, but only to the extent, that such existence or exercise is finally determined to subject the Community Association to said Chapter 718. It is the intent of this provision that the community Association not be deemed to be a condominium association, nor the Common Areas be deemed to be common elements of any such condominium.

EXECUTED as of the date first above written.
Signed in the presence of: MAXXAM Properties Inc.

[Signature]

By: [Signature]

[CORPORATE SEAL]

STATE OF FLORIDA )
COUNTY OF COLLIER ) SS:

The foregoing instrument was acknowledged before me, this 12th day of March, 1986, by [Signature] as [Title] of MAXXAM Properties Inc., a New York corporation, on behalf of the corporation.

[Signature]
Notary Public, State of Florida at Large

Master Covenants for Eagle Creek
AMENDMENT TO
MASTER COVENANTS FOR
EAGLE CREEK

THIS AMENDMENT is made this 18th day of July, 1994 by EAGLE CREEK PROPERTIES, INC., a Florida corporation ("Declarant").

R E C I T A L S:

A. Declarant is the "Declarant" by virtue of having received an assignment of all of the rights of such, under that certain declaration entitled Master Covenants for Eagle Creek, recorded in Official Records Book 1174, Page 1946 of the Public Records of Collier County, Florida, as same may have been previously amended to date (the "Declaration"). The capitalized terms used herein shall have the meanings given them in the Declaration.

B. Article XI, Section 5 of the Declaration provides that Declarant may amend the Declaration at any time Declarant owns any Lot subject thereto, which Declarant presently does.

C. The summary Prospectus for the Eagle Creek Community under the section entitled EAGLE CREEK COUNTRY CLUB states:

MEMBERSHIP IN EAGLE CREEK COUNTRY CLUB IS MANDATORY FOR ALL PROPERTY OWNERS.

Such membership restrictive covenant is provided for in all transfers of property to condominium owners within Eagle Creek.

D. The purpose of this Amendment is to formally include such mandatory membership requirement in the Master Covenants for Eagle Creek, and to provide a continuing lien upon property owners for payment of Club Membership Fees and Club Membership Dues.

NOW, THEREFORE, by virtue of the authority of Declarant as aforesaid, the Declaration is hereby amended by adding a following new section to Article V thereof:
COMMON AREAS

MANAGEMENT CONTRACT

THIS AGREEMENT is made and entered into as of the 22\textsuperscript{nd} day of April, 1987, by and between EAGLE CREEK COMMUNITY ASSOCIATION, a not for profit Florida corporation (the "Association"), and EAGLE CREEK MAINTENANCE AND MANAGEMENT COMPANY, a corporation, its successors and assigns (the "Manager").

WITNESSETH:

A. The Eagle Creek Community Association is the entity responsible for the operation of EAGLE CREEK COMMUNITY ASSOCIATION (the "Association"), established or to be established by the Declaration of Condominium therefore recorded or to be recorded in the Public Records of Collier County, Florida, (the "Declaration"), the definitions of which are incorporated herein by this reference.

B. The Association desires to retain the Manager, and the Manager desires to be so retained, to manage the Association.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration received by each party from the other, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. **EXCLUSIVE MANAGER.** The Association hereby retains and appoints the Manager, and the Manager hereby accepts such retainer and appointment, on the terms and conditions hereinafter set forth, as exclusive Manager of the Association.

2. **TERM.** This Agreement shall commence on the date hereof and shall continue for a term ending one (1) year after the date the non-developer members of the Association elect a majority of its Board of Directors, unless terminated sooner in accordance with the provisions hereinafter set forth.

3. **MANAGER’S DUTIES.** During the terms hereof, the Manager shall perform the following services as, when and if needed, or as otherwise specified herein:

   3.1 Engage all persons (but no less than one, which person or persons, however, may be engaged on a part-time basis) necessary to properly maintain and operate the Community Association, it being understood that all personnel so engaged shall be engaged by the Manager as agent for the Association, provided, however, no person shall be so engaged without the prior written approval of the Association.

   3.2 Provide the day-to-day bookkeeping services necessary to pay the bills of the Association, the payroll of its employees and any other debts approved by the Association. This service shall include, but not be limited to, keeping all records of and performing all services in connection with the payment of bills, payrolls and such other items as may be provided for in the budget.
3.3 Collect, on behalf of the Community Association when so provided by the Declaration, all common expenses, charges, assessments, rentals or other payments from Unit Owners and concessionaries and other monies and debts which may become due the Community Association, and in the event of default in such payment, take all such legal or other action in the name of the Community Association when so provided by the Declaration, as may be necessary or appropriate to enforce any rights which the Community Association may have as a result of such default.

3.4 Supervise the maintenance, repair and replacement of that portion of the Community Association Property and other property for which the Association is responsible for maintaining, repairing and replacing, in accordance with the Declaration, and in accordance with maintenance standards established by the Association, including, but not limited to, cleaning, painting and repair as may be necessary. All such services shall be planned and made consistent with the approved Association budget or maintenance schedule.

3.5 Take such action as may be necessary to cause the Association, Manager, Unit Owners and occupants of Units to comply with all laws, statutes, ordinances and rules of all appropriate governmental authorities having jurisdiction, and with the Declaration of Condominium, Articles of Incorporation and By-Laws of the Association and applicable rules and regulations, in connection with the operation of the Association and performance of this Agreement.

3.6 Purchase, on behalf of the Association, all tools, equipment, supplies and materials as may be necessary or desirable for the maintenance and upkeep of the Community Association. Such purchases shall be made in the name of the Association. Any such purchase shall be subject to the prior written consent of the Association unless provided for in the approved budget of the Association.

3.7 Enter into contracts on behalf of the Association for services that the Association shall require, which contracts may include a subcontract of Manager's undertakings hereunder in lieu of an assignment hereof.

3.8 Check all bills, received by the Association for services, work and supplies ordered in connection with maintaining and operating the Community Association, and cause to be paid by the Association all such proper bills as and when the same shall become due and payable.

3.9 Prepare, review and analyze periodic financial statements with comparative budget figures, including a proposed annual operating budget (at least 30 days prior to the end of each fiscal year) complying with applicable law, the Declaration and applicable By-Laws and submit such statements and budget promptly to the Association.
3.10 Maintain appropriate records of all insurance coverage carried by the Association,

3.11 Accept applications and references from all prospective Unit purchasers and facilitate transfers and leases of Units, This shall not apply to any Units owned by the Developer or any Institutional First Mortgagee, as defined in the Declaration.

3.12 Prepare and file the necessary forms for employment insurance, withholding and social security taxes and other taxes and other forms relating to employment of the Association's employees and maintenance and operation of the Association required by federal, state or municipal authorities,

3.13 Prepare and send all letters, reports and notices as may be reasonably requested by the Board of Directors of the Association, and attend all meetings of Directors and Unit Owners and prepare and file minutes thereof.

3.11) Cause all required insurance to be carried and maintained in full force and effect and make appropriate adjustments with the insurance companies and cause all of said insurance proceeds to be promptly paid when due.

3.15 Deposit all funds collected from Unit Owners and others into a bank account established by the Manager as custodian for the Association so that said funds may be withdrawn therefrom to pay expenses of operation and maintenance of the Association as contemplated herein.

3.16 Generally, do all things deemed reasonably necessary or desirable by the Association to attend to the proper maintenance, operation and management of the Community Association Property as required by the Declaration, the Articles of Incorporation and By-Laws of the Association, applicable rules and regulations, this Agreement and all other agreements, declarations, documents and instruments affecting the Association Property or the Unit Owners.

4. DEPOSITS. All funds collected by the Manager for the account of the Association shall be deposited in a bank, the deposits of which are insured by an agency of the United States. Such account will be styled so as to indicate the custodial nature thereof and the funds therein will not be commingled with other funds collected by the Manager as agents for others or otherwise. The Manager shall not be liable for any loss resulting from the insolvency of such depository.

5. AGENCY. All actions taken by the Manager with respect to management and maintenance under the provisions of this Agreement shall be taken as agent for the Association, and all obligations or expenses incurred in the performance of the Manager's duties and obligations shall be for the account, on behalf and at the expense of the Association. The Manager
shall not be obligated to make any advances to or for the account of the Association or to pay any sum, except out of funds held or provided by the Association or by its members or occupants of Units, nor shall the Manager be obligated to incur any, liability or obligation on behalf of the Association without assurance that the necessary funds for the discharge thereof will be provided. Since the Manager will be acting at all time: for and on behalf of the Association, it is understood and agreed that the public liability insurance carried and maintained by the Association shall be extended to and shall cover the Managers its agents and employees, as well as the Association, all at the expense of the Association. The Association agrees to indemnify and hold the Manager harmless from any and all liabilities for any injury, damage or accident to any member of the Association, a guest, lessee or invitee of any such member, or to any third person, and for’ any damage to property, arising out of or in the course of the performance of its duties hereunder.

6. COST REIMBURSEMENT. All of the foregoing management services provided to the Association shall be rendered on a basis of "actual cost" and the Association shall pay or reimburse the Manager for all costs which may be incurred by the Manager in providing services, material and supplies to the Association, which shall include, but not be limited to, the cost of all employees of the Manager for the time spent directly upon their performance of matters required by the terms of this Agreement, except that the Manager shall not be entitled to reimbursement for salaries of officers of the Manager and general office overhead of the Manager, as said items are actually included within the fee hereinafter provided to be paid ‘to the Manager.

7. MANAGER’S UNDERTAKING. The Manager; by the execution of this Agreement, assumes and undertakes to perform, carry out and administer all management, operational and maintenance responsibilities imposed upon the Association as set forth in the Declaration or elsewhere and as herein provided. Such assumption of obligations is limited, however, to operation, management and maintenance as agent, and does not require the Manager to pay any of the costs and expenses which are the obligations of the Association, except as specifically in this Agreement assumed by the Manager.

8. CANCELLATION. In the event that the Association defaults by failing to make the payments required to be made hereunder, or by continuing to violate any low, ordinance or statute after notice from the appropriate governmental authority, and after having failed to commence to resist or test such ordinance or statute by appropriate legal action, or for any other reason, then, after giving thirty (30) days’ written notice of Manager's intent to cancel, unless the default is cured within such 30-day period, or, in the case of a default requiring more than 30 days to cure, unless reasonable steps have been taken to cure such default and such cure is diligently pursued thereafter, the Manager shall have the right, upon the giving of fifteen (15) days additional written notice, to cancel this Agreement, and this Agreement will thereupon be cancelled, effective on a date (specified in such 15-day notice) not less than fifteen (15) days after the giving of such notice. Anything to the contrary herein notwithstanding, this Agreement may be cancelled on 60 days' notice by Manager at any time after control of the Association is turned over to Unit Owners other than the
Developer, with or without cause, but because of the need to maintain uniform standards of maintenance throughout the Community this Agreement is not cancelable by the Association, except (i) for failure of Manager to perform its obligations hereunder and then only after the Association has given Manager 30 days’ written notice of such default and a reasonable opportunity to cure (which shall be no less than sixty days, but may be more if such cure requires additional time to effect), and (ii) as let forth in the following sentence, if applicable. This Agreement may also be cancelled in the manner provided in the applicable provisions of the Florida Condominium Act, Florida Statutes, Section 710.302.

9. **COMPENSATION.** In addition to all actual costs which the Association shall pay the Manager for its services above setforth, and as for a fixed fee for the specified services to be performed hereunder, the Association hereby agrees to pay the Manager, monthly in advance, the sum of $7.00 per month, for each Unit in the Association, commencing for each such Unit from the first day of the month in which its Certificate of Occupancy is issued. Such fee shall be prorated on a daily basis for any partial fiscal year during the term hereof. The aforementioned fee shall increase by $1.00 per month per applicable Unit upon each one year anniversary of this Agreement.

10. **PAYMENT.** All actual costs incurred by the Manager for the Association shall be paid monthly on or before the first day of each month, or reimbursed to the Manager at such time or at the time incurred. Payment of fees and compensation to the Manager shall be due in advance, on the first day of each and every month during the term hereof.

11. **DESIGNATION.** The Association shall designate a single individual who shall be authorized to deal with the Manager on any matter relating to this Agreement. In the absence of any such designation, ‘the President of the Association shall have this authority.

12. **TERMINATION.** Upon the effective date of any termination or cancellation, the Association shall not be obligated for any additional fees to the Manager (but shall be responsible for all accrued and unpaid fees and all costs incurred or contracted for by Manager through such date), and the Manager shall turn over and make available to the Association all properties and funds of every kind and character in the possession of the Manager which relate to the Association or the performance of the Manager's duties hereunder.

13. **NOTICES.** All notices required hereunder shall be in writing and shall be effective when deposited in the United States mail, with proper postage for ordinary mail prepaid, and addressed:

   If to the Association: President, 
   Eagle Creek 
   Community Association One Eagle Creek Drive 
   Naples, Florida 33962

   If to the Manager: Eagle Creek Maintenance and Management Company 
   One Eagle Creek Drive Naples, Florida 33962
or to such other address as either party shall, from time to time, designate for itself, in writing, to the other party, provided that notice of any change of address shall not be effective until received.

14. INDEPENDENT CONTRACTOR. Unless specifically provided to the contrary herein, the Manager, its employees and agents, shall be deemed to be independent contractors and not employees of the Association. The Manager shall be free to contract for similar services to be performed for other entities while it is under contract with the Association.

15. AFFILIATION. In accordance with the requirements of Florida Statutes, Section 718 it is hereby disclosed that the Manager of the Community is an affiliate of the Developer. The principals of the Developer own all of the ownership and financial interests in the Manager.

16. EFFECT. This Agreement may be assigned by the Manager to as similar related or unrelated entity and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESSES

[Signatures]

(As to Association)

[Signatures]

(As to Manager)

[Signature]

President

(CORPORATE SEAL)

EAGLE CREEK MAINTENANCE MANAGEMENT COMPANY

[Signature]

Manager
AMENDMENT TO
MASTER COVENANTS
FOR
EAGLE CREEK

THIS AMENDMENT is made this 18th day of July 1994 by EAGLE CREEK PROPERTIES, INC., a Florida corporation ("Declarant").

RECITALS:

A. Declarant is the "Declarant" by virtue of having received an assignment of all of the rights of such, under that certain declaration entitled Master Covenants for Eagle Creek, recorded in Official Records Book 1174, Page 1946 of the Public Records of Collier County, Florida, as same may have been previously amended to date (the "Declaration"). The capitalized terms used herein shall have the meanings given them in the Declaration.

B. Article XI, Section 5 of the Declaration provides that Declarant may amend the Declaration at any time Declarant owns any Lot subject thereto, which Declarant presently does.

C. The summary Prospectus for the Eagle Creek Community under the section entitled EAGLE CREEK COUNTRY CLUB states:

MEMBERSHIP IN EAGLE CREEK COUNTRY CLUB IS MANDATORY FOR ALL PROPERTY OWNERS.

Such membership restrictive covenant is provided for in all transfers of property to condominium owners within Eagle Creek.

D. The purpose of this Amendment is to formally include such mandatory membership requirement in the Master Covenants for Eagle Creek, and to provide a continuing lien upon property owners for payment of Club Membership Fees and Club Membership Dues.

NOW, THEREFORE, by virtue of the authority of Declarant as aforesaid, the Declaration is hereby amended by adding a following new section to Article V thereof:

[Further text follows]
Section 7. MEMBERSHIP IN EAGLE CREEK COUNTRY CLUB AND LIEN FOR CLUB MEMBERSHIP FEE AND DUES.

(a). MANDATORY MEMBERSHIP IN EAGLE CREEK

Membership in Eagle Creek Country Club as defined in Article 1(g) is mandatory for all owners of property in Eagle Creek. Owners are defined in Article 1(m) and include any successor-in-title including, but not limited to, successor-in-title through purchase at any foreclosure of judicial sale.

(b). CLUB MEMBERSHIP FEE

At the time each owner becomes a member of the Country Club there is due a Club membership fee to the Country Club upon the conveyance to an owner by Eagle Creek or upon the conveyance from an owner to a successor-in-title. ("Club Membership Fee").

(c). CLUB MEMBERSHIP DUES

Each Country Club member is required to pay annual dues to the Country Club and its successors and assigns ("Club Membership Dues")

(d). ASSESSMENT OF CLUB MEMBERSHIP FEE AND CLUB MEMBERSHIP DUES

Club Membership Fee and Club Membership Dues are set by the Declarant or the governing board of the Country Club and may be increased or decreased by Declarant or Country Club from time to time as Declarant or Country Club shall determine. Therefore, there is no obligation that all owners pay the same Club Membership Fee or Club Membership Dues, either of which may vary according to class of membership and from year to year.

(e). AFFIRMATIVE COVENANT

There is hereby imposed upon each property owner the affirmative covenant and obligation to pay the designated Club Membership Fee and Club Membership Dues. Each owner, by acceptance of a deed or other instrument of conveyance, conveying ownership of property in Eagle Creek, whether or not it shall be so expressed in such deed or instrument, shall be obligated to pay to the Country Club the Club Membership Fee and Club Membership Dues and consents and agrees to the lien rights as set forth hereunder for such fee and dues. The liability for the Club Membership Fee and Club Membership Dues may not be avoided by waiver of use or enjoyment of the Country Club or by abandonment of the property against which Country Club Fee or Country Club Dues were made.
(f). LIEN AGAINST PROPERTY

The Club Membership Fee and Club Membership Dues owed to Declarant or Country Club, with interest thereon at the highest rate allowed by law, and if there is no limit established by law, then as established by Declarant or Country Club, and cost of collection, including, but not limited to, reasonable attorney's fees, whether or not legal action is filed, are hereby declared to be a charge and continuing lien upon each property owner and when such Club Membership Fee or Club Membership Dues becomes due, shall also be the personal obligation of the owner of each such property.

(a). CLAIM OF LIEN

If any owner shall fail to pay the Club Membership Fee or Club Membership Dues, or any installment thereof, within fifteen (15 days) from the date it is due, such payment shall be considered delinquent. After fifteen (15) days notice to the property owner, the Declarant or Country Club may file a Claim of Lien. Said lien shall be effective from and only after the time of the recordation among the Public Records of Collier County, Florida of a `written acknowledged Claim of Lien by the Declarant or Country Club setting forth the amount due to Declarant or Country Club as of the date the Claim of Lien is signed. Upon full payment of all sums secured by the Lien, the party making payment shall be entitled to a Satisfaction of the Claim of Lien in recordable form.

(h). REMEDIES FOR COLLECTION

For delinquent Club Membership Fee and Club Membership Dues the declarant or Country Club may, in its sole discretion, have any and all of the following remedies;

1. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of Declarant or the Country Club in like manner as a foreclosure of a mortgage on real property.

2. To file an action at law against the owner to collect said Country Club Fee and/or Club Dues, plus interest at the highest rate allowed by law plus court costs and reasonable attorneys' fees without waiving any lien rights or rights of foreclosure.

3. Pursue any and all other rights and remedies to which either declarant or Country Club may be entitled to at law or in equity,

(i). SUBORDINATION AND SUCCESSORS-IN-TITLE

The lien provided for in this Section shall be subordinate to real property tax liens and to the lien of any first mortgage recorded prior to recordation of a Claim of Lien, which mortgage encumbers any lot and is in favor of any bona fide lender generally recognized as an institutional-type lender; provided, however, that in the event of a foreclosure, any purchaser
at a foreclosure sale, and any such mortgagee acquiring a deed in lieu of foreclosure, and any persons claiming by, through or under any such purchaser or such mortgagee, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure or conveyance in lieu of foreclosure; Any liens filed under this Section shall also be subordinate to any liens filed by the Declarant for assessments made under Article VI and the collection thereof under Article X, Section 4. Subject to the other provisions of this Section 7, in addition to the rights of collection for delinquent fee and dues stated in this Section, any and all persons acquiring the title to or an interest in the property for which a Claim of Lien has been filed or as to which there are delinquent fees or dues shall not be entitled to the occupancy of such property or the enjoyment of the Country Club until such time as all unpaid and delinquent fees and dues due and owing from the selling owner have been fully paid, and no sale or other disposition of property shall be permitted until an estoppel letter is received from the Country Club acknowledging payment in full of all Country Club Fees and Dues and other allowable charges provided for herein.

(j) DECLARANT EXCEPTION

Notwithstanding any provisions that may be contained to the contrary in this Section the Declarant or any of its affiliates, for so long as it owns any lot or undeveloped property within Eagle Creek, is exempt from the provisions hereof.

(k) SEVERABILITY

The invalidity or enforceable in whole or in part of any part of this Section shall not affect the remaining portions thereof.

IN WITNESS WHEREOF, Declarant has executed this Amendment on the date and year first above written.

WITNESSES:

[Signatures]

[Print Name]

[Print Name]

EAGLE CREEK PROPERTIES, INC.
a Florida corporation

By: [Signature]

Name: Robert P. Meister, Jr.
Vice President
The foregoing instrument was acknowledged before me this 18th day of July, 1994, by Robert P. Meister, Jr. as Vice President of Eagle Creek Properties, Inc., a Florida corporation on behalf of the corporation. Robert P. Meister, Jr. is personally known to me.

Patricia A. Downs
NOTARY PUBLIC, State of Florida

Print Name: Patricia A. Downs

Commission No. C027749

My Commission Expires: 5/31/1997

OFFICIAL NOTARY SEAL
PATRICIA A. DOWNS
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. C027749
MY COMMISSION EXP. MAY 28, 1997
AMENDMENT TO
MASTER COVENANTS
FOR
EAGLE CREEK

THIS AMENDMENT is made this 18th day of July, 1994 by EAGLE CREEK PROPERTIES, INC., a Florida corporation ("Declarant").

RECITALS:

A. The Declarant received an assignment of all of the rights of the original Declarant, under that certain declaration entitled Master Covenants for Eagle Creek, recorded in Official Records Book 1174, Page 1946 of the Public Records of Collier County, Florida, as same may have been previously amended to date (the "Declaration").

B. Article XI, Section 5 of the Declaration provides that Declarant may amend the Declaration at any time Declarant owns any Lot subject thereto, which Declarant presently does.

C. Declarant on May 25, 1994 by Special Warranty Deed conveyed that certain portion of its property consisting of approximately two acres legally described on Exhibit A-1 attached hereto ("The Property") constituting a portion of Tracts M-1 and M-2, according to the Plat of Crystal Lake Terraces of Eagle Creek, as recorded in Plat Book 16, Pages 30-31, Collier County, Florida to its affiliated corporation Eagle Creek Commercial Company, Inc., a Florida corporation.

D. Pursuant to Article II, Section 3, the Declarant reserved the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties, then owned by the Declarant or its affiliates, from the provisions of the Declaration, as a result of any changes whatsoever in the plans for Eagle Creek desired to be effected by the Declarant.

E. Withdrawal of The Property from the provisions of the Declaration is not unequivocally contrary to the overall uniform scheme of development for Eagle Creek.

NOW, THEREFORE, by virtue of the authority of Declarant as aforesaid, the declaration is hereby amended as follows:
Article II, Section 1, Legal Description is hereby amended to delete from the legal description of The Property, more particularly described in Exhibit A attached to the Declaration, that property legally described on Exhibit A-1 attached hereto and as shown on the sketch designated Exhibit A-2 attached hereto, both of which are incorporated herein by reference,

IN WITNESS WHEREOF, Declarant has executed this Amendment on the date and year first written.

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 18th day of July 1994 by Robert P. Meister, Jr. as Vice President of Eagle Creek Properties, Inc., a Florida corporation on behalf of the corporation. Robert P. Meister is personally known to me.

My Commission Expires: 5/3/97

NOTARY PUBLIC, State of Florida

Print Name: Patricia A. Downs
Commission No. 11277749

above written.

WITNESSES:

EAGLE CREEK PROPERTIES, INC.
a Florida corporation

By /s/ Robert P. Meister
Name: Robert P. Meister, Jr.
Vice President

Print Name: John A. Wild
Print Name: Phyllis J. Stevens
AMENDMENT TO
MASTER COVENANTS
FOR
EAGLE CREEK

THIS AMENDMENT is made this 9th day of June 1993 by EAGLE CREEK PROPERTIES, INC., a Florida corporation ("Declarant").

RECIPIENTS:

A. Declarant is the "Declarant" by virtue of having received an assignment of all of the rights of such, under that certain declaration entitled Master Covenants for Eagle Creek, recorded in Official Records Book 1174, Page 1946 of the Public Records of Collier County, Florida, as same may have been previously amended to date (the "Declaration"). The capitalized terms used herein shall have the meanings given them in the Declaration.

B. Article XI, Section 5 of the Declaration provides that Declarant may amend the Declaration at any time Declarant owns any Lot subject thereto, which Declarant presently does.

C. After discussions with various homeowner members of the Community Association and a review of the practices in similar communities, Declarant has determined that it would be in the best interest of the members of the Community Association to eliminate the use of "For Sale" and similar signs within Eagle Creek, except under limited circumstances.

D. In order to afford those members who are currently using such signs to adjust their plans to accommodate this Amendment, Declarant desires to delay the effectiveness hereof as provided below.

NOW, THEREFORE, by virtue of the authority of Declarant as aforesaid, the Declaration is hereby amended by adding the following new Section to Article XI thereof:

Section 11. Signs. Notwithstanding anything herein or in any documents governing any Neighborhood Association to the contrary, no "For Sale", "For Rent" or other signs of any nature (other than those exempted herefrom as provided below) shall be placed, kept or used within Eagle Creek.

The following signs shall be exempt from the foregoing prohibition:

1. Signs placed within Eagle Creek by the Community Association or the Declarant for the purpose of directing traffic to various portions thereof and/or to the Country Club (or various portions thereof);
2. Signs used by the Declarant in connection with its development and sale of Eagle Creek; and
3. Signs used by or on behalf of an owner for an "open house"; provided, however, that (i) only one (1) such sign may be used, and then only upon the Lot to which it applies (i.e., where the open house is being held), (ii) no open house sign may be used for more than two (2) consecutive days during any seven (7) day period and (iii) such sign shall be obtained from the Community Association and shall be promptly returned after its use.

IN WITNESS WHEREOF, Declarant has executed this Amendment on the date and year first above written, but with same to be effective only from and after November 1, 1993, at which time any signs located within Eagle Creek in violation hereof shall be removed by the applicable Owner(s).
DECLARATION
OF
RESTRICTIVE COVENANTS

THIS DECLARATION is made as of the 13th day of July, 1987 by MAXXAM Properties, Inc., a New
York corporation, on behalf of itself and its successors and- assigns ("Declarant:").

RECITALS

A. Declarant is the owner of that certain property commonly known as Eagle Creek. Country Club, which
property is more particularly described in Exhibit "A" attached hereto and made a part hereof and which
 together with all improvements thereon shall hereinafter be referred to as the "Country Club".

B. Declarant is desirous of maintaining the Country Club as a private club and in placing certain
restrictions on any sale of the Country Club.

NOW, THEREFORE, for and in consideration of the premises set forth herein, Declarant hereby
declares that the Country Club shall be held, transferred, occupied and operated subject to the covenants
and restrictions hereinafter set forth:

1. The Country Club shall be operated as a private club available to members (including, without'
limitation, corporate members), and their guests, but not to the general public at large except as guests and
guest players at Club-sanctioned tournaments.

2. Declarant may sell the Country Club only by complying with the following provisions:
   (a) Upon receipt of a bona fide offer to purchase the Country Club (such offer to purchase
   hereinafter called en "Outside Offer,"' the party making any such Outside offer being
   hereinafter called en "Outside offeror") which it intends to accept Declarant shall give
   notice by registered mail to the Board of Directors of Eagle Creek Community
   Association, Inc. (the "Association") of the receipt of such Outside Offer. Said notice shall
   also state the name and address of the Outside Offeror, the terms of the proposed
   transaction and such other information as the Board of Directors may reasonably require.

   The giving of such notice to the Board of Directors shall constitute en offer (by Declarant
   to sell the Country Club to the Association or its designee upon the same terms and
   conditions as contained in such Outside Offer. Not later ten thirty (30) days after receipt
   of such notice, the Association or its designee may elect, by sending written notice to
   Declarant before the expiration of said thirty (30) days period, by certified mail, to
   purchase the Country Club upon the same terms and conditions as contained in the
   Outside Offer and as stated in the notice from Declarant.

   (b) In the event the Association shall timely elect to purchase the Country Club, or to cause
   the same to be purchased by its designee, title shall close at the office of the
   attorneys for affiliated entities) acquiring all or substantially all of the Declarant's property
   "in the overall -Eagle Creek development, as same exists at the time of sale (d) any
   proper officer conducting a sale of the Country Club in connection with the foreclosure of
   a mortgage or other lien thereon or delivering a deed in lieu of foreclosure, or (e) a
   mortgagee of the Country Club (or its designee) deriving title by virtue of foreclosure of its
   mortgage or acceptance of a deed in lieu of foreclosure.

3. This Declaration may be amended, changed or added to only by an instrument signed by the
Declarant and the President of: the Association (and, attested to by its Secretary) and certifying that the
amendment set forth in the instrument was adopted by a vote of at least a majority of the members of the
'Association at a duly called meeting where a quorum has been obtained.

4. It is the intention of Declarant that these covenants and restrictions shall run with the land and bind
title to the Country Club.