

DECLARATION OF PROTECTIVE COVENANTS

AND

RESTRICTIONS FOR THOUSAND OAKS

PHASE 1

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**DECLARATION OF PROTECTIVE
COVENANTS AND RESTRICTIONS FOR Thousand Oaks**

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Protective Covenants and Restrictions for Thousand Oaks (the "Declaration"), is made and entered into as of the ____ day of _____, 1994, by F.A.S. International, LC, a Florida limited corporation, hereinafter referred to as the "DEVELOPER."

RECITALS

A. The DEVELOPER is the owner of the Property (as defined in Article I) and desires to create thereon a residential community with an entrance feature and open spaces, and other common facilities for the benefit of the community.

B. The DEVELOPER desires to provide for the preservation of the values and amenities in the community and for the maintenance of the open spaces and other common facilities; and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Property and each OWNER (as defined in Article I) thereof.

C. The DEVELOPER has deemed it desirable for the efficient preservation of the values and amenities in the community to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created.

D. The DEVELOPER has incorporated under the laws of the State of Florida, as a corporation not-for-profit, THOUSAND OAKS HOMEOWNERS' ASSOCIATION OF POLK COUNTY, INC., the purpose of which shall be to exercise the functions aforesaid.

DECLARATION

NOW, THEREFORE, the DEVELOPER declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

DEFINITIONS

Unless prohibited by the context in which they are used, the following words, when used in this Declaration, shall be defined as set out below:

Section 1. Assessment. "Assessment" shall mean and refer to those charges made by the ASSOCIATION from time to time against each Lot within the Property for the purposes set forth herein, and shall include, but not be limited to Annual Assessment for Common Expenses and Special Assessment for Capital Improvements.

Section 2. ASSOCIATION. "ASSOCIATION" shall mean THOUSAND OAKS HOMEOWNERS' ASSOCIATION OF POLK COUNTY, INC., a Florida corporation not-for-profit. Copies of the Articles of Incorporation and Bylaws of the ASSOCIATION are attached to this Declaration as Exhibits "A" and "B", respectively.

Section 3. BOARD. "BOARD" shall mean the Board of Directors of the ASSOCIATION.

Section 4. Conservation and Drainage Areas. "Conservation and Drainage Areas" shall mean and refer to those areas described as Conservation and Drainage Tract AA1; Conservation and Drainage Tract AA2; Conservation and Drainage Tract CC; and Conservation and Drainage Tract DD as per the plat thereof, recorded in Plat Book 49, Pages 28-32, of the Public Records of Polk County, Florida. The Conservation and Drainage Areas shall be used for drainage and for stormwater detention and retention to the extent approved by those governmental agencies having jurisdiction over the Conservation and Drainage Areas. The Conservation and Drainage Areas are a part of the Common Property and, except as limited herein, be for the common use, benefit and enjoyment of all OWNERS. The ASSOCIATION has the obligation to maintain the Conservation and Drainage Areas.

Section 5. Common Expenses. "Common Expenses" shall mean and refer to all expenses incurred by the ASSOCIATION in connection with its ownership and/or maintenance of the Common Property and other obligations set forth herein, or as may be otherwise determined by the BOARD.

Section 6. Common Property. "Common Property" shall mean and refer to all real property including the improvements thereon owned by the Developer, or conveyed to the Association, for the common benefit and enjoyment of the "OWNERS". The term Common Property shall also include any intangible personal property acquired by the ASSOCIATION, if such property is designated as such by the ASSOCIATION, and shall also include all recreational facilities, if any, constructed or to be constructed. The term Common Property

shall not include road-right-of-ways and utility lift station of the Property which is dedicated on the plat of THOUSAND OAKS, Phase 1 to Polk County for the purpose of vesting in Polk County the necessary ownership and responsibility to operate and maintain the road-right-of-ways and utility lift stations. Said road-right-of-ways and utility lift station system dedicated to Polk County includes, but is not limited to, all pipes, and pumps. Those areas dedicated to Polk County and not being a part of the Common Property are described as road-right-of-ways and utility lift station on the plat of THOUSAND OAKS, Phase 1. All Common Property is to be devoted to and intended for the common use and enjoyment of the members of the ASSOCIATION, their families, guests and persons occupying a Lot on a guest or tenant basis, to the extent designated on recorded plats or authorized by the Board of Directors of the Association. For purposes of determining ownership of property within the Common Property, the boundaries or any extension of the boundaries so as to cause closure as shown on the plat of THOUSAND OAKS, Phase 1, and of any additional platted subdivisions within the additional property subsequently filed of Public Records shall be conclusive. The completed Common Property together with any streets, roadways, driveways or parking areas designated by the Developer as the property of the ASSOCIATION shall be conveyed to the ASSOCIATION free and clear of encumbrances, at such time as the ASSOCIATION is formed, and is qualified to take title, or at such time thereafter as Developer determines at its sole option. At the time of execution of this Declaration, the Common Property is described as Conservation and Drainage Tracts referred to as "AA1", "AA2", "CC", "DD", Retention Detention Tracts referred to as "A", "B", "C", "D", "E", and "G1", Landscape, Wall, Signage and Utility Tracts referred to as "M" and "N", and Landscape and Signage Tracts "O1" and "O2" on the plat of THOUSAND OAKS, Phase 1. In the event any portion of the road-right-of-ways and utility lift stations on the plat THOUSAND OAKS, Phase 1 is abandoned by Polk County to the Developer, its successors and assigns and subsequently conveyed to the ASSOCIATION, or abandoned directly to the ASSOCIATION, then such abandoned portion shall be deemed to be Common Property and subject to all of the covenants, conditions, and restrictions contained herein which are applicable to those tracts which make up the Common Property at the time of the execution of this Declaration. Provided, however, nothing contained herein shall provide an obligation on the part of Developer to convey to the ASSOCIATION, or to provide as Common Property, any properties dedicated to Polk County on the plat of THOUSAND OAKS, Phase 1 or subsequently recorded plats of the additional property, which dedicated properties may subsequently be abandoned by Polk County to the Developer. The ASSOCIATION has the obligation to maintain the Common Property for the common use, benefit and enjoyment of all OWNERS. The Common Property is to be maintained by The Association and are subject to a Drainage Easement in favor of the County Commissioners. The surface water management system within the

Property shall also be considered a part of the Common Property and shall be maintained and controlled by the ASSOCIATION.

Section 7. Covenants. "Covenants" shall mean and refer to the covenants, restrictions, reservations, conditions, easements, charges and liens hereinafter set forth. All Covenants constitute "covenants running with the land" and shall run perpetually unless terminated or amended as provided herein, and shall be binding on all OWNERS.

Section 8. Declaration. "Declaration" shall mean this instrument, DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR Thousand Oaks, and all amendments or Supplements made to this instrument.

Section 9. DEVELOPER. "DEVELOPER" shall mean F.A.S. International, LC, a Florida limited corporation, and its successors or assigns as designated in writing by the DEVELOPER.

Section 10. Governing Documents. "Governing Documents" shall mean this Declaration, any Supplement to the Declaration and the Articles of Incorporation and Bylaws of the ASSOCIATION, as the same may be amended from time to time and filed in the Public Records of Polk County, Florida. In the event of conflict or inconsistency among Governing Documents, to the extent permitted by law, the Declaration and any Supplement to the Declaration, the Articles of Incorporation, and the Bylaws, in that order, shall control. One Governing Document's lack of a provision with respect to a matter for which provision is made in another Governing Document shall not be deemed a conflict or inconsistency between such Governing Documents.

Section 11. Improvements. "Improvements" shall mean and refer to all structures of any kind including, without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, recreational facility, landscaping, exterior lighting or landscape device or object.

Section 12. Lot. "Lot" shall mean and refer to each portion of the Property under separate ownership, or which is capable of separate ownership, including all Lots shown on the plat, and all Improvements located thereon. Each portion of the Property which is considered a separate parcel for real property tax purposes shall be considered a Lot.

Section 13. MEMBER. "MEMBER" shall mean and refer to all those OWNERS who are MEMBERS of the ASSOCIATION as provided in Article III.

Section 14. OWNER. "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 Property but, notwithstanding any applicable theory of mortgage, shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 15. Person. "Person" shall mean and include an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, limited liability company, two or more persons having a joint or common interest, or any other legal entity.

Section 16. Plat. "Plat" shall mean the Plat of Thousand Oaks, Phase 1, as recorded in Plat Book 99, at Page 28/32, of the Public Records of Polk County, Florida. A copy of the Plat is attached hereto as Exhibit "C".

Section 17. Property. "Property" shall mean and refer to Thousand Oaks, Phase 1, as per the plat thereof, recorded in Plat Book 99, Pages 28/32, Public Records of Polk County, Florida, being all real property which has become subject to this Declaration. A legal description of the Property is attached hereto as Exhibit "D".

Section 18. Resident. "Resident" shall mean and refer to the legal occupant of any Lot. The term "Resident" shall include the OWNER of the Lot and any tenant, lessee or licensee of the OWNER.

Section 19. Street. "Street" shall mean and refer to any street or other thoroughfare within Thousand Oaks, whether same is designated as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, land, walk or other similar designation.

Section 20. Supplement. "Supplement" shall mean a document and the exhibits thereto which when recorded in the Public Records of Polk County, Florida, shall subject additional real property to the provisions of this Declaration.

Section 21. Thousand Oaks. "Thousand Oaks" shall mean the real estate development located in Polk County, Florida, developed by the DEVELOPER, which includes the Property and additional real property to be added to the Property upon the recording of an appropriate Supplement(s) in the Public Records of Polk County, Florida.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO THE PROPERTY

Section 1. Property Subject to Declaration. The Property is, and shall be, held, transferred, sold, conveyed, and occupied

subject to this Declaration. All lots in the Plat are subject to this Declaration.

Section 2. Other Additions to the Property. The DEVELOPER reserves the right to add, or may cause to be added, other real property not now included within the THOUSAND OAKS, Phase 1 to the provisions of this Declaration. Each commitment of additional property to this Declaration shall be made by a recitation to that effect in a Supplement which need be executed only by the DEVELOPER, and the owner of such real property if not the DEVELOPER, and does not require the execution or consent of the ASSOCIATION, or any OWNERS. The Supplement shall describe the real property which is being committed to this Declaration and made subject to the terms of this Declaration and shall contain such other terms and provisions as the DEVELOPER deems proper. Upon the recordation of a Supplement, such real property described therein shall be committed to the Covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated herein as "Property". Notwithstanding the terms of this Section, annexation of additional properties, declaration of common areas, and amendment of the Declaration of Covenants, Conditions and Restrictions, requires HUD/VA prior approval as long as there is the Class B Membership as defined by the Articles of Incorporation and Bylaws.

Section 3. Mergers. Upon a merger or consolidation of the ASSOCIATION with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the ASSOCIATION as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration within the Property together with the covenants and restrictions established by Supplemental Declaration upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants within the Property, except as hereinafter provided. Notwithstanding the terms of this Section, annexation of additional properties, declaration of common areas, and amendment of the Declaration of Covenants, Conditions and Restrictions, requires HUD/VA prior approval as long as there is the Class B membership as defined by the Articles of Incorporation and Bylaws.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Except as is set forth in this Section 1, every Person who is a record titleholder of a fee or undivided

fee interest in any Lot which is subject by covenants of record to assessment by the ASSOCIATION shall be a MEMBER of the ASSOCIATION, provided that any such Person which holds such interest merely as a security for the performance of any obligation shall not be a MEMBER.

Section 2. MEMBER's Voting Rights. The Association shall have two (2) classes of membership:

Class A. Class A Members shall be all OWNERS with the exception of the DEVELOPER and shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be MEMBERS. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the DEVELOPER and the DEVELOPER shall be entitled to three (3) votes for each lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occur earlier:

- (a) 75% of the units are deeded to class A members, or
- (b) On December 31, 2010.

From and after the happening of these events, whichever occur earlier, the class B Members shall be deemed Class A Members entitled to one (1) vote for each Lot in which it holds the interest required under this Article.

Section 3. Board of Directors. The ASSOCIATION shall be governed by the BOARD which shall be appointed, designated or elected, as the case may be, as follows:

(a) Appointed by the DEVELOPER. The DEVELOPER shall have the right to appoint all members of the BOARD until the DEVELOPER holds less than twenty-five percent (25%) of the total number of votes of MEMBERS as determined by the Articles.

(b) Election of the BOARD. After the DEVELOPER no longer has the right to appoint all members of the BOARD under subsection 3(a) of this Article III, or earlier if the DEVELOPER so elects, then, and only then, shall any member of the BOARD be elected by the MEMBERS of the ASSOCIATION.

(c) Vacancies. A member of the BOARD may be removed and vacancies on the BOARD shall be filled in the manner provided by the Bylaws. However, any member of the BOARD appointed by the DEVELOPER may only be removed by the DEVELOPER, and any vacancy on the BOARD of a member appointed by the DEVELOPER shall be filled by the DEVELOPER.