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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SCOTT KELLY CORPORATION and PATRICK S. KELLY, doing business as partners in the name of KELLYBILT CONSTRUCTION COMPANY, not incorporated, hereinafter called declarant, are the owners in fee simple of certain real property located in Polk County, Florida, known by official plat designation as replat of KELLWOOD VILLAGE, pursuant to a replat recorded in Plat Book 74, at page 10 of the public records of Polk County, Florida and all replats thereof.

For the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, declarant hereby declares that all of the real property described above and each part thereof shall be held, sold, and conveyed only subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

Section 1. "Association" shall mean and refer to KELLWOOD VILLAGE OWNERS ASSOCIATION, INC., a Florida corporation not for profit, its successors and assigns.

Section 2. "Common area" shall mean all real property owned by the association for the common use and enjoyment of the owners, including recreational areas, private streets and wastewater collection system within the replat of KELLWOOD VILLAGE or any replats thereof.

Section 3. "Declarant" shall mean SCOTT KELLY CORPORATION and PATRICK S. KELLY, doing business as partners in the name of KELLYBILT CONSTRUCTION COMPANY, not incorporated, their successors and assigns, and is also referred to herein as "Developer".

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Section 4. "Lot" shall mean and refer to any unit of land with a designated lot number or metes and bounds description of property which has been conveyed by Declarant as shown on the recorded subdivision replat and any replats thereof with the exception of the common areas.

Section 5. "Maintenance" shall mean the exercise of reasonable care to keep the recreation area, streets, landscaping, lighting, on site wastewater collection system, and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted.

Section 6. "Member" shall initially mean the incorporators of KELLWOOD VILLAGE OWNERS ASSOCIATION, INC. until control of the association has been turned over to the Lot Owners in accordance with the Articles of Incorporation, and thereafter shall mean every person or entity who is a Lot Owner.

Section 7. "Mortgagee" shall mean a holder of a conventional mortgage, the holder of any governmental agency mortgage, or a beneficiary under or holder of a deed of trust.

Section 8. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the subdivision, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

Section 9. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought within the jurisdiction of the association as hereinafter provided.

ARTICLE II. MEMBERSHIP IN ASSOCIATION AND INITIAL CONTROL THEREOF

Every owner of a lot which is subject to assessment inclusive of developer owned lots shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one 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 vote be cast with respect to any lot.

(b) Class B. The Class B member(s) shall be the Declarant and shall be entitled to three votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

1. When the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership, or
2. On a date three years from the recordation of this document.

ARTICLE III. ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments.

Declarant hereby covenants for each lot within the subdivision, and each owner of a lot is hereby deemed to covenant by acceptance of his deed for such lot, whether or not it shall be so expressed in his deed, to pay to the association (a) monthly assessments and (b) special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The monthly and special assessments (together with interest, costs, and reasonable attorneys' fees for the collection or enforcement thereof, if necessary), shall be a charge on the land and a continuing lien on each lot against which such an assessment is made until the same is paid. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person or persons who owned the lot at the time

the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

Section 2. Maintenance by Association and by Owners.

The monthly assessments levied by the association shall be used exclusively to provide and maintain certain exterior portions of living units as described herein and common areas, recreational facilities, private streets, landscaping, and certain insurance and common utility services as described herein and to provide a sinking fund for the repair and replacement of roofs and private streets. The association shall provide and maintain:

FOR THE DUPLEX UNITS: The common and recreational areas of KELLWOOD VILLAGE, including lawns, grounds, streets, parking areas, walkways, water distribution system, water drainage system (surface and underground, including on site wastewater collection system), walls (but not windows or doors), and/or fences, and street lighting that are within the plat of KELLWOOD VILLAGE; roofs of duplex units for waterproofing against leaks only; water service; grounds maintenance including mowing, edging, and fertilizing up to a point three (3) feet from each residence; liability and fire insurance including extended coverage on the common areas and recreational facilities to the extent of the insurable value thereof.

Duplex owners shall be responsible for all other exterior maintenance. Any additions or alterations to Duplex units will not be maintained by the association. Any leaks resulting from alterations or additions to roofs or walls by any owner shall be repaired at the expense of the owner. No trees, shrubbery or landscaping effects may be installed without the approval of the architectural committee.

FOR THE TOWNHOUSES: The common and recreational areas of KELLWOOD VILLAGE, including lawns, grounds, streets, parking areas, walkways, water distribution system, water

drainage system (surface and underground, including on site wastewater collection system), walls and/or fences, and street lighting that are within the replat of KELLWOOD VILLAGE; water service, grounds maintenance including irrigation, mowing, edging, fertilizing of lawns, shrubbery and trees; Townhouse exteriors including roofs, walls (but not windows or doors), painting, walkways, driveways, outside private area lights (if installed by the developer), and Townhouse privacy walls that are installed within the Townhouse area by the developer.

Any additions or alterations installed by owners of Townhouses will not be maintained by the association. Any leaks resulting from alterations or additions to roofs or walls by any owner shall be repaired at the expense of the owner. Townhouse owners are encouraged to add shrubbery and trees after receiving the approval of the architectural committee.

Section 3. Monthly Assessment.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the monthly assessment shall be \$25.00 for Duplex units and \$30.00 for Townhouse units. Such assessments shall be paid quarterly in advance.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, while the association is within the control of the incorporators of the association, the monthly assessment may be increased each year not more than five percent (5%) above the assessment for the previous year.

(c) After control of the association is relinquished under Article II, the board of directors of the association may fix the monthly assessment at an amount it shall determine necessary not in excess of the maximum, as indicated hereinabove.

Section 4. Special Assessments for Capital Improvements.

After control of the association is relinquished under Article II, in addition to the monthly assessments authorized above, the association may levy special assessments only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement on the common area, private streets, wastewater collection system, and recreation areas, including fixtures and personal property related thereto. Any such assessment must be approved by a majority of each class of membership.

Section 5. Notice of Meetings.

Written notice of any meeting called for the purpose of taking any action authorized by Section 3 or 4 shall be sent to all members not less than ten (10) nor more than thirty (30) days in advance of such meeting.

Section 6. Commencement and Collection of Monthly

Assessments. At the conveyance of the first lot to a unit owner, the common area will be conveyed free and clear to the Association and, at that point in time, the assessments will start inclusive of those lots owned by the Declarant. Assessments shall be payable quarterly in advance. The association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the association, setting forth whether the assessments against a specific lot have been paid, and each year may cause to be recorded in the Public Records of Polk County, a list of delinquent assessments.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No

owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or abandonment of his lot.

Section 8. Subordination of Assessment Lien to Mortgages.

The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof, nor shall it relieve the seller of personal responsibility therefor.

ARTICLE IV. PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner

of a lot shall have a right and easement of enjoyment in and to the common areas which shall be appurtenant to and shall pass with the title to such lot, subject to the following rights of the association:

(a) The right to suspend the right of use of common areas and the voting rights of any owner for periods during which assessments against his lot remain unpaid, and the right, after hearing by the board of directors, to suspend such rights for a period not exceeding 30 days for any infraction of the published rules and regulations of the association;

(b) The right to dedicate or transfer all or any part of the common areas to the County, any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument executed by a majority of the members agreeing to such dedication or transfer has been duly recorded.

Section 2. Delegation of Use. Subject to such limitations as may be imposed by the bylaws, each owner may delegate his right of enjoyment in and to the common areas and facilities to the members of his family, his guests, tenants.

Section 3. Easements of Encroachment. There shall exist reciprocal appurtenant easements as between adjacent lots and between each lot and any portion or portions of the common areas adjacent thereto for any encroachment due to the unintentional placement, reconstruction or alteration thereon, provided such construction, reconstruction, or alteration is in accordance with the terms of this declaration. Such easement shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between adjacent lots, and between each lot and any adjacent portion of the common area, along a line perpendicular to such boundary at such point. No easement for encroachment shall exist as to any encroachment occurring due to the wilful conduct of an owner.

Section 4. Other Easements.

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded subdivision replat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each lot and all improvements therein shall be continuously maintained by the owner of such lot, except for improvements for maintenance of which a public authority or utility company is responsible.

(b) No dwelling unit or other structure of any

kind shall be built, erected, or maintained on any such easement, reservation, or right of way, and such easements, reservations, and rights of way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights of way are reserved.

Section 5. Right of Entry. The association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

Section 6. No Partition. There shall be no judicial partition of the common area, nor shall declarant, or any owner or any other person acquiring any interest in the subdivision or any part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any lot owned in cotenancy.

ARTICLE V. USE RESTRICTIONS

The subdivision shall be occupied and used only as follows:

Section 1. Each lot shall be occupied or leased as a residence for a single family and their social guests and for no other purpose.

Section 2. No business of any kind shall be conducted on any residence with the exception of the business of declarant and the transferees of declarant in developing all of the lots as provided in Section 11, below.

Section 3. No noxious or offensive activity shall be carried on in or on any lot with the exception of the business

of declarant and the transferees of declarant in developing all of the lots as provided in Section 11, below. No lot owner shall permit anything to be done, kept on his lot which may interfere with the rights of other lot owners or annoy them by unreasonable noise, light, or odor or otherwise, nor shall any lot owner conduct or permit any nuisance, or immoral or illegal act on his premises.

Section 4. No sign of any kind shall be displayed to public view on a lot or the common areas by a lot owner without the prior written consent of the association, except customary name and address signs.

Section 5. Nothing shall be done or kept on a lot or on the common areas which would increase the rate of insurance relating thereto without the prior written consent of the association, and no owner shall permit anything to be done or kept on his lot or the common area which would result in the cancellation of insurance on any residence or on any part of the common areas, or which would be in violation of any law.

Section 6. No dogs, cats and other household pets, and any other animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot or on the common areas except that pets including dogs, cats, fish and caged birds may be kept inside of residences and dogs and cats may be walked outside only on a leash and under the direct physical control of a person.

Section 7. No rubbish, trash, garbage, or other waste material shall be kept or permitted on any lot or on the common areas.

Section 8. No fence, hedge, wall, or other dividing instrumentality nor any exterior addition or change be made to any structure or shall be constructed or maintained on any lot, except by declarant or with written permission of the association after consideration of the aesthetic effect thereof. No exterior radio or television antennas nor any

outdoor clothes-drying apparatus which has not been approved by the architectural committee may be erected or maintained in the subdivision. No alteration shall be made by any owner to the exterior of any Duplex or Townhouse unit without the written consent of the architectural committee.

Section 9. No outbuilding, tent, shack, garage, trailer, shed, utility building or temporary building of any kind shall be erected, except temporarily only for construction purposes.

Section 10. Nothing shall be altered in, constructed on, or removed from the common areas except on the written consent of the association, after the original development thereof by the Declarant.

Section 11. Declarant or the transferees of declarant shall undertake the work of developing all lots included within the subdivision. The completion of that work, and the sale, rental, or other disposition of residential units is essential to the establishment and welfare of the subdivision as an ongoing residential community. In order that such work may be completed and the subdivision be established as a fully occupied residential community as soon as possible, nothing in this declaration shall be understood or construed to:

(a) Prevent declarant, declarant's transferees, or the employees, contractors, or subcontractors of declarant or declarant's transferees from doing on any part or parts of the subdivision owned or controlled by declarant or declarant's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work;

(b) Prevent declarant, declarant's transferees, or the employees, contractors, or subcontractors of declarant or declarant's transferees from constructing and maintaining

on any part or parts of the subdivision property owned or controlled by declarant, declarant's transferees, or their representatives, such structures including model homes as may be reasonably necessary for the completion of such work, the establishment of the subdivision as a residential community, and the disposition of lots by sale, lease, or otherwise;

(c) Prevent declarant, declarant's transferees, or the employees, contractors, or subcontractors of declarant or declarant's transferees from conducting on any part or parts of the subdivision property owned or controlled by declarant or declarant's transferees or their representatives, the business of completing such work, of establishing the subdivision as a residential community, and of disposing of lots by sale, lease, or otherwise; or

(d) Prevent declarant, declarant's transferees, or the employees, contractors, or subcontractors of declarant or declarant's transferees from maintaining entrance, identification, sales and directional signs on any of the lots owned or controlled by any of them and common areas as may be necessary in connection with the sale, lease, or other disposition of subdivision lots.

As used in this section, the words "its transferees" specifically exclude purchasers of lots improved with completed residences.

Section 12. Streets, Driveways, and Parking Areas. The streets, driveways and parking areas within the subdivision may be used only for the operation and parking of operable automobiles. They may not be used for parking or storing of boats, trucks in excess of 3/4 ton capacity, trailers, motor homes, mobile homes, houseboats, campers or similar vehicles or other things.

ARTICLE VI. OWNERS' OBLIGATIONS FOR REPAIR AND MAINTENANCE

Section 1. Each owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition

comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

Section 2. Each Duplex and Townhouse owner shall be responsible for maintaining all landscaping which is within three (3) feet of their residence. No trees, shrubs or landscaping effects may be planted by owners without written consent of declarant or the association.

ARTICLE VII. OWNERS' OBLIGATION TO REBUILD

If all or any portion of a dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence, to rebuild, repair, or reconstruct such dwelling in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs, and shall be completed within six (6) months after the damage occurs, unless prevented by causes beyond the control of the owner or owners. As an alternative to reconstruction, the owner may elect to demolish and clear the lot of all debris, and shall do so within three (3) months after damage.

ARTICLE VIII. PARTY WALL AND ROOF OBLIGATIONS

Section 1. Common Roofs and Walls. There are common walls between the contiguous units which are placed on the dividing line between the lots and there are common roofs over all of the buildings which are joined by common walls. These common roofs and walls are party roofs and party walls. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the party walls and the party roofs.

Section 2. Use. The lot owners shall have the right to use party walls and party roofs, including use in connection

with any permissible alteration of the building upon their property and in connection with replacement of that building with a different one. However, no opening may be cut in the common walls or roofs, and no common walls or roofs may be put to any use that will impair their strength and usefulness or injure the building or the adjoining living unit. Each lot owner may use only that portion of the exterior wall surfaces which form his respective living unit.

Section 3. Repairs and Maintenance of Party Walls. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall as part of the enclosure of their living unit in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the costs of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owners' successors in title.

Section 4. Repair and Replacement of Party Roofs. The costs of reasonable repair and replacement of party roofs for the purpose of waterproofing against leaks only shall be the responsibility of the association (except in the event of damage or destruction by casualty as described in Article VII) as provided in Article III, Section 2, and a sinking fund shall be established by the association for such purpose.

Section 5. Liability for Damages to Party Walls and Roofs. Notwithstanding any other provision of this article, any owner who by his negligent or his willful act causes the

party wall or the party roof to be damaged or exposed to the elements shall bear the degree of liability for property damage under any rule of law regarding liability for negligent or willful acts or omissions.

ARTICLE IX. GENERAL PROVISIONS

Section 1. Enforcement. Declarant (while Declarant still owns a lot within the subdivision), the association, or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this declaration. Failure by declarant, the association, or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendments. Covenants and restrictions of this declaration may be amended by duly recording an instrument executed and acknowledged by the Declarant so long as Declarant owns seventy-five percent (75%) of the lots, and thereafter may be amended in the same manner by not less than seventy-five percent (75%) of the members. Any amendment occurring while the developer owns seventy-five percent (75%) of the lots shall require approval of the Veterans Administration or H.U.D.

Section 4. Subordination. No breach of any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the subdivision or any lot therein; provided, however, that such conditions shall be binding on any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

Section 5. Duration. The covenants and restrictions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the association or any member thereof.

Executed at Lakeland, Polk County, Florida this 31st day of January, 1983.

Signed, sealed and delivered in the presence of:

[Signature]
[Signature]

SCOTT KELLY CORPORATION

By: [Signature]
SCOTT KELLY, its president

[Signature]
PATRICK S. KELLY

STATE OF FLORIDA)

COUNTY OF POLK)

BEFORE ME, the undersigned authority, personally appeared SCOTT KELLY, president of SCOTT KELLY CORPORATION one of the partners of Declarant company, to me known to be the president of said corporation and who executed the foregoing instrument with full authority of Declarant company.

WITNESS my hand and official seal in the County and State aforesaid, this 31st day of January, 1983.

[Signature]
NOTARY PUBLIC
MAR-29-1985

STATE OF FLORIDA)

COUNTY OF POLK)

BEFORE ME, the undersigned authority, personally appeared PATRICK S. KELLY one of the partners of Declarant company, to me known to be the person in and who executed the foregoing instrument with full authority of Declarant company.

WITNESS my hand and official seal in the County and State aforesaid, this 31st day of January, 1983.

[Signature]
NOTARY PUBLIC
MAR-29-1985

FILED, RECORDED AND
RECORD VERIFIED
E.D. 'Bud' DIXON, Clk. Cir. Ct.
POLK COUNTY, FLA.
BY [Signature] D.C.

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