

This instrument prepared by and return to:
Gregg R. Lehrer, Esq.
GrayRobinson, P.A.
301 E. Pine Street, Suite 1400
Orlando, Florida 32801
(407) 843-8880

**FIFTH AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

**THIS FIFTH AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS ("Amendment")** is made this 19 day of January,
2007 by **EAGLE DUNES, LLC**, a Florida limited liability company ("**Declarant**") whose
address is 86 Spring Vista Drive, Suite 200, DeBary, FL 32713.

RECITALS:

A. Declarant has created a general plan of development for the property known as Eagle Dunes/Sorrento Hills, located in Lake County, Florida.

B. Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions on May 22, 2003 in Official Records Book 2324, Page 337, Public Records of Lake County, Florida, as amended by that certain First Amendment to Declaration of Covenants Conditions and Restrictions recorded on August 15, 2003 in O.R. Book 2384, Page 2390, as further amended by that certain Second Amendment to Declaration of Covenants Conditions and Restrictions recorded on August 31, 2004 in O.R. Book 2648, Page 773, as amended by that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions recorded on October 1, 2004 in Official records Book 2668, Page 944, as amended by that certain Fourth Amendment to Declaration of Covenants, Conditions and Restrictions recorded on May 20, 2005 in O.R. Book 2839, Page 0829, as further amended by that certain additional Fourth Amendment to Declaration of Covenants, Conditions and Restrictions recorded on November 16, 2005 in O.R. Book 3009, Page 1825 and further amended by that certain Notice of Annexation recorded on June 30, 2006 in Official Records Book 3200, Page 2108, all of the Public Records of Lake County, Florida (collectively, the "Declaration").

C. Pursuant to Article XI, Declarant, Tousea Homes, Inc., EMF Fund I, LLC and Eagle Dunes, II, LLC, as the holders of at least 2/3rds of the votes in the Association may change or amend the Declaration by executing a written instrument in recordable form setting forth such amendment.

D. Declarant desires to amend the Declaration as hereinafter set forth, in accordance with the terms and conditions of this Amendment.

NOW, THEREFORE, Developer amends the Declaration as follows:

1. The above Recitals are true and correct and are hereby incorporated herein by reference.

2. Tousa Homes, Inc., EMF Fund I, LLC and Eagle Dunes II, LLC hereby join in, consent and approve the terms of this Amendment and together with Declarant, represent the holder of at least 2/3rds of the votes of the Association.

3. Article IX, Section 7 of the Declaration is hereby amended by deleting the following language from the last sentence thereof: "or on the side of (opposite any side street) or behind the Dwelling.", so that the last sentence thereof shall hereafter read as follows: "No trailers, boats, campers, trucks, mobile homes, motorized recreational vehicles, or motorcycles may be parked on the Property unless parked inside a garage."

4. The following Section 31 is hereby added to Article IX:

"Section 31. Home Operated Business. No Lot located within the Property shall be used for business purposes where customers, employees and deliveries are entering and leaving the Property. The foregoing shall not apply to the operation of a home office where no such employees, customers and deliveries are in route to any Lot. The foregoing shall further not restrict Declarant or Builder's rights under Article IX, Section 25."

5. The Declaration is hereby amended by adding the following Article XVII to the Declaration in order to clarify insurance obligations as hereinafter set forth, in accordance with the following terms and conditions, as it pertains only to the Town Home Buildings and the Town Home Units (collectively, the "Town Home Property"):

A. Insurance.

Section 1. Association. Association shall maintain the following insurance coverage:

a. Flood Insurance. If the Common Areas are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area.

b. Liability Insurance. Commercial general liability insurance coverage providing coverage and limits deemed appropriate by the Board. Such policies must provide that they may not be canceled or substantially modified by any party, without at least thirty (30) days' prior written notice to Developer, until after the turnover date of the Association.

c. Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

d. Other Insurance. Such other insurance coverage as appropriate from time to time. All coverage obtained by Association shall cover all activities of Association and all

properties maintained by Association, whether or not Association owns title thereto. Without limiting the foregoing and in addition to any other insurance required under this Section 1, Association shall carry an insurance policy insuring itself from liability for damages related to or arising in connection with the streets, sidewalks, drainage system (including detention/retention areas). The minimum amount of insurance required shall be established by resolution of the Lake County City Council or such other applicable governmental authority.

e. Declarant. Prior to and including the date of Turnover, Declarant shall have the right, but not the obligation, at Association's expense, to provide insurance coverage under its master insurance policy in lieu of any of the foregoing.

Section 2. Town Home Units.

a. Requirements to Maintain Insurance. Each Owner shall be required to obtain and maintain adequate insurance on his or her Town Home Unit with Association named as additionally insured. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Town Home Unit as applicable, remove the debris, and to resod and landscape land comprising the Town Home Unit. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Town Home Unit which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

b. Requirement to Reconstruct or Demolish. In the event that any Town Home Unit is destroyed by fire or other casualty, the Owner of such Town Home Unit shall do one of the following: the Owner shall commence reconstruction and/or repair of the Town Home Unit ("Required Repair"), or Owner shall tear the Town Home Unit down, remove all the debris, and resod and landscape the property comprising the Town Home Unit as required by the ARC ("Required Demolition") to the extent permitted under law. If any Owner elects to perform the Required Repairs, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Town Home Unit. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the power of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Town Home Unit within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

c. Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with standards established by Association with respect to any casualty that affects all or a portion of the Town Home Property.

d. Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Town Home Unit. Association shall have the absolute right to perform the Required Demolition to a Town Home Unit pursuant to this Section if any contractor certifies in writing to Association that such Town Home Unit cannot be rebuilt or repaired. The Board may levy an individual assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair and Required Demolition performed by Association.

e. Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Town Home Unit. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

Section 3. Association as Agent. Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims.

Section 4. Casualty to Common Areas. In the event of damage to the Common Areas, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Town Home Unit, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

Section 5. Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

Section 6. Cost of Payment of Premiums. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof shall be operating costs included in the Town Home Assessments.

6. Article XVI, Paragraph B, Section 2, Subsection D of the Third Amendment is hereby amended by deleting the first sentence thereof so that the Subsection shall hereafter read

as follows: "D. Insurance. Each Owner of a town home unit shall be responsible for maintaining insurance for the contents of their unit and any other personal property owned by the Owner."

7. Capitalized terms used herein, unless specifically defined herein, shall have the same meaning as set forth in the Declaration.

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

Signed, sealed and delivered in the presence of:

Wendy A. Cassese

Signature
Print Name: Wendy A. Cassese

[Signature]

Signature
Print Name: Jonathan Varnes

DECLARANT:

EAGLE DUNES, LLC, a Florida limited liability company

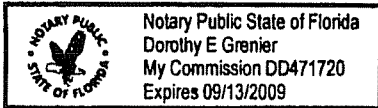
By: [Signature]

Name: John C. Gray, Jr.

Title: Manager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 19 day of January, 2007, by John C. Gray, Jr., as Manager of EAGLE DUNES, LLC, a Florida limited liability company, on behalf of the company.



AFFIX NOTARY STAMP

Dorothy E. Grenier
Signature of Notary Public

Dorothy E. Grenier
(Print Notary Name)

My Commission Expires: 9-13-09

Commission No.: DD471720

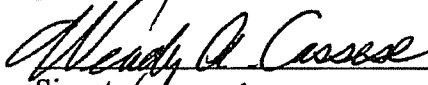
~ Personally known, or

~ Produced Identification

Type of Identification Produced

Joined in and consented to by:

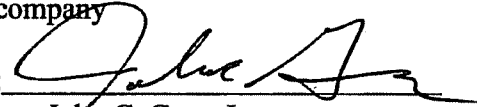
Signed, sealed and delivered in the presence of:



 Signature
 Print Name: Wendy A. CASSE

 Signature
 Print Name: Jonathan Varner

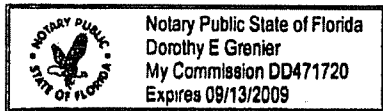
EAGLE DUNES II, LLC, a Florida limited liability company

By: 

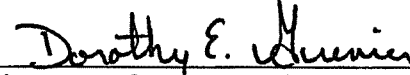
 Name: John C. Gray, Jr.
 Title: Manager

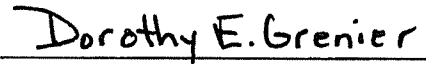
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 19 day of January, 2007, by John C. Gray, Jr., as Manager of EAGLE DUNES II, LLC, a Florida limited liability company, on behalf of the company.



AFFIX NOTARY STAMP

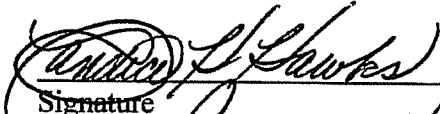



 Signature of Notary Public



 (Print Notary Name)
 My Commission Expires: 9-13-09
 Commission No.: DD471720
 ~ Personally known, or
 ~ Produced Identification
 Type of Identification Produced

Joined in and consented to by:

TOUSA HOMES, INC.

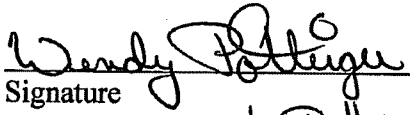

Signature
Print Name: Candice Hawks

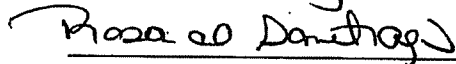

Signature
Print Name: Adrienne R. Hawks

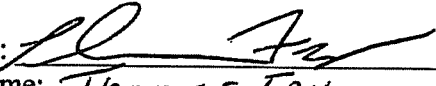

By: _____
Name: Robert A. Jern
Title: VP

EMF FUND I, LLC

By: EMF Capital, Inc., Manager/Member

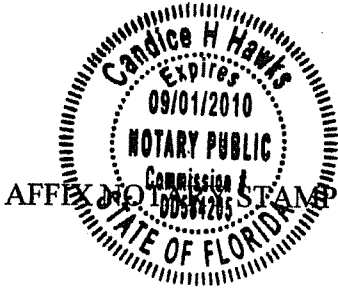

Signature
Print Name: Wendy Potteiger


Signature
Print Name: Rosa I Santiago

By: 
Name: Thomas Fey
Title: President

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 18th day of January, 2007, by Richard A. Jerman, as Vice President of Touse Homes, Inc., on behalf of the company.



(Candice H Hawks)
Signature of Notary Public

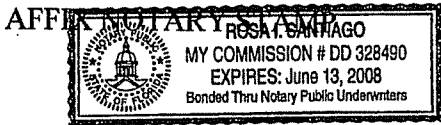
Candice H Hawks
(Print Notary Name)

My Commission Expires: 9/1/10
Commission No.: DD584205

Personally known, or
 ~ Produced Identification
Type of Identification Produced

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 17th day of Jan., 2007, by Thomas Fey, as president of EMF Capital Inc. the Manager/Member of EMF Fund I, LLC, on behalf of the corporation and the LLC.



Rosa I Santiago
Signature of Notary Public

Rosa I Santiago
(Print Notary Name)

My Commission Expires: June 13, 2008
Commission No.: DD

~ Personally known, or
 X Produced Identification
Type of Identification Produced
Florida Driver License

JOINDER AND CONSENT BY MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

THAT **MERCANTILE BANK** (the "Mortgagee"), whose address is 1560 North Orange Avenue, Suite 300, Winter Park, Florida 32789, is the owner and holder of that certain Mortgage and Security Agreement from Declarant, dated June 29, 2006, and recorded on June 30, 2006 in Official Records Book 3200, Page 2070, Public Records of Lake County, Florida (the "Mortgage"), encumbering the Additional Property described in **Exhibit "A"**, attached hereto and securing that certain Mortgage Note dated June 28, 2006, in the original principal amount of \$8,000,000.00 and by the execution hereof, Mortgagee hereby joins into and consents to the terms of this Fifth Amendment to Declaration of Covenants, Conditions and Restrictions and further covenants and agrees that the lien of the Mortgage is and shall be subordinate to the Declaration, the amendments thereto and this Fifth Amendment, as if the Declaration, the amendments and the Fifth Amendment had been executed and recorded prior to execution, delivery or recordation of the Mortgage.

IN WITNESS WHEREOF, the Mortgagee has executed this Joinder and Consent by Mortgagee this 23rd day of JANUARY, 2007.

Signed, sealed and delivered in the presence of:

Diane L. Origer
Signature
Print Name: Diane L. Origer

Carolina Ofulvow
Signature
Print Name: Carolina Ofulvow

MERCANTILE BANK

By: William J. Wells Jr
Name: William J. Wells Jr
Title: Vice President

STATE OF FLORIDA)
) SS:
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 23rd day of January, 2007 by William Dills, as SI Vice President of MERCANTILE BANK, on behalf of the Bank. He is personally known to me or has produced _____ as identification.

Lisa Smith Nissen
Notary Public State of Florida
Print Name: _____
Title: Notary Public
Serial No. (if any): _____
Commission Expires: _____

Notary Stamp



JOINDER AND CONSENT BY MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

THAT BANK OF FLORIDA (the "Mortgagee"), whose address is 595 South Federal Highway, Suite 100 Boca Raton, FL, is the owner and holder of that certain Mortgage from EMF FUND I, LLC, dated May 26, 2005 and recorded in Official Records Book 2844, Pages 914 to 924, Public Records of Lake County, Florida (the "Mortgage"), encumbering the EMF Fund I, LLC Property described in the Mortgage and by the execution hereof, Mortgagee hereby joins into and consents to the terms of this Fifth Amendment to Declaration of Covenants, Conditions and Restrictions and further covenants and agrees that the lien of the Mortgage is and shall be subordinate to the Declaration, as supplemented by the amendments thereto and this Fifth Amendment, as if the Declaration, the amendments and this Fifth Amendment had been executed and recorded prior to execution, delivery or recordation of the Mortgage.

IN WITNESS WHEREOF, the Mortgagee has executed this Joinder and Consent by Mortgagee this 22 day of January, 2007.

Signed, sealed and delivered in the presence of:

BANK OF FLORIDA

[Signature]
Signature
Print Name: Lise Auriechid

By: [Signature]
Name: Charles K. Cross, Jr.
Title: President, Palm Beach County Market

[Signature]
Signature
Print Name: Sophie Crosbie

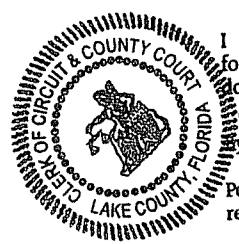
STATE OF FLORIDA)
COUNTY OF Palm Beach) SS:

The foregoing instrument was acknowledged before me this 24th day of January, 2007 by Charles K Cross Jr., as ~~was~~ President of BANK OF FLORIDA, on behalf of the Bank. He is personally known to me or has produced _____ as identification.

Notary Stamp



Marcia A Hamilton
Notary Public State of Florida
Print Name: Marcia A. Hamilton
Title: Notary Public
Serial No. (if any):
Commission Expires:



STATE OF FLORIDA, COUNTY OF LAKE
I HEREBY CERTIFY that the above and
foregoing is a true and accurate copy of the
document as reflected in the Official Records.
JAMES C. WATKINS, Clerk of Court
James C. Watkins 1-26-07
Deputy Clerk Dated
Portions of the document may have been
redacted as required by law.