

THE RECREATIONAL LAND USE AGREEMENT

THIS DOCUMENT IS NOT A RECREATIONAL LEASE AGREEMENT
OR A LAND LEASE OR A LEASE OF ANY KIND

THIS RECREATIONAL LAND USE AGREEMENT is made between U.S. HOME CORPORATION, a Delaware corporation authorized to do business in the State of Florida (hereinafter referred to as "Developer") and THE VILLAS OF CROSS CREEK II CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit (hereinafter referred to as the "Association").

WHEREAS, the Developer is the owner of certain real property described in Exhibit A and plans, subject to the terms of this Agreement, to construct thereon certain improvements and amenities which will provide recreational facilities and areas for the use and benefit of the condominium unit owners and/or tenants of the CROSS CREEK COMPLEX II as hereinafter described; and

WHEREAS, it is presently contemplated that CROSS CREEK COMPLEX II will consist of THE VILLAS OF CROSS CREEK II, A CONDOMINIUM located upon certain real property described in Exhibit B and hereinafter referred to as the "Condominium Land"; and in addition, will contain certain other separate condominiums or improvements to be constructed upon lands hereinafter described as "CROSS CREEK OF FORT MYERS SINGLE FAMILY II, A CONDOMINIUM" and described in Exhibit "C" which will have their own separate and distinct condominium associations or other governing authorities; and

WHEREAS, the Developer presently contemplates that CROSS CREEK COMPLEX II will contain NINETY EIGHT (98) residential condominium units in two individual condominiums and one (1) "Recreation Area" all located upon the real property comprising the COMPLEX; and

WHEREAS, the Association is the entity responsible for the operation of THE VILLAS OF CROSS CREEK II, A CONDOMINIUM and, therefore, the Association has entered into this Agreement for the benefit of all unit owners of CROSS CREEK COMPLEX II.

NOW, THEREFORE, the parties in consideration of the foregoing premises and of the mutual covenants hereinafter contained hereby agree to perform all of the conditions, covenants and obligations hereinafter set forth.

1. DEFINITIONS.

All terms used in this Agreement shall be defined in accordance with the provisions of Chapter 718, Florida Statutes, (also known as the Condominium Act) and the Declaration of Condominium for THE VILLAS OF CROSS CREEK II, A CONDOMINIUM (hereinafter referred to as the "Condominium") and as follows, unless the context otherwise requires:

A. "Condominium Unit", "Unit", or "Apartment" means the part of the Complex Land which is subject to private ownership.

B. "Unit Owner" means the owner of a condominium unit, together with an undivided share in the common elements appurtenant thereto.

C. "Common Expenses" means the expenses which the unit owners are liable to the Association, including the recreation expenses hereunder.

D. "Articles of Incorporation" means the Articles of Incorporation of the Association.

E. "By-Laws" means the By-Laws of the Association.

Exh.H

GOLDBERG, RUBINSTEIN & BUCKLEY, P. A. P. O. BOX 2366 FORT MYERS FLORIDA 3390 57

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F. "Recreation Areas" mean those certain portions of the Complex Land specifically described in Exhibit D upon which Developer proposes to construct certain improvements and amenities for the use and enjoyment of all unit owners in CROSS CREEK COMPLEX II.

G. "Recreation Expenses" means taxes, insurance, maintenance, replacement and other expenses generally arising from the ownership of the recreational lands described hereunder, which shall be a part of the common expenses to be assessed by the Association against each of the units administered by the Association.

H. "Institutional Mortgagee" means the owner and holder of a mortgage encumbering a condominium unit, which owner and holder of said mortgage is either a bank, or life insurance company, or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension and profit sharing fund, or a credit union, or a Massachusetts business trust, or an agency of the United States Government, or any entity controlling, controlled by or under common control with any of the foregoing, or a lender generally recognized in the community as an institutional lender or the developer, or assignee, nominee, or designee of the developer.

I. "Institutional Mortgage" means a mortgage owned or held by an institutional mortgagee.

2. PLAN OF DEVELOPMENT.

A. CROSS CREEK COMPLEX II (hereinafter referred to as "Complex") means and refers to the Condominium and the entire group of condominiums and/or rental type structures and improvements which the Developer intends to construct upon the Complex Land, which land is more particularly described on Exhibit A attached hereto and made a part hereof. As of the execution of this Agreement the Developer is the owner of the land as described in Exhibit A. It is contemplated that the Complex will contain Ninety Eight (98) residential condominium units. It is understood that each condominium submitted to condominium ownership in the Complex may have as its governing body a separate and distinct condominium association for its benefit, rule, maintenance and operation subject to the terms of the governing declaration filed with respect thereto. The governing association for THE VILLAS OF CROSS CREEK II, A CONDOMINIUM is the THE VILLAS OF CROSS CREEK VILLAS II CONDOMINIUM ASSOCIATION, INC.

B. The Developer intends to reserve certain portions of the Complex Land and to construct thereon certain recreational facilities, improvements and enhancements. Said portions of the Complex Land are described in Exhibit D. Each condominium, condominium association, condominium unit owner, institutional mortgagee or purchase money mortgagee and any other land owner of the Complex (or portion thereof), and their invitees, licensees, tenants, guests, lessees, successors and assigns shall, subject to the terms of this Agreement, have the right to the use and benefit of the Recreation Areas together with the facilities and personal property improvements located thereon and, therefore, shall be obligated to pay the recreation expenses as provided hereunder and to otherwise be subject to the terms and conditions hereof.

C. Developer contemplates constructing and/or providing one (1) Recreation Area, as follows:

(.1) One heated swimming pool having an approximate size of 20' x 40', an approximate depth of 3' at the shallow end and 6' at the deepest point, and a capacity of 20 people.

(.2) A perimeter deck surrounding the swimming pool having an approximate size of 46' x 76', approximately 1800 square foot surface and a capacity of 40 people.

(.3) A pool house containing a women's facility, a men's facility and a storage room for equipment.

D. This Recreational Land Use Agreement shall be one of the condominium documents for each condominium in the Complex and the Association has entered into this Agreement so as to acquire the possessory and use interests in the recreational lands for the enjoyment, recreation and other use and benefit of all unit owners of CROSS CREEK COMPLEX II.

E. Because of the unique features of the development of the Complex and the continuing necessity to preserve the plan of development therefor, the Developer has set forth covenants as to the use of the Recreation Areas, which covenants shall run with the real property described in Exhibits B and C (subject to the provisions of Paragraph 2G) and the Land, described in Exhibit A, which includes such lands as submitted to condominium ownership and the units thereto, which said covenants are set forth in Paragraph 3 of this document.

F. The Recreation Areas shall be conveyed in accordance with the following terms and conditions:

(.1) In the event that THE VILLAS OF CROSS CREEK II, A CONDOMINIUM has been constructed upon the Condominium Land and separate and distinct condominiums with their own separate and distinct condominium associations have been constructed upon all parcels in the Future Development Lands, then in such event, the Developer shall convey the Recreation Areas (subject to the provisions of Paragraph 2G) as follows: each separate and distinct condominium association, including THE VILLAS OF CROSS CREEK II CONDOMINIUM ASSOCIATION, INC. and/or other entities governing unit owners of the Complex, shall own x/98th of the Recreation Areas, "x" being the total number of units represented by each such governing entity.

(.2) Said conveyance shall take place upon the first to occur of the following:

(i) Within three (3) months after title to ninety percent (90%) of the previously unsold units contained within the Complex have been transferred to initial purchasers thereof, or

(ii) At the discretion of the Developer, on or before January 31, 1994, or

(iii) By January 31, 1994.

G. The conveyance to the hereinbefore described grantee or grantees shall vest fee simple title to the Recreation Areas in said grantees free and clear of mortgages or liens subject to the covenants herein contained and to the continuing obligations created hereunder to pay the expenses of such Recreation Areas, and subject to the then existing conditions of title including the exceptions contained in the initial condominium deed from the Developer to the various unit owners. Said grantee or grantees shall not, subsequent to the receipt of conveyance of title as aforesaid, convey the Recreation Areas except to the unit owners upon termination of the condominiums as provided in the Declaration of condominium for each condominium in the Complex, nor shall said grantees encumber, mortgage, pledge, hypothecate, or lease said Recreation Areas without the consent of the Developer. Said grantee or grantees shall pay all expenses in connection with the conveyance of the Recreation Areas including but not limited to documentary stamps, recording expenses, abstracting and title insurance.

3. COVENANTS AS TO USE.

The Developer and the Association hereby agree that the following uses shall be made of the Recreation Areas, to wit:

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A. Recreation Areas have or will have certain improvements constructed thereon. The Recreation Areas shall always be kept and maintained for recreational uses and shall not otherwise be used for residential, commercial or industrial construction of any kind.

B. The Association and other governing bodies shall impose rules and regulations regulating the use and enjoyment of said lands and the maintenance of shrubbery, pools, and other improvements located thereon from time to time in conformity with the foregoing purposes, and thereafter may modify, alter, amend, rescind and augment any such rules and regulations as permitted by the By-Laws. Upon the acceptance and execution of this Agreement by the separate condominium associations or other entities (the "Other Associations") administering the separate condominium or rental or other improvements that have been developed upon Future Development lands (in accordance with the terms of Paragraph 8 of this Agreement), then, in that event, the following shall control the imposition of rules and regulations concerning the use and enjoyment of the Recreation Areas and improvements located thereon. The Association and the Other Associations shall, through their respective boards of directors, or, if there be none, by any reasonable means, designate two (2) representatives to THE VILLAS OF CROSS CREEK II, A CONDOMINIUM, RECREATION AREAS COMMITTEE (the "Committee"). The Committee shall assist the Association and other Associations and have rule making authority with respect to the imposition, modification or rescission of rules and regulations governing the use and enjoyment of the Recreation Areas, provided, however, that the Committee shall only have authority to take action approved by a majority vote of its members at meetings duly noticed to all members in writing at least two (2) days prior to such meeting. The latest edition of Roberts Rules of Order shall control the meetings and conduct of the Committee with respect thereto. It is the intention of the parties hereto that the Committee's authority shall be limited to the modification, alteration, amendment, rescission or augmentation of rules and regulations concerning the use and enjoyment of the Recreation Areas by unit owners and tenants. CROSS CREEK OF FORT MYERS SINGLE FAMILY CONDOMINIUM II ASSOCIATION, INC. shall continue to enforce and administer all such rules and bear sole responsibility for maintenance, repair, purchasing of materials and general management of said Recreation Area and the roadways in the Complex.

C. The Recreation Area may be connected or joined together with or encroaching upon the common elements of the condominiums in the Complex or the situation may be vice versa, as the case may be. In the event of the foregoing, same is deemed authorized and easements appurtenant to the extent of any such encroachment shall exist so long as such encroachment shall exist. The Developer and the Association hereby grant to each other, their heirs, successors and assigns and all third party beneficiaries, including condominium unit owners, their lessees, guests, invitees, servants and employees, the right of support for all structures on any portion of the real property of the condominiums or rental apartment buildings in the Complex or Recreation Area.

D. Non-exclusive easements shall exist for utility services and drainage in order to adequately serve the Recreation Area and the Complex Land and for pedestrian traffic over, through and across sidewalks, paths, walks, halls, lobbies and other portions of the Recreation Area and Complex Land as may be from time to time intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Recreation Area and Complex Land as may from time to time be paved or unpaved and intended for such purposes, and such easements shall be for the use and benefit of the unit owners and tenants of the Complex and their institutional mortgagees, the Developer, and those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park upon any portion of the Recreation Area, other than designated parking spaces. The

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utility services as referred to in this paragraph, include, but are not limited to, electric power, gas, water, heating, air conditioning, sprinkler systems, drainage, sewage and garbage disposal. It is specifically understood that the Developer has the right and authority to create non-exclusive easements over, through and across the Recreation Area and the Complex Land in order to provide irrigation and sprinkler systems for the benefit of unit owners and/or tenants or other land owners in the Complex.

There also exists an easement for ingress and egress as heretofore described in Exhibit A to the Declaration of Condominium for THE VILLAS OF CROSS CREEK II, A CONDOMINIUM which grants ingress and egress to CROSS CREEK OF FORT MYERS SINGLE FAMILY II CONDOMINIUM for the aforesaid recreation areas.

E. The Developer and/or the Association shall have the right and authority at any time without the consent of any other party to dedicate, convey or grant easements and execute and deliver bills of sale, warranty deeds, or execute such other documents as may be necessary, or do any or all of the foregoing in connection with the water, drainage, sewage or other utility distribution systems and facilities located on or under the Recreation Area including but not limited to utility lines, pipes, water mains and manholes. The foregoing shall be for the purpose of conveying, dedicating or granting easements to the appropriate city or county authorities with respect to the water and sewage distribution system and facilities so that such authorities will maintain and operate the said water and sewage distribution system and facilities.

F. In the event that there shall be any dispute as to whether any use henceforth complies with the foregoing restrictions encumbering the Recreation Area, then the matter shall be referred to the Developer. A determination rendered by the Developer shall be final and binding on all the parties concerned herewith.

G. The Recreation Area is not for the use and enjoyment of the public.

4. RECREATIONAL EXPENSES.

The following constitute recreation expenses:

A. Taxes.

The Association covenants and agrees that it will pay at least thirty (30) days prior to the date of delinquency all and any taxes levied or assessed at any and all times by any and all taxing authorities including all taxes, charges, assessments, impositions, liens for public improvements, special charges, and assessments and, in general, all taxes, tax liens, which may be assessed against the Recreation Area and against any and all personal property which is now or hereinafter placed thereon, including all interest, penalties and other charges which may accrue thereon. In the event any of the said taxes or assessments are payable according to their terms in installments, then the Association shall have the right to pay the same as such installments fall due.

B. Liability Insurance.

From and after the date of execution of this Agreement, the Association will cause to be written and pay the premiums on a policy or policies of insurance in the form generally known as public liability and/or owners', landlord and tenant policies insuring against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the operations and maintenance of the Recreation Area and of the improvements and buildings located thereon, or for any other risk insured against by such policies, each class of which policies shall have been written within limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person and for not less than Three Million

Dollars (\$3,000,000.00) for damages incurred by more than one person, and for not less than One Hundred Thousand Dollars (\$100,000.00) for property damage. All such policies will name the Association and the Developer as their respective interests may appear as the persons insured by such policy or policies and the original or a true copy of each subject policy shall be delivered to the Association and the Developer. After conveyance to the Association of the Recreation Area and termination of the Developer's interest therein, the Association may maintain such policies as determined by the Association.

C. Utility Charges.

The Association agrees and covenants to pay all charges levied for utilities on the Recreation Area whether they are supplied by a public or private firm and to pay them monthly or as they come due. It is contemplated that this will include all charges for water, electricity, telephone, sewer, and any other type of utility, or any other type of service charge.

D. Fire, Windstorm and Other Casualty Insurance.

The Association hereby covenants and agrees to pay the cost of premiums for insurance to keep insured any and all buildings or improvements now located or which may hereafter be built upon or placed upon the Recreation Area. Such policies shall only be issued by good and responsible insurance companies authorized to do business in the State of Florida, and same shall protect against loss or damage caused by or resulting from fire, windstorm, or other casualty, in an amount that would be sufficient to prevent co-insurance on the part of the parties provided, however, any standard deductible clause required by insurers for unusual hazards will not be in violation of this covenant against co-insurance. All policies issued and renewals thereof shall be payable in the event of loss jointly to the parties hereto as their respective interests may appear. In the event of the destruction of said building or appurtenances by fire, windstorm, or other casualty, for which insurance money shall be payable, such insurance money shall be paid to the parties hereto as their respective interests may appear, which parties shall open an account with a banking institution doing business in Lee County, Florida, for the purpose of providing a fund for the repair and reconstruction of the damage. The parties shall pay into such account, in addition to the insurance proceeds, such additional sums as may be necessary so that the funds on deposit will equal the costs of repair and reconstruction of the damage. Notwithstanding anything to the contrary herein, insurance proceeds disbursed hereunder shall, upon Developer's conveyance of the lands in accordance with Paragraph 2F hereof, be disbursed only to the Association. In the event of any damage to any building or improvement or the destruction thereof, the Association shall repair or rebuild the same or construct new facilities similar to the old and shall utilize for this purpose insurance monies payable. The Association covenants and agrees that the reconstruction or repair shall be completed within six (6) months from the date proceeds sufficient for this purpose are made available to the Association. If the time of completion should be delayed beyond six (6) months by strikes, walkouts, acts of war or insurrection, fire, unusual delay in transportation, unavoidable casualties, or any cause beyond the control of the Association or Association's contractor, then the time of completion beyond the said six (6) month period shall be extended for such reasonable time as may be required to effect completion of said construction. Notwithstanding the foregoing, in the event such casualty to the Recreation Area and facilities is a "very substantial" one as defined in the various declarations of condominium for the Complex, then the method contained in the said declarations of condominium regarding reconstruction procedures shall be applicable to the rebuilding of the recreational facilities hereunder if such "very substantial" casualty has also occurred to two or more condominiums in the Complex except such determination shall be made by the general membership of the Association.

REF 1983 PG 3035

E. Maintenance and Repair of Property.

The Association shall keep, maintain and replace the pool, patio areas, water and sewage distribution systems and facilities, walkways, fixtures improvements which may be at any time situated on the Recreation Area, maintain the roadways in the Complex and all appurtenances thereto and keep same in good and substantial repair and in a clean and sanitary condition, and the Association will use, keep, maintain and replace said premises and improvements thereon in conformity to and in compliance with all orders, ordinances, rulings and regulations of all federal, state and city governments having jurisdiction thereof. Expenses therefor shall be disbursed by the Association, but collection of such expenses shall be in accordance with the terms of Paragraph 5 below. The Association will protect and indemnify forever save and keep harmless Developer from and against any loss, cost, damages and expenses occasioned by or arising out of any breach or default in the performance and observance of any provisions, conditions, covenants, and stipulations herein contained, or occasioned or arising by or out of any accident or injury or damage to any persons whomsoever, or arising out of any happening or occurrence in or about or upon the said premises or upon the sidewalks, approaches, and appurtenances adjoining the same or caused by the Association, or occasioned by any person or persons occupying, holding, or claiming by, through, or under the Association.

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F. In addition to the foregoing, the Association shall hire such employees and purchase such equipment and materials as may be needed to provide for management and supervision of the Recreation Area. It is, therefore, anticipated that as part of the recreation expenses, there shall be such sums to pay for such labor, equipment, materials and employees.

5. APPORTIONMENT AND COLLECTION OF RECREATION EXPENSES.

A. Apportionment.

Expenses of the Recreation Area shall be paid and apportioned in the following manner:

(.1) THE VILLAS OF CROSS CREEK II CONDOMINIUM ASSOCIATION, INC. shall pay a sum equal to x/y of the recreation expenses, "x" being the total number of units represented by the Association and "y" being the total number of units submitted to the condominium ownership and/or subject to this Recreational Land Use Agreement. Further, such other governing entities of unit owners of the Complex shall also be responsible for x/y of the recreation expenses, "x" again being the total number of units represented by such other governing entities and "y" being the total number of units submitted to condominium ownership and/or subject to this Recreational Land Use Agreement. Further, the owner of any building which is not a condominium shall be responsible for x/y of the recreation expenses, "x" being the total number of units within such building and "y" being the total number of units submitted to condominium ownership and/or subject to this Recreational Land Use Agreement. The demoninator "y" shall never be greater than 98. Until the first to occur of the following: (i) the Developer ceases to be the legal or equitable titleholder to Future Development Lands or (ii) a seven (7) year period from the date of this Agreement has passed and Certificates of Occupancy for the buildings then contemplated to be constructed upon Future Development Lands, if any, have not been issued, the Developer shall be responsible for the remaining recreation expenses. In the event the Developer's payment obligations hereunder have been discharged by reason of the conditions herein described, then, in that event, such additional expenses shall be paid by THE VILLAS OF CROSS CREEK II CONDOMINIUM ASSOCIATION, INC. and such other governing entities of unit owners of the Complex in proportion to the number of units such governing entities represent to the total 98 units.

(.2) It is the intention of the parties hereto that the CROSS CREEK OF FORT MYERS SINGLE FAMILY CONDOMINIUM II ASSOCIATION, INC. shall act as the collection agent for the expenses and the disbursements for the Recreation Area in accordance with this Agreement. It is the further intention of

the parties that when a condominium is created on the Future Development Lands that by virtue of the Declaration of Condominium for said project having been filed among the Public Records of Lee County, Florida, then that condominium, by and through its condominium association shall pay its share of the recreation expense as set out herein, or, in the event a building is erected and a condominium is not to be declared and submitted to condominium ownership, then the owner of such structure upon the certificate of occupancy being issued for such a building shall be responsible for the payment of its share of the recreation expense as set out herein. It shall be the obligation and responsibility of CROSS CREEK OF FORT MYERS SINGLE FAMILY CONDOMINIUM II ASSOCIATION, INC. to administer the rules and regulations and the maintenance, repair and purchasing of materials for the Recreation Area and the maintenance of the roadways in the Complex in accordance with the provisions of Paragraph 3B of this Agreement. In the event a condominium is declared and submitted to condominium ownership upon any of the lands described in Exhibit A, then such condominium association governing the affairs of such condominium shall declare that any expenses to be paid hereunder will be deemed a common expense of the condominium attributable to that association. Such expenses shall be borne by the unit owners of the condominium as an apportionment of the monthly maintenance assessments and, accordingly, will be deemed common expenses of that condominium.

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It is understood and agreed that the Complex shall not contain more than Ninety Eight (98) residential condominium units.

B. Payment and Collection by Association of Common Expenses.

Each Declaration of Condominium in the Complex shall provide that the "recreation expenses" are common expenses. Accordingly, the association for each such condominium shall assess and collect the recreation expenses due hereunder to the same extent as all of the common expenses of each condominium in the Complex.

In the event, for any reason, the Association, a separate and distinct condominium association, or the owner of any building constructed on the Complex shall fail to collect or pay over the recreation expense due hereunder, the Association shall have the right, but not the obligation, to collect said expenses from the separate and distinct condominium associations (and/or the respective individual unit owners who shall be jointly and severally liable for payment of said expenses), or the owner of any building constructed on the Complex in accordance with the following:

(.1) Actions at Law or Equity. The Association may file an action at law or in equity to collect the sums due hereunder from the associations and/or the unit owners or other owners or to otherwise enforce the terms and provisions hereof. In any such action the prevailing side shall be entitled to attorneys' fees and costs.

(.2) Lien. In order to secure performance of the payment of the recreational expenses the Association shall have the right to a lien upon the Complex and each unit thereof, including all appurtenances and fixtures thereto or other improvements, for the payment of all sums due hereunder, which lien shall also secure attorney's fees and costs of collection. The lien shall not be effective until the recordation of a claim or affidavit of lien executed by the Association pursuant to the terms hereof in the Public Records of Lee County, Florida, which describes the property against which said lien is claimed, the name of the record owner thereof, the amount and date when due. Said lien shall at all times be subordinate and inferior to the lien of any institutional mortgage filed prior to the recordation of Association's lien as provided hereunder.

In the event an institutional mortgagee obtains title to a condominium unit in the Complex as a result of the foreclosure of its mortgage, or by voluntary conveyance in lieu of said foreclosure, then such institutional mortgagee, as such acquiror of title, its successors and assigns, shall not be liable for any delinquent expenses or charges under this Recreational Land Use Agreement or pertaining to such condominium unit or chargeable to the former owner of such condominium unit which became due prior to acquisition of title as a result of the foreclosure or voluntary conveyance in lieu of said foreclosure. Rather, such institutional mortgagee, as such acquiror, and its successors and assigns, shall be liable for its share of expenses attributable to any condominium unit owned by it from the date of acquiring said condominium unit.

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Before the Developer conveys title to the Recreation Area as herein provided and in the event the Association does not exercise its rights above, then the Developer shall have the right and authority to institute the foregoing actions against unit owners and any condominium in the Complex or any other party in the Complex who has failed to pay the required expenses as provided under this Agreement.

6. COMPLIANCE WITH REGULATIONS OF PUBLIC BODIES.

The Association covenants and agrees that it will, at its own expense, perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the same in order to comply with sanitary requirements, fire and hazard requirements, zoning requirements, setback requirements and other similar requirements designed to protect the public and which affect the Recreation Area.

7. LAWFUL USE OF PREMISES.

The Association covenants and agrees that it will conform to and observe all ordinances, rules, laws and regulations of Lee County, Florida, the State of Florida, and the United States of America, and all public authorities with respect to the Recreation Area or use thereof and will not during such time permit the same to be used for any illegal or immoral purpose, business, or occupation.

8. SEPARATE CONDOMINIUMS OR OTHER IMPROVEMENTS.

In the event that separate and distinct condominiums or other improvements are developed on Future Development Lands the Developer covenants and agrees that it will cause the condominium association or other entity administering the operation of the separate condominium or rental or other improvements to execute and be a party to this Agreement.

9. GENERAL PROVISIONS.

A. The terms of this Agreement shall be deemed to be perpetual. The covenants and restrictions contained herein shall run with and bind all of the real property described in Exhibit A and shall inure to the benefit of the Developer, the Association and the owner of any property subject to this document and their legal representatives, heirs, successors, and assigns for a term of fifty (50) years from the date of this Agreement; after which time the restrictions and covenants contained herein shall be automatically extended for two (2) successive fifty (50) year periods unless an instrument signed by all the persons or entities then owning two thirds (2/3) of all the apartments and units subject hereto has been recorded agreeing to terminate said covenants and regulations.

B. The right to modify these regulations, covenants and the terms of this Recreational Land Use Agreement and any legal descriptions attached hereto and made a part hereof as exhibits is hereby reserved to the parties signatory hereto

provided that any such modification shall be set forth in an instrument executed by these parties and placed among the Public Records of Lee County, Florida. This right of modification is subject to the following, namely, that such modifications shall not be inconsistent with the purposes and conditions herein set forth and shall not change the method of assessment or collection of recreational expenses in a manner that would be disproportionate to any owner of a unit. Notwithstanding the foregoing, after the conveyances of the Recreation Area and the termination of the Developer's interests therein, the Association may make such further changes, amendments, and modifications to this Recreational Land Use Agreement in the same manner as is permitted for an amendment to the Articles of Incorporation or the By-Laws of the Association as would be voted upon and determined by the entire membership of the Association for the Complex.

C. Invalidation of any one of the provisions, agreements, covenants or undertakings herein contained by judgment or order of any court shall not affect any other provision of this Recreational Land Use Agreement which shall remain in full force and effect. Notwithstanding anything to the contrary contained herein, any amendment, change or modification to the Recreational Land Use Agreement which would affect the surface water management system shall, if necessary, have the prior approval of the South Florida Water Management District.

D. Subject to any limitations contained herein, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereunder.

E. Any obligation of the Developer hereunder shall terminate upon the conveyance of the Recreation Area to the Association as provided hereunder.

IN WITNESS WHEREOF, this Recreational Land Use Agreement has been signed by the Developer and the Association this 25th day of April, 1986.

Witnesses:

U.S. HOME CORPORATION,
LEE-COLLIER DIVISION

James H. Sullivan
Catherine P. Chastwood

BY: SDW

Attest: James M. Archer

(SEAL)

THE VILLAS OF CROSS CREEK II
CONDOMINIUM ASSOCIATION, INC.
A not for profit Florida
Corporation

James H. Sullivan
Catherine P. Chastwood

BY: SDW

Attest: James M. Archer

(SEAL)

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this 25th day of April, 1986, before me personally appeared James H. Sullivan and Catherine P. Chastwood, President and Vice President respectively of Lee-Collier Division of U.S. Home Corporation, a

GOLDBERG, RUBINSTEIN & BUCKLEY, P. A. P. O. BOX 2366 FORT MYERS FLORIDA 33902

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