

SPECIAL WARRANTY DEED

THIS INDENTURE, made this \_\_\_\_\_ day of \_\_\_\_\_, 198\_\_\_\_, between BURG & DIVOSTA CORPORATION, a Florida corporation, whose principal office is located at 10358 Riverside Drive, Palm Beach Gardens, Florida 33410, hereinafter referred to as "Grantor", and \_\_\_\_\_, whose post office address is \_\_\_\_\_, hereinafter referred to as "Grantee".

WITNESSETH

That Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration to it in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained, conveyed and sold to Grantee and Grantee's heirs and assigns forever, the following described real property situated, lying and being in Palm Beach County, Florida, to-wit:

Wellesley Lot \_\_\_\_\_, WELLESLEY AT BOYNTON BEACH, according to the plat thereof, recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Palm Beach County, Florida.

Grantee, by acceptance hereof, and by agreement with Grantor, hereby expressly assumes and agrees to be bound by and to comply with all of the covenants, terms, conditions and provisions set forth and contained in the Declaration of Covenants and Restrictions of Wellesley at Boynton Beach, and The Meadows 300 Declaration of Covenants and Restrictions, including, but not limited to, the obligation to pay assessments for the maintenance and operation of Wellesley at Boynton Beach Homeowners Association, Inc., and for the maintenance and operation of The 300 Property Owners Association, Inc.

This conveyance is made subject to the following:

1. Real estate taxes for the year 19\_\_\_\_ and subsequent years;
2. Applicable zoning regulations and ordinances;
3. All of the covenants, conditions, restrictions and easements of record, if any, which may now affect the aforescribed property, and
4. Perpetual easement for encroachments now existing or hereafter existing caused by the settlement or movement of improvements or caused by minor inaccuracies in building or rebuilding.

TO HAVE AND TO HOLD, the above granted, bargained and described premises in fee simple forever.

And Grantor, for itself and for its successors and assigns, does hereby covenant with Grantee that it will defend the same against the lawful claims of all persons claiming by, through or under the Grantor.

Signed, Sealed and Delivered  
in the Presence of:

BURG & DIVOSTA CORPORATION

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Attest: \_\_\_\_\_

(SEAL)

STATE OF FLORIDA       )  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 198\_\_ by \_\_\_\_\_,  
\_\_\_\_\_ of BURG & DIVOSTA CORPORATION, a Florida  
corporation, on behalf of the corporation.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



ASSIGNMENT OF USE OF PARKING SPACE

The undersigned has acquired Wellesley Lot \_\_\_\_\_ in WELLESLEY AT BOYNTON BEACH, and has been assigned the use of the parking space described below, in accordance with the Declaration of Covenants and Restrictions.

NOW, THEREFORE, it is agreed as follows:

1. There is hereby assigned to the undersigned the use of two (2) parking spaces, both of which are numbered, \_\_\_\_\_ effective herewith.

2. This Assignment of Use of Parking Space is for the exclusive use of the Wellesley lot. The parking space shall be maintained, occupied and transferred solely in accordance with the provisions of the Declaration of Covenants and Restrictions.

3. This Assignment shall be noted in the Book maintained by the Association for such purpose.

THIS ASSIGNMENT dated this \_\_\_\_ day of \_\_\_\_\_, 198\_\_.

Burg & DiVosta Corporation

By: \_\_\_\_\_  
Authorized Agent

\_\_\_\_\_(SEAL)  
Owner of Wellesley Lot

\_\_\_\_\_(SEAL)  
Owner of Wellesley Lot

THIS DOCUMENT MAY NOT BE RECORDED

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS CONTRACT AND THE OTHER HOMEOWNERS DOCUMENTS FOR CORRECT REPRESENTATIONS.

CONTRACT FOR PURCHASE AND SALE  
OF A WELLESLEY LOT IN

WELLESLEY AT BOYNTON BEACH

THIS CONTRACT is made between BURG & DIVOSTA CORPORATION, a Florida corporation, with its principal office at 10385 Ironwood Road, Palm Beach Gardens, Florida 33410, (hereinafter called "Seller" or "Developer"), and the "Purchaser" whose name and address are set forth fully on Schedule "A" attached hereto and made a part hereof.

WITNESSETH:

Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Wellesley lot hereinafter described for the price and on the terms and conditions now about to be set forth.

I WELLESLEY LOT

Purchaser agrees to buy the Wellesley lot described in Schedule A. The Wellesley lot shall include the Wellesley unit, use of two parking spaces, and a membership interest in the Wellesley at Boynton Beach Homeowners Association, Inc., in accordance with and subject to the "Homeowners Documents" (as hereinafter defined). If the plat on which the lot is located has not been recorded on the date of this contract, then the term "plat" shall mean the proposed plat which will be substantially similar to the Property Plan or Site Plan.

II PURCHASE PRICE

A. The Purchase Price and the manner of payment are described in Schedule A.

B. Cash Closing Provisions. If the Purchaser intends to pay the Purchase Price in cash at the time of closing without third party financing, this provision shall be checked. The cash closing Purchaser will be entitled to a credit of One Thousand Dollars (\$1000.00) on the date of closing, provided however that the closing occurs on the closing date scheduled by the Seller. If the cash closing Purchaser does not close on the closing date scheduled by the Seller pursuant to Article IV hereof, or if he originally selected a mortgage as his manner of payment in Schedule A, then he shall not be entitled to the credit described above.

## C. Mortgage Provisions

1. Use of Mortgage Loan. These provisions apply to a Purchaser who intends to pay for a portion of the Purchase Price by obtaining a mortgage loan ("Mortgage Loan"), in an amount not in excess of ninety percent (90%) of the purchase price described in Schedule A, from a bona fide lending institution (hereinafter referred to as "Mortgagee").

(a) Designated Mortgagee. If the Purchaser obtains the mortgage described in Schedule A to finance the purchase of the Wellesley lot from the Mortgagee designated in Schedule A, i.e. First Federal Savings and Loan Association of the Palm Beaches, and such mortgage is not in excess of ninety percent (90%) of the purchase price, then the purchase price shall include the mortgage costs described in Article VIII (D) (i) hereof; less any prorations or prepayments of interest, taxes, insurance, or maintenance which may be required or appropriate in connection with closing the Mortgage Loan, and providing further, that Purchaser closes on the closing date scheduled pursuant to Article IV hereof.

(b) Other Mortgagee. If a Mortgagee other than the designated Mortgagee is used, Seller shall not pay the mortgage closing costs.

(c) Time to Make Application. Purchaser shall complete the application for any mortgage loan required by Purchaser within ten (10) days of the execution of this Contract by Purchaser. Failure to complete said application within said period shall be deemed a Purchaser default.

(d) Mortgage Loan Acts. Purchaser agrees to perform all of the following acts (hereinafter referred to as the "Mortgage Loan Acts"): (i) to make application for the Mortgage Loan within the time period set forth in subparagraph (c) above; (ii) to use his best efforts to obtain the Mortgage Loan in good faith; (iii) to promptly execute all necessary documents and disclose all information; (iv) to promptly and duly comply with all requests of Mortgagee and Seller to apply for and close the Mortgage Loan; and (v) to take such actions as are reasonably necessary for obtaining the Mortgage Loan. Purchaser agrees that the Mortgagee may release to Seller information regarding the status and progress of Purchaser's loan application.

2. Failure to Obtain Mortgage Loan. In the event Purchaser, having undertaken and performed the Mortgage Loan Acts, fails to qualify or is otherwise declined by the Mortgagee for a Mortgage Loan in the amount specified in Schedule A; or if the Purchaser fails to obtain a commitment for mortgage financing from any Mortgagee chosen by the Purchaser (if Purchaser chooses a Mortgagee other than the Designated Mortgagee) within 55 days of the date of acceptance hereof, then the parties agree that Seller shall return the deposit paid to it. Upon the return of such deposit, the parties hereto shall be relieved of all further

rights and obligations hereunder.

3. Default by Purchaser in Mortgage Loan Acts. In the event that the Seller ascertains that the Purchaser has failed to qualify for a Mortgage Loan due to the failure to perform any of the Mortgage Loan Acts, such an event shall constitute a default by Purchaser hereunder entitling Seller to retain all sums paid hereunder as set forth in Article V herein.

4. Refundability of Deposit Monies. Notwithstanding anything to the contrary contained herein, Purchaser specifically agrees that once mortgage approval has been obtained by Purchaser from a Mortgagee, the deposit monies paid by Purchaser to Seller shall no longer be refundable unless Seller is in default hereunder, notwithstanding the subsequent disapproval of Purchaser by that Mortgagee, if such subsequent disapproval is caused by or results from the willful or intentional actions of Purchaser.

### III HOMEOWNERS DOCUMENTS

A. Purchaser acknowledges that prior to the execution of this Contract, he has received homeowners documents, including the Declaration of Covenants and Restrictions for Wellesley at Boynton Beach (the "Declaration"), the Articles of Incorporation of the Wellesley at Boynton Beach Homeowners Association, Inc. (the "Association"), the By-Laws of the Association, the Rules and Regulations of the Association, The Meadows 300 Declaration of Covenants and Restrictions, The Articles of Incorporation of The 300 Property Owners Association, Inc., the By-Laws of The 300 Property Owners Association, Inc., the typical Special Warranty Deed, the typical Assignment of Use of Parking Space, the form of Contract for Purchase and Sale, the Property Plan or Site Plan, the Escrow Agreement, and a legal description.

B. The foregoing documents shall be hereinafter collectively referred to as the "Homeowners Documents". Purchaser agrees that the Homeowners Documents may be changed or amended, if necessary, to meet the requirements of a mortgagee, public authority, or title insurance company, or if such change is in the best interest of the Association, as Seller, in its sole discretion, may determine. It is understood and agreed, however, that no changes or amendments will be made which would either alter or modify in a material manner the offering of the Wellesley lot or materially affect the rights of Purchaser or the value of the Wellesley lot without obtaining the approval of Purchaser. In the event the Purchaser does not so approve, Purchaser shall be entitled to terminate this Contract and receive a refund of all monies paid to Seller hereunder. Purchaser shall not have the right to prevent the Seller from amending any of the foregoing homeowners documents. Purchaser agrees to be bound by the terms of the Homeowners Documents, to acquire the Wellesley lot subject thereto and to execute any documents required to implement the same, including the Special

Warranty Deed described in Article VIII herein.

C. In the event that Purchaser is declined for mortgage financing and this contract is terminated, or if this contract is otherwise terminated by the agreement of the parties, Purchaser agrees to return the homeowners Documents to Seller in good and useable condition. The Purchaser agrees that if he fails to return the Homeowners Documents in good and useable condition, that the sum of \$100.00 shall be deducted from his deposit prior to its return to him.

#### IV CLOSING

It is mutually agreed that the closing of this Contract (the "Closing") shall be held on either of the following dates: (a) within 45 days from the date of approval of this Contract by Seller, if this Contract is signed after the "Completion Date", which is defined as the date of issuance of a certificate of occupancy for the Wellesley unit; or (b) on the Completion Date. The expected Completion Date is set forth on Schedule A. The actual Completion Date, and therefore the closing date, may be as much as 90 days before, or 90 days after, the expected Completion Date. If this Contract is signed after the Completion Date, the provisions of Article X shall apply. The specific time and place for Closing shall be designated by Seller in writing to Purchaser at least seven (7) days prior to the date of Closing.

#### V DEFAULT

##### A. Purchaser's Default:

(1) Purchaser shall be in default under this Contract in the event that:

(a) Purchaser fails or refuses to complete and execute all of the instruments required of Purchaser under this Contract promptly or when requested to do so by Seller or the Mortgagee, if any, or

(b) Purchaser fails or refuses to make timely payment of any payments required under this Contract, or

(c) Purchaser fails to perform the Mortgagee Loan Acts, or

(d) Purchaser in any other manner fails or refuses to perform his obligations under this Contract.

(2) In the event of any such default by Purchaser, Seller shall give Purchaser written notice of such default and allow seven (7) days from the date of such notice for Purchaser to cure such default.

(3) If Purchaser shall fail to cure such default within such seven-day period, Seller shall, and does hereby have, the unrestricted option to: (a) consider Purchaser in default under this Contract, (b) retain all sums paid to it hereunder plus any interest accruing thereon, if any, as agreed upon and liquidated damages, and (c) terminate all rights of Purchaser under this Contract.

(4) Purchaser and Seller recognize the impossibility of measuring Seller's damages if Purchaser defaults. The provision herein contained for agreed upon and liquidated damages is a bona fide provision for such damages and is not a penalty. The Purchaser understands that by reason of the withdrawal of the lot from sale to the general public at a time when other prospective purchasers would be interested in purchasing it, that the Seller will have sustained damages if the Purchaser defaults, which damages will be substantial but not capable of being determined with mathematical precision. Purchaser agrees that if he defaults in this agreement that he will not file any action against Seller seeking the return of any portion of said liquidated and agreed upon damages, nor seeking any reduction in the amount of said liquidated and agreed upon damages.

(5) In the event any litigation is commenced as a result of this Contract and Seller prevails in such litigation, Purchaser shall also be liable for Seller's attorneys' fees and costs resulting therefrom at all trial and appellate levels and whether or not suit be instituted.

B. Seller's Default: If Seller defaults in the performance of this Contract, Purchaser shall give Seller written notice of such default, and Seller shall have seven (7) days from receipt of such written notice within which to begin to take such action as would cure the default within a reasonable period of time. In the event Seller fails to begin to take such action within such seven-day period, then Purchaser, upon having performed all of his obligations hereunder, shall have the right to seek specific performance, or elect to receive a return of his deposit without waiving any remedy to which Purchaser may have been entitled by operation of law.

## VI CONSTRUCTION

A. Purchaser acknowledges that there has been made available to him and that he has been shown the model or the model floor plans of the Wellesley unit being purchased by him hereunder. Purchaser further acknowledges that Seller has made available to Purchaser in the sales office, complete plans and specifications



for the Wellesley unit and the improvements comprising the homeowners association property. Where this Contract is executed prior to the Completion Date, Seller agrees to construct the Wellesley unit substantially in accordance with the model or model floor plans and specifications, subject however, to job site changes and architectural changes required during construction and shortages in materials or supplies or substantial increases in the cost of same which, in the sole discretion of the Seller, may require a substitution of materials or supplies or the cancellation of a supplier. In the event of substitution, Seller agrees, whenever reasonably possible, to use materials or supplies of equal or comparable quality; but in no event shall any materials or supplies be of less quality than required by applicable building codes or substantially change the product for which Purchaser has contracted. Purchaser further acknowledges that any artist rendering depicting the Wellesley unit is preliminary, and cannot be relied upon as an actual representation of the proposed finished appearance of the Wellesley unit. Purchaser agrees to rely upon the plans and specifications or the completed model for a representation of the proposed finished appearance of a Wellesley unit.

B. Purchaser agrees to promptly make any requested carpet color selection from the choices which Seller shall make available to Purchaser for inspection during reasonable hours. Any selection by Purchaser shall be final, unless the selected color becomes unavailable to Seller, and Seller requests Purchaser to make an alternative selection. If Purchaser fails to make a selection within ten (10) days after the Seller's request to do so, then Seller may, at its option, make that selection on Purchaser's behalf, without further notice, and any such selection shall be binding on Purchaser. Seller makes no representations about any color selected by Purchaser, but will use its best efforts to install colors as close as possible to those selected.

C. Purchaser acknowledges that all furnishings, fixtures, moldings or other decorative improvements appearing in the model are not included in the Wellesley unit herein purchased, and that carpeting, floor vinyls and paints may be of a different but comparable quality, color or grade than as shown. Purchaser further acknowledges that quality, colors or grades of items supplied by Seller may vary from those selected by Purchaser due to shortages, discontinuances of selections or substantial increases in the costs of same or color run variations, but such substitute items shall be comparable in quality, color or grade. Unless otherwise indicated in the model, kitchen appliances, plumbing fixtures, carpeting, and floor vinyls or comparable substitutions for reasons described above are included in the purchase price.

D. Except for models or sales offices located thereon, Purchaser shall not enter upon the construction site or related facility areas until after Purchaser has closed this Contract and taken possession of his Wellesley lot. Purchaser shall not in

any way interfere with the construction of the development.

E. As shown in the plans and specifications, the Wellesley unit contains on its roof applied insulation in the form of rigid urethane having an R-value of 19.0 and a thickness of 6.0 inches, and in certain exterior walls applied insulation in the form of fiberglass batts having an R-value of 11 and a thickness of 3.5 inches.

#### VII PLAN OF DEVELOPMENT

A. It is the present intent of the Seller to develop and complete Wellesley at Boynton Beach in two (2) phases. Construction of the first phase of the general plan of development should commence in April, 1987. Purchaser and Seller understand and agree that if no Wellesley construction has commenced in the first phase, or if no building permit has been issued for construction of the development within 90 days of said date, this contract shall be voidable by either party hereto upon seven (7) days written notice. Upon cancellation of this contract, Seller shall return to Purchaser his deposit made hereunder in full with interest, unless previously waived by Purchaser, in accordance with Florida Statutes Section 501.1375. Upon such refund, all parties to this contract shall be fully discharged and relieved from the terms and obligations hereunder. In no event shall Seller be liable to Purchaser for any damages Purchaser may sustain.

B. Upon commencement of construction of the Wellesley lots, Seller shall diligently attempt to complete construction of the Wellesley lot described herein on or before the expected completion date found in Schedule A. Seller shall not incur any liability or responsibility for damages resulting from any delay in completion of a Wellesley lot, which were occasioned by circumstances beyond its control such as acts of God, strikes, shortages, and catastrophes which interfere with Seller and the construction of the Wellesley lots. The last stated clause shall also apply to delays of like nature to the manufacturers, millworkers, builders, and suppliers to Seller. Seller shall attempt to complete the Wellesley unit not earlier than 90 days before, or 90 days after, the expected completion date. However, the Seller unconditionally agrees to complete the Wellesley unit within a period of two years from the date hereof.

#### VIII SPECIAL WARRANTY DEED; TITLE; CLOSING PROCEDURES

A. Seller covenants and agrees that the conveyance of the Wellesley lot shall be by a Special Warranty Deed in such form as may be approved by a mortgage lender or a title insurance company doing business in the State of Florida, and which Purchaser shall sign with Seller. The proposed form of Special Warranty Deed is an exhibit to the Homeowners Documents.

B. The Wellesley lot being conveyed hereunder shall be conveyed subject to all of the covenants and provisions set forth in the form of Special Warranty Deed, including the following: (a) terms, conditions, restrictions, covenants and provisions of the Homeowners Documents, including any amendments thereto, if any; (b) zoning regulations and ordinances; (c) real estate taxes for the year of closing and subsequent years; (d) all reservations, restrictions and easements of record and easements referred to in the Homeowners Documents or in the plat; and (e) standard exceptions to title contained in an Owners Title Insurance Policy and Commitment (equivalent to an ALTA Owners Policy of Title Insurance, Standard Form B-1970).

C. This Contract is and will be subject and subordinate to the liens of any mortgages now or hereafter placed by Seller on the general plan of development prior to Closing, and all amendments, modifications, renewals, consolidations, and extensions thereof, and all voluntary and involuntary future advances made thereunder, provided however, that Seller shall cause any such mortgage to be discharged of record as to the herein described Wellesley lot contemporaneously with the delivery or recording of the Special Warranty Deed to the Wellesley lot. The acceptance of the Special Warranty Deed by Purchaser shall be deemed to be acceptance of full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Contract, except obligations, which specifically survive the closing, and obligations under Article XII G herein, if any.

D. (i) At the closing, the Seller will pay for: all state documentary stamps and recording fees on the Special Warranty Deed; the owners' title insurance policy commitment and binder delivered to the Purchaser (Seller shall not provide Purchaser with an abstract of title); and all costs of closing the mortgage loan (if Purchaser elects to obtain mortgage financing in the type and amount and through the Designated Mortgagee described in Article II B.1. and Schedule A) including any mortgagee commitment fee and mortgagee title insurance, but excluding any prepayments of interest, taxes, insurance, (including private mortgage insurance), maintenance, or other prepayments.

(ii) At the closing, the Purchaser will pay for: all costs of closing the mortgage loan (if Purchaser elects to obtain mortgage financing in a type and amount and/or through a mortgagee other than the Designated Mortgagee described in Article II B.1. and Schedule A); all prepayments of interest, taxes, hazard and fire insurance, private mortgage insurance, and a prorated sum to pay a Wellesley lot owner's share of casualty, flood (if required), and fidelity bond insurance for one year in advance; other prepayments required by the lender; a proration of real estate taxes for the Wellesley lot; a proration of the maintenance assessment for the period from the date of closing to the end of the quarter-annual period in which the closing takes place; and a capital contribution sum which is equivalent to 2-months maintenance assessment.

(iii) Maintenance assessments for the Association shall be due and payable quarterly in advance. The initial maintenance assessment for the Association will be One Hundred Fifteen Dollars (\$115.00) per month. After the closing, the Purchaser shall pay the maintenance assessment promptly on its due date to the Association. The Developer guarantees that the initial maintenance assessment amount of One Hundred Fifteen Dollars (\$115.00) per month shall not increase before December 31, 1988, or until the date first noticed for the "Majority Election Meeting", as defined in the Articles of Incorporation of the Association, whichever shall first occur.

(iv) If the real estate tax bills are not available at the time of Closing, Purchaser shall pay an amount with respect thereto as is estimated by Seller. The estimated tax proration shall, at the request of either Seller or Purchaser, be subsequently adjusted upon receipt of the tax bill. These last two stated provisions shall survive Closing of this Contract.

E. Purchaser also agrees to execute any closing statements or other documents which may be required in connection with the Closing of this Contract or closing of any mortgage financing desired by Purchaser, whether or not such financing is closed simultaneously with the Closing of this Contract. In the event Closing is not completed on the date noticed for Closing due to the fault of Purchaser, Purchaser shall pay Seller an amount equal to interest accruing daily at eighteen percent (18%) per annum (the highest rate permitted by law) on the unpaid balance of the Purchase Price from the date noticed for Closing until the actual Closing occurs and all monies to be paid by Purchaser to Seller pursuant to the terms of this Contract are received by Seller. For purposes of calculating prorations at Closing, the date specified in the notice of Closing shall be the date of Closing.

#### IX ESCROW OF DEPOSIT MONIES

A. In accordance with Florida Statutes Section 501.1375, Seller has established an escrow account with Wood, Cobb, Murphy & Craig, Attorneys-at-Law, P.O. Box 2549, West Palm Beach, Florida 33402 ("Escrow Agent"), which account shall hereinafter be referred to as the "Escrow Account". Unless waived, all deposit monies received by Seller from Purchaser prior to closing pursuant to this contract shall be deposited into the Escrow account. Such payments shall be held in the Escrow Account, together with payments of other Purchasers of Wellesley lots in the general plan of development. Purchaser may, upon written request to the Escrow Agent, obtain a receipt for his deposit.

B. PURCHASER HAS THE RIGHT TO HAVE ALL DEPOSIT FUNDS (UP TO 10% OF THE PURCHASE PRICE) DEPOSITED IN TO THE ESCROW ACCOUNT. THIS RIGHT MAY BE WAIVED BY EXECUTION OF THE WAIVER FOUND FOLLOWING THE SIGNATURE PAGE OF THIS CONTRACT. (Waiver form

attached, marked Schedule "B")

C. The Seller shall be entitled to the deposit funds and all accrued interest payable at Closing. In the event that Seller wishes to use the deposited funds for building, after notice to Purchaser, Seller may acquire a master surety bond or other surety bond issued by a Company licensed to do business in the State of Florida, in an amount equal to or greater than the total amount of the escrowed funds. The Purchaser shall be debited at Closing in an amount equal to the premium for the applicable portion of the bond securing his deposit.

D. Purchaser agrees to indemnify and hold Escrow Agent harmless from any claims or damages which may result from Escrow Agent's escrowing or disbursing of Purchaser's payments held in accordance with Florida Statutes Section 501.1375, other than those claims or damages resulting from Escrow Agent's gross negligence or willful malfeasance.

E. In the event that, prior to Closing, the Escrow Agent receives written notice of a dispute between Purchaser and Seller regarding the escrow deposit, Escrow Agent is authorized in its sole discretion to: (1) comply with the terms of Paragraph II A of the Escrow Agreement, a copy of which is part of the homeowners documents; (2) retain the escrow deposit until such dispute is resolved by the agreement of Purchaser and Seller or by a court of competent jurisdiction; or (3) commence an action in the nature of interpleader and seek to deliver the documents, instruments, and escrow deposit to a court of competent jurisdiction.

#### X PROVISIONS RELATING TO CONTRACT SIGNED AFTER COMPLETION DATE

In the event this Contract is executed after the Completion Date, the provisions of Article VI, Paragraph A shall not be applicable to this Contract, and Purchaser acknowledges that there has been made available to him and that he has been shown the model or model floor plans of the Wellesley lot being purchased by him hereunder. Purchaser further acknowledges that Seller has made available to Purchaser complete plans and specifications for the Wellesley lot, and that Purchaser has had the right and opportunity to examine the Wellesley lot.

#### XI LIMITATION OF WARRANTIES

A. After completion of the Wellesley unit, and upon notice from the Seller, Purchaser shall have the right to inspect the Wellesley unit prior to Closing. Purchaser hereby agrees that from and after Closing, Purchaser shall not make or bring any claim or action against Seller or Seller's agents with respect to the dimensions of the Wellesley unit or the Association property, the materials employed in the construction of the Wellesley unit

or the Association property, or the quality of workmanship of the Wellesley unit or the Association property, except such claim or actions as may be permitted by Paragraph B of this Article XI.

B. Seller warrants the structure of the Wellesley unit will be free of any major defects for a period not in excess of one (1) year after the issuance of the Certificate of Occupancy for each unit (said warranty being hereinafter referred to as the "Sole Warranty"). Seller makes no other warranties with respect to the fitness, merchantability, workmanship, construction or physical condition of either the Wellesley unit, the Association property, any fixtures or items of personal property sold pursuant to this Contract or any other real or personal property whatsoever conveyed hereby. THE SOLE WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED. EXCEPT FOR THE SOLE WARRANTY, SELLER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS AS TO THE WELLESLEY LOT, THE ASSOCIATION PROPERTY, AND ALL FIXTURES OR ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, WHETHER ARISING FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW OR OTHERWISE. The maximum liability of Seller under the Sole Warranty shall be the replacement cost of the defective portion of the Wellesley unit, the Association property, fixture, or item of personal property. Seller shall have the sole right to determine whether the defect shall be corrected by repair or replacement. In addition, at Seller's option rather than repairing or replacing the defective item, Seller may pay Purchaser the amount by which the value of the Wellesley lot has decreased as a result of this defect. In no event shall Seller be liable to Purchaser or the Association or any other person or entity for consequential or exemplary damages or personal injuries arising from any breach of the Sole Warranty.

C. The Sole Warranty shall not apply if the defective portion of the Wellesley unit or the association property has resulted from or been caused, in whole or in part, by the misuse of same by any person, firm or entity other than Seller or from an accident or from the failure of Purchaser or the Association to perform routine maintenance thereon. Any altering or modification of original materials or workmanship may void the Sole Warranty.

D. Seller will deliver to Purchaser all manufacturer's warranties for appliances and equipment installed in the Wellesley unit. Seller shall not be liable to Purchaser to substitute, replace or repair such appliances or equipment.

E. In the event service or warranty work is requested, the Seller shall attempt to perform such work in a timely manner. If the Purchaser fails to keep service work appointments or fails to permit the Seller to gain access to his home to perform such service work on three (3) consecutive occasions, then Seller shall no longer be required to perform such service work.

F. The provisions of this Article XI shall survive the

Closing.

## XII MISCELLANEOUS PROVISIONS

A. Purchaser warrants that this sale was not made by Purchaser's personnel and agents. Purchaser agrees to indemnify Seller against any claims of real estate brokers claiming by, through, or under Purchaser's authority for commissions relating to this sale. Seller agrees that Seller's personnel and agents will be compensated by Seller for any commissions relating to this sale.

B. Purchaser shall not record this Contract amongst the Public Records of Palm Beach County, Florida or otherwise. The recording by Purchaser of this Contract shall constitute a default by Purchaser.

C. (Strike inapplicable wording.) Seller warrants that the Wellesley unit (has/has not) been occupied. (In the event the inapplicable wording is not stricken, the Wellesley unit has not been occupied.)

D. Two (2) parking spaces will be assigned to Purchaser for his use at Closing by the execution of a Form of Assignment of Use of Parking Space.

E. Any notice required or permitted to be given to Purchaser under this Contract may be delivered either personally or by mail addressed to Purchaser at the address of Purchaser set forth on Schedule A. Any notice required or permitted to be given to Seller under this Contract must be mailed by United States certified mail, return re-ceipt requested, postage prepaid, to Seller at the address of Seller set forth on page 1 of this Contract. Any notice to Purchaser or Seller under this Contract except as otherwise expressly provided hereinabove shall be deemed given and delivered when mailed or personally delivered in the manner set forth in this paragraph.

F. All understandings and agreements between the parties are merged into this Contract which fully and completely expresses the parties' agreement. This Contract may not be changed or terminated orally and shall inure to the benefit of and shall be binding upon the parties hereto, their respective heirs, personal representatives, and successors. This Contract and any interest thereunder may not be assigned, sold or transferred by Purchaser in whole or in part without the prior written consent thereto by Seller, which consent is in Seller's sole discretion.

G. Prior to Closing and upon notice from Seller, Purchaser shall inspect the Wellesley unit with Seller and complete the inspection form presented to him by Seller specifying any work required to conform the Wellesley unit to the model or model floor plans and specifications. Seller shall have a period of sixty (60) days from the date of inspection by Purchaser to

complete all work required under the inspection. No requests for adjustments, improvements or repairs shall be honored by Seller unless set forth on the inspection form. The fact that Seller has still to complete the work contemplated under the inspection form shall not delay or postpone the obligation of Purchaser to close and pay the balance of the Purchase Price. This last provision shall survive Closing.

H. The common area street lighting will be obtained by the Developer from Florida Power & Light Company. The Developer shall secure, by a letter of credit or other acceptable financial assurance, the street lighting for a period of not more than one (1) year after the Transfer Date. The Association shall be responsible and liable for any financial assurances required by Florida Power & Light Company at the expiration of said period.

IN WITNESS WHEREOF, the parties have hereunto affixed their respective hands and seals on the day and year set forth adjacent to their respective names on the Schedule A attached hereto and incorporated herein by reference.



SCHEDULE A

1. Purchaser: \_\_\_\_\_

SS#: \_\_\_\_\_ SS#: \_\_\_\_\_

Permanent Address: \_\_\_\_\_ Local Address: \_\_\_\_\_

City \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone: \_\_\_\_\_ Telephone: \_\_\_\_\_

(Home) \_\_\_\_\_ (Bus) \_\_\_\_\_ (Home) \_\_\_\_\_ (Bus) \_\_\_\_\_

IF NOT A FLORIDA RESIDENT, PLEASE SIGN ATTACHED CERTIFICATION

2. Wellesley Lot being purchased:

Wellesley Lot \_\_\_\_\_, Wellesley at Boynton Beach according to the Plat thereof, recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Palm Beach County, Florida.

Address of Unit: \_\_\_\_\_

Expected Completion Date \_\_\_\_\_

3. Purchase Price: . . . . . \$ \_\_\_\_\_

a. Deposit (Please note Article X of the Contract)

1. Initial deposit . . . . . \$ \_\_\_\_\_

2. Additional deposit due on \_\_\_\_\_ or the Contract Review Appointment Date (\_\_\_\_\_\_). \$ \_\_\_\_\_

b. Proceeds of mortgage loan (Please note Article II (B) of the Contract) . . . . . \$ \_\_\_\_\_

c. Other . . . . . \$ \_\_\_\_\_

d. Balance of purchase price upon closing by cash or cashier's check . . . . . \$ \_\_\_\_\_

4. Manner of payment: (Please initial one. No changes will be allowed after initialing.)

( ) a conventional mortgage not to exceed 80% for an investor or second home buyer, and not to exceed 90% for a primary home w/First Federal Savings & Loan Association of Palm Beaches.

( ) a conventional mortgage with an institutional mortgagee.

( ) CASH at the time of closing.

5. Carpet color: (Please initial one. No changes will be allowed after initialing.)

\_\_\_\_\_ Moonbeam; \_\_\_\_\_ Classic Beige; \_\_\_\_\_ Harbor Tan; \_\_\_\_\_ Shrimp Delight; \_\_\_\_\_ Iced Pewter; \_\_\_\_\_ Mint Julep.

6. Deposit received, pursuant to Paragraph 3 hereof; if checks(s), subject to clearance (which is presumed to require 30 days):

Paragraph 3.a.1 (\_\_\_\_\_) Authorized Agent Initials

Paragraph 3.a.2 (\_\_\_\_\_) Authorized Agent Initials

BURG & DIVOSTA CORPORATION

By: \_\_\_\_\_ Authorized Agent/Date

\_\_\_\_\_ Purchaser/Date

\_\_\_\_\_ Purchaser/Date



CERTIFICATION

STATE OF FLORIDA

COUNTY OF PALM BEACH

The undersigned personally certifies the following:

1. That they or their authorized agent were physically in the State of Florida on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

2. That at that time they or their authorized agent signed a Contract for Purchase and Sale of Wellesley Lot \_\_\_\_\_ in Wellesley at Boynton Beach, Boynton Beach, Florida.

3. That they, or their authorized agent on their behalf, entered into the contract while in the State of Florida, and that they or their agent visited the Development of their own volition and that they or their agent were not solicited either by telephone or by mail to visit the property (except for solicitations, if any, within the State of Florida).

4. That they hereby request the Seller to mail to them such documents and information as may be required by the State of Florida, as may be required in order to close the sale of the Wellesley Lot and as the Seller may consider necessary.

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Purchaser/Agent

\_\_\_\_\_  
Purchaser/Agent

