

2008026190 5 PGS

OFFICIAL RECORDS  
CITRUS COUNTY  
BETTY STRIFLER  
CLERK OF THE CIRCUIT COURT  
RECORDING FEE: \$44.00  
DOCUMENTARY TAX: \$1,715.00  
# 2008026190 BK:2219 PG:1155  
05/28/2008 12:55 PM 5 PGS  
JCARROLL,DC Receipt #014144

## SPECIAL WARRANTY DEED

This Special Warranty Deed is made and executed this 20 day of May, 2008, by:

Mercedes Homes, Inc.

whose post office address is: 5909-G Hampton Oaks Parkway  
Tampa, FL 33610

a corporation existing under the laws of the State of Florida, GRANTOR, to

Deborah A. Spitrey and Victor Spitrey, wife and husband

whose post office address is: 36 Boxleaf Court, Homosassa, FL 34446, GRANTEE:

(Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successor and assigns of corporations, wherever the context so admits or requires).

**Witnesseth**, that the said Grantor, for and in consideration of the sum of TEN AND NO/10 DOLLARS (\$10.00), in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto to the Grantee, all of the following described land, situate, lying and being in the County of Citrus County, Florida, to wit:

Lot 20 in Block B-57 of CYPRESS VILLAGE, SUGARMILL WOODS, according to the Plat thereof, as recorded in Plat Book 9, Pages 86 through 150, inclusive, Plat Book 10, Pages 1 through 150, inclusive, and Plat Book 11, Pages 1 through 16, inclusive, of the Public Records of Citrus County, Florida; as amended in Plat Book 9, Pages 87-A, of the Public Records of Citrus County, Florida.

Parcel Identification Number: 18E20S130010005700200

**Subject** to taxes for the current year, covenants, conditions, restrictions, including those in the Restrictive Covenants and Conditions and/or Deed Addendum attached hereto and made a part hereof, reservations, limitations, easements of record, if any, and all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

**Together** with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

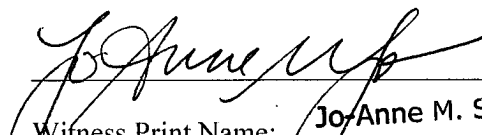
**To Have and To Hold** the same in fee simple forever.

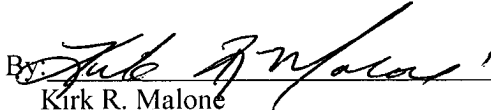
**And** the Grantor will only warrant and defend the right and title to the above described property unto the Grantee against the lawful claims of those persons claiming by, through or under Grantor, but not otherwise.


**In Witness Whereof**, the said Grantor has caused this instrument to be executed in its name by its duly authorized officer and caused its corporate seal to be affixed the day and year first above written.

Signed, sealed and delivered in our presence:

Mercedes Homes, Inc.

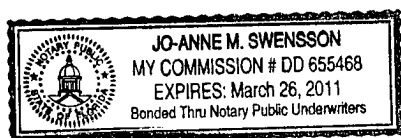
  
Witness Print Name: Jo-Anne M. Swensson

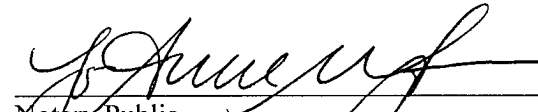
By   
Kirk R. Malone  
Its: Division President, Tampa Division

  
Witness Print Name: A. CANTWELL

State of Florida  
County of Hillsborough

The foregoing instrument was acknowledged before me this 20 day of May, 2008, by Kirk R. Malone, Division President, Tampa Division, of Mercedes Homes, Inc., a corporation existing under the laws of the State of Florida, on behalf of the corporation, who is personally known to me.



  
Notary Public  
Print Name: Jo-Anne M. Swensson  
My Commission Expires: \_\_\_\_\_

**DEED ADDENDUM  
RESTRICTIVE COVENANTS AND CONDITIONS**

In consideration of the conveyance made in the Deed to which these Restrictive Covenants and Conditions ("RCCs") are attached, the Grantor hereby establishes, declares and prescribes that the Property shall be owned, held, transferred and conveyed subject to the restrictive covenants and conditions hereinafter set forth, which shall apply to and be covenants running with the Property; the Grantee hereby covenants and agrees to covenant, to comply with, abide and be bound by these Restrictive Covenants and Conditions.

1. **SIGNS.** No sign advertising the Property for sale or for rent shall be erected, placed or maintained where it can be seen by the public, unless it has been approved in writing by Grantor. The terms of this Section 1 shall expire and automatically terminate without further action by Grantor one (1) year after the date of the Deed.

2. **DISCLAIMER OF WARRANTIES.** Any improvements built on the Property by Grantor (whether built before or after conveyance of the Property's title from Grantor to Grantee) will be delivered subject to the Limited Warranty. Except as expressly stated in the Limited Warranty, the acceptance of title to the Property shall constitute a full and complete waiver and release by or on behalf of Grantee of any and all claims, damages or liabilities against or of Grantor and its Related Parties now accrued or hereafter to accrue, including without limitation, those arising on account of, or in any way growing out of, concerning, relating to, arising out of, or in any way connected with the development, installation, improvement, construction, maintenance, repair, operation, or use of any portion of the Property or any buildings, structures, landscaping or improvements thereon, including but not limited to claims for damages arising from defects in construction or materials whether latent, observable, unobservable, known or unknown. **THE LIMITED WARRANTY DESCRIBES ALL THE WARRANTIES ORIGINAL GRANTEE IS RECEIVING FOR THE PHYSICAL CONDITION OF IMPROVEMENTS BUILT ON THE PROPERTY, AND ALL OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, ARE WAIVED AND DISCLAIMED. EXCEPT TO THE EXTENT PROVIDED OTHERWISE BY AN APPLICABLE LIMITED WARRANTY, GRANTEE (INCLUDING EACH SUCCESSOR GRANTEE) IS ACQUIRING THE PROPERTY "AS IS, WHERE IS, AND WITH ALL FAULTS."** The Limited Warranty is not assignable without Grantor's written consent.

3. **DISPUTE RESOLUTION; MANDATORY BINDING ARBITRATION**

a. Any and all claims and disputes between Grantee and Grantor or Grantor's Affiliate, shall be submitted to final and binding arbitration and not to a court for determination, including without limitation those claims and disputes that may have accrued before, during or after the delivery of the Deed, which arise from or are in any way related to: (a) the Limited Warranty or the Sales Agreement; (b) the Grantee's purchase, ownership or use of the Property; (c) the construction of improvements on the Property or the improvement, maintenance or operation of any part of the Property, even if the claim or dispute arises after the termination, expiration or lapse of any coverage under the Limited Warranty; (d) personal injuries or wrongful death; (e) damage to any part of the Property or to property other than the Property; (f) the development or maintenance of property owned, maintained or administered by any homeowner association; (g) any breach of or default under the Limited Warranty Agreement, the Sales Agreement, or any other contract between the Grantee and the Grantor or Grantor's Affiliate; (h) earnest money deposits delivered pursuant to the Sales Agreement; (i) negligent or intentional misrepresentation or nondisclosure in the inducement, execution or performance of any contract between the Grantee and the Grantor or Grantor's Affiliate, including the Limited Warranty and the Sales Agreement; (j) breach of any alleged duty of good faith or fair dealing; (k) violation of any law, rule or regulation; (l) negligence or willful misconduct; or (m) defects, conditions, losses, injuries, damages and costs that are excluded from the coverage of the Limited Warranty. Notwithstanding the foregoing, Grantee or Grantor may seek injunctive relief from a court of competent jurisdiction as an interim remedy pending arbitration. Arbitration means there will be a fair hearing before a neutral arbitrator instead of in a court by a judge or jury.

b. Arbitration shall be conducted by either (a) the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration and Mediation Rules that are in effect at the commencement of the arbitration proceedings; or (b) by Construction Arbitration Services ("CAS") in accordance with its Mediation and Arbitration Rules and Procedures for the Resolution of Construction Disputes that are in effect at the commencement of the arbitration proceedings. Grantee shall decide between AAA and CAS. If Grantee makes no choice within ten (10) days after notice, AAA shall conduct the arbitration. If AAA and CAS both cease to exist and neither has a successor, the parties shall mutually agree upon an arbitrator or a court may appoint an arbitrator.

V S

♡

c. Exclusive venue for the arbitration proceedings shall be in Brevard County, Florida, unless the arbitrator requires the arbitration to occur at the Property and the Property is not in Brevard County, Florida.

d. Any party shall be entitled to recover reasonable attorney's fees and costs incurred in enforcing this arbitration agreement. Otherwise, each party will be responsible to pay its own attorneys' fees, costs and expenses arising as a result of any suit or arbitration proceeding and neither the Grantee, nor the Grantor will be entitled to recover their respective attorneys' fees, costs or expenses from one another, unless required by statute.

e. The decision rendered by the arbitrator may be entered in any court having jurisdiction thereof, and reduced to a judgment which will bind the parties as to all issues and matters that were brought before, or could have been brought before, the arbitrator. Upon request by either party, the arbitrator will provide a brief statement of the reasons for the award.

f. If Grantor or its Affiliate is subject to arbitration for any claim by a third party which could involve Grantee's material rights or obligations, then Grantee may be joined in such arbitration for final and binding determination of Grantee's rights and obligations. Grantee may not object to the joinder of any parties to the arbitration proceedings who are deemed appropriate for the full and complete resolution of any issues that could be raised in arbitration, and such joinder shall not constitute a reason to release Grantee or Grantor from the obligation hereunder to arbitrate. For example, Grantee will not object if Grantor or Grantor's Affiliate joins in the arbitration an Affiliate or subcontractors, vendors, suppliers, agents, design professionals and insurers.

g. Any disputes concerning the interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or voidability for any cause, the scope of arbitral issues, unconscionability of the arbitration agreement, fraudulent inducement related to the arbitration agreement, and any defense based upon waiver, estoppel or laches, shall be decided by the arbitrator. The initiation of or participation by Grantee or Grantor in any judicial proceeding concerning any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this arbitration agreement, and notwithstanding any provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement. Any party who shall commence a judicial proceeding concerning a dispute which is arbitrable hereunder shall also be deemed to be a party requesting arbitration within the meaning of this arbitration agreement.

h. Grantor or its Affiliate shall have the right, in advance of the arbitration proceeding, to inspect the Property. No arbitration proceeding shall involve more than one single-family detached dwelling or more than one multi-family building. Neither Grantee nor Grantor will voluntarily join, or participate as a member of, a class in any action which is subject to arbitration hereunder. There shall be no right or authority for, and the arbitrator shall not permit, any claims to be adjudicated on a class or consolidated basis or on a basis involving claims brought in a purported representative capacity on behalf of the general public, other property owners or contractors, or other persons similarly situated.

i. Grantee and Grantor expressly agree that the Sales Agreement, Deed and Limited Warranty involve and concern interstate commerce and are governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any state or local law, ordinance or judicial rule shall be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the rules of the arbitration service shall govern the conduct of the proceeding.

j. If the foregoing obligation to arbitrate a claim or dispute between Grantee and the Grantor's Affiliate is unenforceable, inapplicable, void, released or waived for any reason, whether voluntarily or involuntarily, then Grantee and Grantor agree to all of the following:

i. Venue for judicial determination of such claim or dispute will reside exclusively in Brevard County, Florida; and

ii. **Grantee and Grantor waive any right to trial by jury**, regardless of the nature of such claim, controversy or dispute, including and without limitation, those that were or were not arbitrable and those that were or were not covered by the Limited Warranty; and

iii. No judicial action shall involve more than one single-family detached dwelling or more than one multi-family building; and

iv. **Neither Grantee nor Grantor will voluntarily join, or participate as a member of, a class in any judicial action. There shall be no right or authority for any claims to be adjudicated on a class or consolidated basis or on a basis**

V S B

**involving claims brought in a purported representative capacity on behalf of the general public, other property owners or contractors, or other persons similarly situated; and**

k. Before Grantee can bring a dispute against Grantor or any of Grantor's Affiliates based on a construction defect in the Property, Grantee must follow the requirements set forth in Florida Statutes §558.004, which requires that Grantee provide Grantor or its Affiliate with notice of the defect at least sixty (60) days before initiating arbitration of the dispute.

l. In no event will either Grantor or Grantee be awarded (1) punitive or exemplary damages of any sort; or (2) treble damages or any other damages which are greater than compensatory damages or which are based on a multiple of compensatory damages.

m. The terms of this Section 3 shall survive any termination, expiration or lapse of any coverage under the Limited Warranty.

**4. RESTRICTIONS AND COVENANTS RUNNING WITH THE LAND.** The restrictions, covenants, conditions, obligations, reservations, rights, powers and charges herein provided for shall constitute a servitude in and upon the Property and every part thereof, and shall run with the Property and inure to the benefit of and be enforceable by Grantor, its successors and assignees (as described hereinabove). Any failure to enforce any restriction, covenant, condition, obligation, reservation, right, power, or charge herein contained shall in no event be deemed a waiver of the right to thereafter enforce any such restriction, covenant, condition, obligation, reservation, right, power or charge.

**5. SUBORDINATION TO LENDERS.** These RCCs are subordinate and junior to the rights of any holder of a mortgage or a deed of trust securing payment of an indebtedness of Grantee.

**6. REMEDIES FOR VIOLATION.** Violation or breach of any restriction, covenant, condition, obligation, reservation, right, power or charge herein set forth shall give Grantor, in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of such violated or breached covenant, condition, obligation, reservation, right, power or charge, and to prevent the violation or breach thereof.

**7. DURATION.** Unless otherwise stated herein, these restrictions shall remain in effect from the date of recording in the public records of the County for a term of twenty-five (25) years.

**8. PARTIES WHO MAY ENFORCE.** These restrictions shall be enforceable by all available legal and equitable means by Grantor, its successors and such of its assignees to which Grantor specifically assigns its rights hereunder in a written instrument. Such an assignment may be of all or only certain rights hereunder and may be made on an exclusive or non-exclusive basis, in any event without the necessity of any joinder or consent of Grantee. Absent an express assignment as aforesaid (and in the event of same, except to the extent specifically provided therein), no person or entity (including, without limitation, any owners of adjacent or nearby property, any homeowners', condominium, merchants' or other association, or governmental or quasi-governmental authority) shall be deemed a third party beneficiary hereof or have any rights to enforce any of the provisions contained herein, nor shall Grantor have any duty to such persons or entities to do so.

**9. AMENDMENTS.** Grantor, its successors and assignees, may add to, subtract from, or amend the foregoing covenants and restrictions in any manner which is not inconsistent with and which does not increase the standards or restrictions of the covenants and restrictions herein set forth. Grantor may, with the approval and joinder of Grantee, otherwise wholly or partially modify, waive, or cancel the restrictive covenants and conditions herein set forth, at any time or from time to time.

**10. GENERAL.** Should any provisions of the RCCs be deemed by an arbitrator or a court of competent jurisdiction to be unenforceable, that determination will not affect the enforceability of the remaining provisions. Use of one gender in the RCCs includes all other genders, and use of the plural includes the singular as may be appropriate. The RCCs shall be construed and governed exclusively in accordance with the laws of the state in which the Property is located.

**11. DEFINITIONS.** The following words or combinations of words shall have the following meanings for the purposes of interpreting these RCCs:

a. **Property.** "Property" means the real property described in the Deed.

b. **Deed.** "Deed" means the deed to which these RCCs are attached.

c. **RCCs.** "RCCs" means these Restrictive Covenants and Conditions.

d. **Related Party.** "Related Party" shall mean any partner (whether general or limited), manager, owner, shareholder, subsidiary or affiliate, including officers, directors, employees, agents, contractors, consultants and attorneys and any Related Party to all or any of the foregoing.

e. **Affiliate.** "Affiliate" of a specified person or entity means a person or entity which (either directly or

indirectly, through one or more intermediaries) controls, is under common control with or is controlled by, the specified person or entity. For purposes of this definition, control of a specified person or entity (including the correlative terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the specified person or entity, whether through ownership of voting securities, the ability to appoint one or more of an entity's officers, trustees, directors or persons in a similar capacity, by contract or otherwise.

f. **Grantee.** "Grantee" is the person or entity named as the "Grantee," "Buyer" or "Purchaser" in the Deed and who is acquiring title of the Property through the Deed, as well as all such person's or entity's successors-in-title and all other parties occupying or dealing with the Property on behalf or under the authority of Grantee or such successors, and every future of the Property or any part thereof, including any purchaser at a judicial sale (whether or not it shall be so expressed in any deed of conveyance). The Original Grantee is the Grantee named in the Deed.

g. **Grantor.** "Grantor" is the person or entity named as the "Grantor" or "Seller" in the Deed and who is conveying title of the Property through the Deed.

h. **Limited Warranty.** "Limited Warranty" is the written limited warranty delivered to the Grantee named in the Sales Agreement.

i. **Sales Agreement.** "Sales Agreement" means the written contract pursuant to which Grantor agreed to sell the Property to the Original Grantee.