

1994

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR THE ISLE OF VENICE

THIS DECLARATION OF COVENANTS AND RESTRICTIONS, is made on this 7th day of September, 1994, by LENNAR HOMES, INC., a Florida corporation, hereinafter referred to as "Developer" or "Declarant".

Developer owns the property described in this Declaration, and intends to develop the property as a residential community within the Kings Isle Development to be known as Isle of Venice. The purpose of this Declaration is to provide various use and maintenance requirements and restrictions in the best interest of the Owners of Homes within the Isle of Venice Neighborhood, to preserve and protect the values of the property. This Declaration will also establish an Association which will own, operate and/or maintain various portions of the property and the improvements constructed on the property, will have the right to enforce the provisions of this Declaration, and will be given various other rights and responsibilities. The expenses of the Association will be shared by the Owners of Homes constructed on the property, who, along with the Developer, will be Members of the Association.

Now, therefore, Developer hereby declares that the Neighborhood Lands, as hereinafter defined, and such additions as may, in the future, be made subject to the terms of the Declaration, shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the terms and conditions of this Declaration, all of which are created in the best interest of the Owners and residents of the Neighborhood Lands, and which will run with the Neighborhood Lands and shall be binding upon all persons having and/or acquiring any right, title or interest in the Neighborhood Lands or any portion thereof, and shall inure to the benefit of each and every person, from time to time, owning or holding an interest in the Neighborhood Lands, or any portion thereof.

ARTICLE I

DEFINITIONS

The terms used in this Declaration and in the Articles and Bylaws of the Association, shall have the following meanings, unless the context otherwise requires:

1. "Articles" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Secretary of State of Florida, a true copy of which is attached hereto, marked Exhibit "B" and incorporated herein by this reference, as such Articles may be amended from time to time.
2. "Assessments" shall mean the charge against each Owner and his Home, representing a portion of the total costs to the Association of owning, maintaining, improving, repairing, replacing, managing and operating the Common Areas and collection of Club charges and Community Association Assessments, if requested to do so by Developer, Club Owner or the Community Association.
3. "Association" shall mean and refer to Isle of Venice Neighborhood Association, Inc., a Florida corporation not for profit.
4. "Board" shall mean the Board of Directors of the Association, elected in accordance with the By-Laws of the Association.
5. "By-Laws" shall mean the By-Laws of the Association, which have been or shall be adopted by the Board substantially in the form of Exhibit "C" attached hereto and incorporated herein by this reference, as such By-Laws may be amended from time to time.
6. "Club" shall mean and refer to the private club located in the Kings Isle Development, the members of which are, on a voluntary basis, Owner of Homes in the Kings Isle Development.
7. "Club Owner" shall mean and refer to the Kings Isle Recreation Corp.
8. "Club Charges" shall mean and refer to the Club Facilities Fee and Club Operating Costs as defined in the Community Declaration of Restrictive Covenants.

THIS INSTRUMENT PREPARED BY:  
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RETURN TO: KINGS ISLE, 100 KINGS ISLE BLVD,  
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ATT: THERESA

9. "Common Areas" shall mean and refer to that part of the Neighborhood Lands now or hereafter actually used and designated for the use and benefit of the residents in the Neighborhood; consisting of the Common Driveways, Parking Areas, if any, Green Areas, entry features and sometimes referred to herein as "Neighborhood Property"

10. "Common Driveways" and "Parking Area" if any, shall mean and refer to that part of the Common Areas now or hereafter actually used and paved for vehicular access and striped and designated for parking for the Owners of Homes in the Neighborhood.

11. "Common Expenses" shall mean all expenses incurred and Assessments (and Special Assessments levied against each Owner and his Home within the Neighborhood) and the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Areas, including, without limitation; the costs of any and all utility charges for the Common Areas; costs of management and administration of the Association (including, without limitation, compensation paid by the Association to Managers, accountants, attorneys and other employees); the cost of all gardening and landscaping of the Common Areas and grass cutting and edging of the lawns on each Homestead; the cost of maintenance, operation, repair and replacement of equipment furnishing lighting for the Common Areas; the cost of fire, casualty and liability insurance, workers' compensation insurance, and other insurance covering the Common Areas; the cost of bonding persons who handle monies of the Association; taxes paid by the Association (including real property taxes for the Common Areas); amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas, or portions thereof and the costs of any other item or items incurred by the Association for any reason whatsoever in connection with the Common Areas or for the benefit of the Owners.

12. "Community Association" shall mean the Kings Isle Community Association, Inc., the association created to administer the Kings Isle Development pursuant to the Community Declaration of Restrictive Covenants Kings Isle recorded or to be recorded in the Public Records of St. Lucie County, Florida.

13. "Community Declaration" shall mean and refer to the Community Declaration of Restrictive Covenants Kings Isle recorded or to be recorded in the Public Records of St. Lucie County, Florida.

14. "Developer" shall mean and refer to Lendar Homes, Inc. and its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Neighborhood. In the event of such a partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of the Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

15. "Declaration" shall mean this instrument as it may be amended from time to time.

16. "Neighborhood Lands" means and refers to the land described on Exhibit "A" attached hereto and any other lands made subject to this Declaration by annexation.

17. "Home" shall mean a completely constructed attached or detached or single or multi-family family housing residence or a unit in a condominium which is designated and intended for use and occupancy as a residence and which is subject to Assessments and Special Assessments under this Declaration or any Supplemental Declaration made by the Developer. Said term includes any interest in land, improvements and other property appurtenant to the Home.

18. "Kings Isle" or "Kings Isle Development" or "Development" shall mean that certain tract of land legally described on Exhibit "A" of the Community Declaration and in the additions thereto, as are brought within the provisions an applicability of the Community Declaration and/or deletions therefrom.

19. "Homestead" shall mean and refer to those lots shown upon the recorded subdivision plat or plats of the Neighborhood Lands on which shall be built Homes.

20. "Management Company" shall mean the person, firm or corporation appointed by the Association hereunder as its agent and delegated certain duties, powers or functions of the Association.

21. "Member" shall mean all owners of Homes in the Neighborhood, and the Developer holding a membership in the Association as provided herein.

22. "Mortgage" shall mean any mortgage encumbering a Home. The term "Mortgagee" shall mean the holder of such mortgage.

23. "Owner" shall mean and refer to the person or persons or other legal entity or entities, including Developer, holding fee simple interest of record to any Home, including sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article I only, unless the context otherwise required, Owner shall include the family, invitees, licensees and lessees of any Owner.

24. "Person" shall mean a natural individual or any other entity with the legal right to hold title to real property.

25. "Neighborhood" or "Isle of Venice Neighborhood" shall mean the Homes, Homesites and common areas within the Neighborhood Lands.

26. "Record, Recorded, Filed and Recordation" shall mean, with respect to any document, the recordation of such document in the office of the Clerk of Circuit Court of St. Lucie County, Florida.

27. "Residential Property" shall mean and include that portion or portions of the Neighborhood Lands on which is built Homes.

28. "Special Assessments" shall mean and include the following: (i) a charge against a particular Owner (and his Home) directly attributable to the Owner, equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration; or (ii) a charge against each Owner (and his Home) directly attributable to the Owner equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration; or (iii) a charge against each Owner (and his Home) representing a portion of the costs to the Association for installation or construction of any improvements on any portion of the Common Areas which the Association may from time to time authorize.

29. "Supplemental Declaration" shall mean any Declaration which may be recorded by Developer for the purpose of supplementing this Declaration or for the purpose of withdrawing portions of the Neighborhood Lands or annexing additional property.

The foregoing definitions shall be applicable to this Declaration and also to any Supplemental Declaration, unless otherwise expressly provided, recorded pursuant to the provisions of this Declaration.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration, is described in Exhibit "A" hereto.

2. Restrictions and Amendments. The Developer shall be entitled, at any time and from time to time, to plat and/or replat and/or to submit to condominium or subject to a declaration of covenants and restrictions or other similar instrument on all or any part of the Neighborhood Lands and to file restrictions and/or Amendments thereto with respect to any portion or portions of the Neighborhood Lands.

3. Withdrawal of Land. The Developer shall have the absolute right, but shall have no obligation, to withdraw at any time, or from time to time from the effect of this Declaration any or all of that portion of the Neighborhood Lands on which there is no construction of improvements. The withdrawal of lands as aforesaid shall be made and evidenced by the recording in the Public Records of St. Lucie County, Florida of a Supplemental Declaration unilaterally executed by the Developer, describing the lands to

be withdrawn. Developer reserves the right to so amend and supplement this Declaration without the consent or joinder of the Association, or of any Member and/or Mortgagee of a Home (of any other property) in the Development. Upon the filing of such a Supplemental Declaration, all such land described therein shall be relieved from the effect of this Declaration and any restrictions, obligations or lien rights hereunder.

4. Annexation of Additional Property. Additional real property may be annexed by the Developer in whole or in part without the consent of Members, the Association or any mortgagees within ten (10) years of the date of this Declaration. Such annexations, if they are made will subject the annexed real property to the terms and conditions of this Declaration. Annexations will become effective upon the recording of a Supplemental Declaration in the Public Records of St. Lucie County, Florida.

5. Conveyance of Common Areas to the Association. At such time as Developer closes title to ninety (90%) percent of the Homes to be constructed in the Neighborhood by Developer (and subject to the provisions hereof), or such earlier time as Developer elects, Developer shall convey title to the Common Areas to the Association, which shall be obligated to accept such conveyance.

### ARTICLE III

#### PROPERTY RIGHTS OF DECLARANT, ASSOCIATION, AND OWNERS

1. Owner's Easements of Access and Enjoyment. Subject to the provisions below, every Owner shall have a non-exclusive right to use and an easement of enjoyment in and to the Common Areas, together with an easement of access to and from and over and across the Common Areas which shall be appurtenant to and shall pass with the title to the Home owned by such Owner, subject to the following:

- (a) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure;
- (b) All provisions of this Declaration and the Articles and By-Laws of the Association;
- (c) Rules and Regulations governing the use and enjoyment of the Common Areas adopted by the Association;
- (d) Restrictions contained on any and all plats of all or any part of the Common Areas or filed separately with respect to all or any part or parts of the Common Areas.
- (e) The right of the Association to suspend voting rights for a period not to exceed 60 days.

2. Developer's Easements of Access. The Developer reserves for itself and its officers, employees, agents, invitees, contractors and subcontractors, and for the Lessor for proper business purposes, including the construction and sale of Homes and other improvements upon the Neighborhood Lands, the sale of Homes and other residential Homes within the Neighborhood, easements of ingress and egress over and across the Common Areas.

3. Rights of the Association. The easements granted herein shall be subject to the right of the Association to maintain, manage, operate, repair, and to establish uniform and reasonable Rules and Regulations covering the use of the Common Areas; provided, however, that the Association may not restrict the persons described in Section 2 of this Article from the reasonable use of the Common Areas in connection with the construction and sale of Homes and other improvements upon the real property of the Neighborhood Lands.

4. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of ingress and egress over and across the Common Areas to his guests, invitees and family members, and to tenants and contract purchasers of his Home, and their respective guests, invitees and family members.

5. Easement to Public Right-of-Way. Notwithstanding anything to the contrary set forth in this Declaration, each Owner of a Home shall have an easement for access to and from his Home to a public right-of-way over a paved common driveway. Developer

has an absolute obligation to construct all portions of the common driveway necessary to afford all Home Owners such access.

6. Easement for Public Service Use and Public Utilities. In addition to the foregoing easements, there shall be and Developer hereby reserves and covenants for itself and all Owners, easements of ingress and egress over and across the Common Areas for public services (including, without limitation, the right of the police and fire department to enter upon any part of the Common Areas for the purpose of rendering their respective services) and for agents and employees of utility companies servicing the Neighborhood.

7. Waiver of Use. No Owner may exempt himself from personal liability for Assessments or Special Assessments duly levied by the Association against a Member, or release the Home owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas or by abandonment of his Home.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. Membership. Every person or entity who is an Owner of a Home and the Developer shall be a Member of the Association. Notwithstanding the foregoing, any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a Member of the Association. Membership in the Association shall not be assignable, except to the successor-in-interest of the Member.

2. Voting Rights. The Association shall have two (2) classes of Voting Members, each to be selected and to cast the numbers of votes set forth below:

Class A. Class "A" Member shall be each Owner of a Home in the Neighborhood except the Developer. Each Class "A" Member shall be entitled to one (1) vote.

Class B. The Class B Voting Member shall be Developer. The Class B Voting Member shall be entitled to one (1) vote, plus two (2) votes for each vote to which the Class A Members are entitled to cast from ~~three (3) to five (5)~~ <sup>two (2)</sup>, provided that the Class B Membership shall cease and terminate ~~one (1) year after the last Home site~~ <sup>one (1) year after the last Home site</sup> within the Neighborhood has been sold and conveyed, or at any time prior to that date at the election of the Developer.

3. Community Association. Each Member of the Association shall be a Member of the Community Association. The Association shall elect three (3) Voting Members who shall represent the interest of all Members of the Association at meetings of the Community Association and shall cast as many votes as there are Homes subject to the jurisdiction of the Association. The Association shall elect its Voting Members in the same manner, and subject to the same terms as to duration of office, removal and qualifications, as it elects its own directors and each Voting Member shall be a director of the Association.

4. Selection of Voting Members. The Association under shall give written notice to the Community Association of the persons elected or designated as its Voting Members, such notice to be given at or before the first meeting of the Community Association which the Voting Member is to attend. The Community Association shall be entitled to rely on such notices as constituting the authorization of the Association (and its members) to the designated Voting Members to cast all votes of the Association (and its members) and to bind same in all Community Association matters until such notice is changed, superseded or revoked.

ARTICLE V

DUTIES AND POWERS OF ASSOCIATION

The Association, acting through the Board of Directors, shall also have the power and duty to:

- (a) Maintain, repair and replace the improvements, paving and landscaping included in the Common Areas;

- (b) Provide for, maintain and administer Community Services for the benefit of the Members of the Association.
- (c) Obtain water, electric and such other utility services as may be required for the operation of the Common Areas;
- (d) Grant easements, rights-of-way, or strips of land, where necessary, for utility and sewer facilities over the Common Areas to serve the Common Areas and other portions of the Neighborhood.
- (e) Maintain such policy or policies of liability and fire insurance with respect to the Common Areas, improvements therein and personal property, if any, owned by the Association or the Developer and providing such other insurance as directed by this Declaration and the By-Laws of the Association;
- (f) Employ or contract with a Management Company to perform all or any part of the duties and responsibilities of the Association, and shall have the power to delegate its powers to committees, officers and employees.
- (g) Collect Community Association Assessments and Club Charges and remit same to the Community Association and Club Owner, respectively.
- (h) To elect three (3) members of the Board of Directors as delegates (Neighborhood Voting Members) to the Community Association.

#### ARTICLE VI

##### COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation of Assessments. Developer, for each Home now or hereafter owned by it, hereby covenants, and each Owner of any Home by acceptance of a deed therefor whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) annual Assessments and (ii) Special Assessments and such assessments for Common Expenses to be established and collected as hereinafter provided. The obligation of each Home for its respective assessments shall commence on the date a certificate of occupancy is issued to the Home. Such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Home against which such assessment is made. The aforesaid lien shall also include any sums advanced on behalf of a Homeowner in payment of his Community Association assessments or Club Charges. A pro rata share of such assessment, together with a pro rata share of interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such Home at the time when the assessment fell due. Subject to the provisions of this Declaration protecting first Mortgagees, the personal obligation for delinquent assessments shall pass to the successors-in-title of such Owner.

2. Developer's Liability for Assessments. (i) The Developer shall be excused from the payment of the share of the Common Expenses and Assessments relating to Homes it is offering for sale, for a period beginning with the recording of this Declaration and ending one (1) year from the date of the recording of the Declaration, (the "Quarantee Expiration Date"). However, the Developer must pay the portion of Common Expenses incurred during that period which exceeds the amount assessed against other Home Owners.

(ii) During said period the Developer shall not be obligated to pay the share of the Common Expenses and Assessments attributable to Homes it is offering for sale for which a Certificate of Occupancy has been issued, provided that the regular annual Assessments for Common Expenses imposed on each Home Owner other than the Developer shall not increase during such period more than 15% annually over the amount set opposite such Home's designation (model type) in the Estimated Operating Budget for the first twelve months of operation for the Association contained in the budget delivered to such Home Owner when such Owner contracted to purchase the Home, if applicable; and provided further that the Developer shall be obligated to pay any amount of Common Expenses actually incurred, excluding reserves and management fees, during such period and not produced by the Assessments at the guaranteed level receivable from Home Owners.

Developer may, at its sole option, extend the Guarantee Expiration Date from time to time.

3. Purpose of Assessments. The Assessments levied by the Association shall be used for the benefit of the Common Areas, to cut and edge the lawns on each Homesite, to maintain any other landscaping not part of the Common Areas deemed necessary by the association and to pay all costs incurred by the Association in the carrying out of its duties as set forth herein and in the Articles and By-Laws of the Association.

4. Damage to Common Areas by Owners. The foregoing maintenance, repairs or replacements within the Common Areas arising out of or caused by the willful or negligent act of the Owner, his family, guests or invitees shall be done at the said Owner's expense or a Special Assessment therefor shall be made against his Home.

5. Special Assessments for Capital Improvements and Major Repairs. In addition to any annual Assessments, the Association may levy in any assessment year a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement or such other addition upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment in excess of \$10,000.00 shall have the vote or written assent of a majority of the votes of the Owner-Members, excluding therefrom the votes of Developer.

6. Rate of Assessment. The cost of maintaining the Common Areas is shared by the Owners of all Homes within the Neighborhood. Until Developer's Guarantee Expiration Date, each Home shall be responsible for its respective share of the total amount of assessments based on a fraction, the numerator of which shall be one (1) and the denominator of which shall be 147 based on the present estimate of the total number of Homes to be built in the Neighborhood. Subsequent to Developer's Guarantee Expiration Date and any extension thereof, if applicable, each Home shall be responsible for its respective share of the total amount of assessments, based on a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of the type Home subject to Assessments.

7. Assessments. The Association's Board of Directors shall, from time to time, but at least annually, fix and determine a budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budgets and any supplement to the budgets to each Member prior to assessing the Members thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, replacements, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior budgets subsequent to expiration of the guarantee period and capital improvements and reserves approved by the Board. Each Home shall commence paying its share of the Association assessments commencing on the date a certificate of occupancy is issued for the Home. Different types of Homes, such as, without limitation, single family attached Homes and single family detached Homes or different types of detached or attached Homes may pay different assessments if the services or volume of services supplied to each Home type differs, but all similar Home types will be assessed equally.

8. Date of Commencement of Assessments; Due Date. The first annual Assessment for Common Expenses shall be adjusted according to the number of months remaining in the fiscal year as set forth in the By-Laws. The Board of Directors shall fix the amount of the annual Assessment against each Home subject to assessment at least thirty (30) days in advance of each Assessment period. Written notice of any change in the amount of the annual Assessment shall be sent to every Owner subject thereto, at least thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board of Directors. Annual Assessments shall be collected monthly, quarterly, semi-annually or annually at the option of the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Home have been paid. A properly executed certificate of the Association as to the status of the assessments against a Home is binding upon the Association as of the date of its issuance.

If possible, at least thirty (30) days prior to the beginning of each fiscal year, the Board of Directors shall prepare and distribute to the Membership of the Association a written, itemized estimate (budget) of the expenses to be incurred by the Association

during such year in performing its functions under this Declaration (which may include reasonable provision for contingencies and reserves, if any).

9. Exempt Property. Assessments shall be assessed only against the Homes which are, from time to time, subject to assessment under the provisions hereof; all other property, whether owned by Developer or another, shall be exempt therefrom.

10. Maintenance of Exterior of Owners Property. In the event an Owner of any Homesite in the Neighborhood shall fail to maintain the exterior of his Home or the Homesite, other than those portions of the Homesite to be maintained by the Association, in a manner satisfactory to the Association, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees to enter upon said Homesite and to repair, maintain and restore the Homesite and the exterior of the buildings and any other improvements erected thereon.

The cost of such exterior maintenance shall be assessed against the subject Homesite and such assessment shall be a charge on the land and shall be a continuing lien upon the Homesite. Non-payment of such assessment within thirty (30) days from the due date may result in foreclosure of the lien or an action at law against the owner(s) of the Homesite.

#### ARTICLE VII

##### ARCHITECTURAL CONTROL AND MAINTENANCE STANDARDS COMMITTEE

1. Establishment of Committee and Acceptance by the Association. The Association, by virtue of its execution of this Declaration, acknowledges the necessity of maintaining the physical appearance and image of the Neighborhood as a quality residential Development and additionally, that the success of the Developer in developing and selling the remaining portions of the Kings Isle Development is closely related to the physical appearance and image of this Neighborhood and other communities within the Development.

Accordingly, there is established a Committee known as the "Architectural Control and Maintenance Standards Committee" hereinafter referred to as "Committee". The Committee shall be empowered to adopt and promulgate from time to time minimum standards for architectural control and maintenance of the physical appearance of the Neighborhood.

The Community Declaration establishes for the entire Kings Isle Development, an Architectural Control Committee ("ACC") which imposes architectural control over the entire Kings Isle Development. Upon approval from the Committee, approval must also be obtained from the ACC.

2. Members of Committee. The Committee shall consist of three (3) Members designated by the Developer. Each member of the Committee shall be appointed by the Developer and shall hold office until such time as he has resigned or has been removed and his successor has been appointed by Developer. The membership may include building and landscape architects, contractors, subcontractors and other persons that the Developer may deem sufficiently qualified to render an opinion as to architectural control and minimum standards of maintenance.

3. Review of Proposed Construction. With respect to the Neighborhood Lands, no building, exterior wall or other exterior structure, or entry sign shall be commenced, erected or maintained, nor shall any exterior painted surfaces be repainted, nor shall any exterior addition or change or alteration be made to the exterior of any building, nor shall there be any material modification of the landscaping until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing, as to harmony of external design and color and location in relation to surrounding structures and topography, by the Committee. The Committee shall approve proposals or plans and specifications only if submitted for its approval by the Association and only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Neighborhood and the entire Kings Isle Development, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving



or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submissions of plans for approval. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitations, floor plans, site plans, drainage plans, elevations drawings and descriptions or samples of exterior materials and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. Notwithstanding any provision of this Article, approval of the Committee shall not be required with respect to constructions performed or caused to be performed by the Developer. In the event construction of the improvements proceeds without submitting plans to the Committee or plans are submitted to the Committee by the Association and construction proceeds without the approval of the Committee, the Committee shall have the right but not the duty to take such action as is set forth in Section 6 of this Article IX and any other remedies as may be prescribed by law.

4. Maintenance and Repair Obligations. In the event that any improvements to the Neighborhood Lands fall into disrepair or are not maintained so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Committee has the right, but not the duty to take such action as is set forth in Section 6 of this Article VIII and any other remedies prescribed by law. The obligations to maintain shall include but not be limited to exterior paint on any building, landscaping, paving, trash removal, repair of exterior building surfaces and vending machine maintenance.

5. Inspections. The Committee shall have the right to inspect from time to time the Neighborhood Lands in order to determine whether the maintenance of same meet the minimum standards and any improvements constructed thereon meet the architectural standards.

6. Remedies in the Event of Non-Compliance. If the Committee shall find that any portion of the Neighborhood Lands are not being maintained in accordance with the minimum standards, or improvements to the Neighborhood Lands are not in compliance with the architectural standards of the Committee, the Committee shall issue a report to the Developer particularizing the deficiencies and the Developer shall thereafter submit the report to the Board of the Association. Within thirty (30) days of receipt of the report, the Association shall, if pertaining to Common Areas, commence with the repair, maintain, or restoration specified in the report and diligently pursue completion of same in an expeditious manner. The cost of all work on the Common Areas shall be the responsibility of the Association and shall be a Common Expense of the Association. If the deficiencies are in a particular Home, the Association shall notify the Owner of the deficiencies and the Owner shall commence with the repair, maintenance or restoration within 30 days of said notice and diligently pursue completion of same in an expeditious manner. The Association and each Home Owner in the Neighborhood does hereby authorize and vest in the Developer the following power should the Association or Home Owner, whichever is applicable, fails or refuses to commence and complete the maintenance work required by the report of the Committee.

- (a) The Developer may let out for bid the work required by the report of the Committee, negotiate and accept bids and authorize contractors or subcontractors to enter upon the Neighborhood Lands, and the recreational facilities for the purpose of performing the specified work in which case the Developer shall be acting as the agent for the Association or Home Owner, whichever is applicable and the entrance upon the Neighborhood Lands and recreational facilities of those performing the work shall be a lawful entry and shall not be deemed a trespass. Developer shall have the right to pay the contractors or subcontractors performing the work and the Developer is authorized in its own name to record a lien against the Association or Home Owner, among the Public Records of St. Lucie County, Florida, in the amount of the costs of said work that the Developer has expended which lien shall be deemed a lien against the Common Areas or Homesite for which the work was performed, which lien shall remain in effect until such time as it is satisfied or record by the payment to the Developer of the monies expended by it together with interest at the rate of eighteen (18%) percent per annum from the date of the expenditure. The recordation of the lien is hereby deemed to constitute constructive notice to third parties of the existence of the lien and all sales, mortgages or other transfers or conveyances subsequent to the recording date shall be subject to the lien rights of the Developer. The Association and each Home Owner gives and grants unto Developer the power

to foreclose its lien in the event that it remains unpaid and agrees that the procedures to be utilized in said foreclosure proceeding shall be those set forth in the Statutes of the State of Florida relating to the foreclosure of a mechanic's lien and any and all defenses or rights to contest are hereby waived.

- (b) Alternatively, upon receiving the bids of contractors and subcontractors for the work required to be done by the report of the Committee, Developer may elect not to cause said work to be done, and notwithstanding that, to record the lien prescribed above in the amount of the bids of contractors and subcontractors for the work set forth in the Committee report. Upon payment of the lien to the Developer, the Developer shall then cause the work to be performed and to pay the contractors and subcontractors performing the work from the proceeds satisfying the lien. Upon payment of the contractors and subcontractors, Developer shall render to the Association or Home Owner, whichever is applicable, a report setting forth to whom and what amounts the funds were disbursed. The lien herein prescribed shall have the same priority upon recordation and shall be foreclosurable in the same manner as that set forth in Section 6(a) of this Article VII.

The report of the Committee shall be conclusive as to the nature of the work required to be done and the bids accepted by Developer shall be conclusive as to price.

#### ARTICLE VIII

##### EFFECT OF NON-PAYMENT OF ASSESSMENTS (OR SPECIAL ASSESSMENTS); REMEDIES OF THE ASSOCIATION

1. Effect of Non-Payment of Assessments (or Special Assessments); Remedies of the Association. Any installment of an Assessment or Special Assessment not paid within fifteen (15) days after the due date shall bear interest from the due date of such installment at the rate of eighteen (18%) percent per annum. If any installment of an Assessment or Special Assessment is not paid within thirty (30) days after it is due, the Owner responsible therefor may be required further by the Board of Directors to pay a late charge of Twenty-Five (\$25.00) Dollars. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Home. No Owner may waive or otherwise escape liability for the Assessments or Special Assessments provided for herein by non-use of the Common Areas or abandonment of his Home. If any installment of an Assessment or Special Assessment is not paid within thirty (30) days after its due date, the Board may mail an acceleration notice to the Owner and to each first Mortgagee of a Home which has requested a copy of the notice. The notice shall specify (i) the fact that the installment is delinquent; (ii) the action required to cure the default including the amount that can be paid by the Owner to prevent a lien being filed on that Owner's Home; (iii) a date not less than thirty (30) days from the date the notice is mailed to the Owner, by which such default must be cured; and (iv) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the Assessment or Special Assessment for the then current fiscal year and sale of the Home pursuant to foreclosure of the lien securing the unpaid Assessment or Special Assessment. The notice shall further inform the Owner of his right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the owner to acceleration and sale.

If the delinquent installments of Assessments or Special Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of the annual Assessment or Special Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment or Special Assessment and all charges thereon in any manner authorized by law and this Declaration.

2. Notice of Claim of Lien. No action shall be brought to enforce any Assessment or Special Assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Claim of Lien is deposited in the United States mail, a copy thereof has been recorded by the Association in the office of the Clerk of Circuit Court of St. Lucie County, Florida; said Notice of Claim of Lien must recite a good and sufficient legal description of any such Home, the record owner or reputed Owner thereof, the amount

claimed (which may at the Association's option include interest on the unpaid Assessment or Special Assessment at eighteen (18%) percent, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Claimant. Such Notice of Claim of Lien shall be signed and acknowledged by an officer of the Association.

3. Foreclosure Sale. The Assessment or Special Assessment lien set forth herein may be foreclosed in the same manner as mortgages are foreclosed under Florida law. The Association, through duly authorized agents, shall have the power to bid on the Home at foreclosure sale, and to acquire and hold, lease, mortgage and convey same.

4. Curing of Default. Upon the timely curing of any default for which a Notice of Claim of Lien was filed by the Association, the officers thereof shall record an appropriate Release of Lien, upon payment by the defaulting owner of a fee, to be determined by the Association, but not to exceed One Hundred Fifty (\$150.00) Dollars, to cover the cost of preparing and recording such release. A certificate executed and acknowledged by any two (2) Members of the Board or by the Management Company stating the indebtedness secured by the liens upon any Home created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Fifty (\$50.00) Dollars.

5. Cumulative Remedies. The Assessment or Special Assessment liens and the rights to foreclose and sale thereunder, shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments or Special Assessments, as above provided.

6. Subordination of the Lien to Mortgages. The lien of the Assessments or Special Assessments provided for herein shall be subordinate to the lien of any first Mortgage (meaning any recorded Mortgage with first priority or seniority over other mortgages) made in good faith and for value and recorded prior to the date on which the Notice of Claim is recorded. Sale or transfer of any Home shall not affect the Assessment or Special Assessment lien. However, the sale or transfer of any Home pursuant to the mortgage foreclosure or deed in lieu thereof, shall extinguish the lien of such Assessments or Special Assessments as to installments which become due prior to such sale or transfer. No sale or transfer shall relieve such Home from liability for any Assessments or Special Assessments thereafter becoming due or from the lien thereof. Liens for Assessments or Special Assessments under this Article shall be inferior to the liens for Club Charges charged by the Club and liens for assessments charged by the Community Association.

ARTICLE IX

MAINTENANCE AND REPAIR OBLIGATIONS

The Association shall maintain, or provide for the maintenance of all of the Common Areas (including, without limitation, paving, lighting and landscaping) and, at its option, may maintain or provide for the maintenance of other property as elsewhere provided for herein.

ARTICLE X

COMMUNITY DECLARATION

The Declaration shall be subject to and subordinate to the Community Declaration and the terms and conditions thereof, including, without limitation Article IX thereof which specifically applies to this Declaration and Association.

ARTICLE XI

INSURANCE

1. Common Areas. The Board of Directors shall maintain public liability insurance, to the extent obtainable, covering each Association Member, lessee and occupant, and the managing agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Areas.

To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance: (a) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities on the Common Properties, in an amount equal to their full replacement values, and (b) worker's compensation insurance. In addition, the Board shall have the right to obtain Directors' and Officers' liability insurance, fidelity insurance and other insurance it may deem proper to protect the Association, its members and property. All insurance premiums for such coverage shall be paid for by the Association and assessed as appropriate to all Owners.

2. Homes.

(a) Each Owner shall be required to obtain and maintain adequate insurance of his Home, which shall insure the property for its full replacement value, with no deductions for depreciation, against loss by fire, flood, if in a flood zone, or other hazards. Such insurance shall be sufficient to cover the full replacement value, or for necessary repair or reconstruction work. Such insurance shall be written in a manner acceptable to the Board of Directors of the Association, and shall contain a clause which provides ten (10) days prior written notice to the Board of Directors of the Association before the policy can be cancelled. Each Owner shall be required to supply the Board of Directors with evidence of insurance coverage on his Home which complies with the provisions of this Section.

If the insurance provided under this Section has not otherwise been adequately obtained by each Owner, as determined by the Board of Directors, then the Board shall obtain such insurance coverage. Insurance obtained by the Board of Directors shall be written in the name of the Association as Trustee for the benefit of the applicable Home Owner.

Premiums for insurance obtained by the Board of Directors, as provided hereinabove, shall not be a part of the common assessment or expense, but shall be an individual assessment (special assessment) payable in accordance with the provisions of Article VI of this Declaration.

Each Owner shall be required to reconstruct or repair any Home, destroyed by fire or other casualty, covered by insurance written in the name of the Association as Trustee. The insurance proceeds shall be deposited in a bank or other financial institution, subject to withdrawal only by the signature(s) of an agent(s) duly authorized by the Board of Directors. If no repair or rebuilding has been contracted for, or otherwise substantially started by the Owner within thirty (30) days of the receipt of the insurance proceeds, the Board of Directors shall itself initiate the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Home, in a good and workmanlike manner in conformance with the original plans and specifications. The Board of Directors may advertise for sealed bids from any licensed contractors and may then negotiate with said contractors. The contractor or contractors selected to perform the work shall provide full performance and payment bonds for such repair or rebuilding, unless such requirement is waived by the Board of Directors. In the event the insurance proceeds are insufficient to fully pay the costs of repairing and/or rebuilding the damaged or destroyed portions in a good and workmanlike manner, the Board of Directors shall levy a special assessment against the Owner in whatever amount sufficient to make up the deficiency. If the insurance proceeds exceed the cost of repairing and/or rebuilding, such excess shall be paid over to the respective Owner and/or the Owner's mortgagee in such portions as shall be independently determined by those parties.

In the event of damage or destruction by fire or other casualty to any Home covered by adequate insurance written in the name of the individual Owner thereof, then such Owner shall, with the concurrence of the Owner's mortgagee, if any, within thirty (30) days of the receipt of the insurance proceeds, contract for or otherwise substantially start the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Home in a good and workmanlike manner in conformance with the original plans and specifications. If such Owner refuses or fails, for any reason, to so repair or rebuild as provided, then the Association by and through its Board of Directors is hereby irrevocably authorized by such Owner to repair and rebuild such damaged or destroyed portions of the Home in a good and workmanlike manner in conformance with the original plans and specifications thereof. The Board of Directors shall levy a special assessment against the Owner in whatever amount sufficient to adequately pay for such repair or rebuilding of this type.

(b) Should the Association obtain the insurance coverage on a Home pursuant to Section 2 of this Article XI, then the Association may charge and the applicable Owner shall be responsible for, as a special assessment against the Homesites, an administration fee of \$100.00.

(c) Notwithstanding anything to the contrary in Section 2 of this Article XI, the Association, its Directors or Officers, shall not be liable to any person should it fail for any reason whatsoever to obtain insurance coverage on Home.

## ARTICLE XII

### MORTGAGEE PROTECTION

The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

- (a) Each first mortgagee of a Mortgage encumbering any Home, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Home in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the By-Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.
- (b) Each first mortgagee of a Mortgage encumbering any Home which obtains title to such Home pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Home free and clear of any claims of unpaid assessments or charges against such Home which accrued prior to the acquisition of title to such Home by the Mortgagee.
- (c) First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

## ARTICLE XIII

### PARTY WALLS AND PARTY FENCES

1. Each wall which is built as a part of the original construction of the Homes within a grouping of attached Homes and placed on the dividing line between two or more Homes shall constitute a party wall and each fence which is built as a part of the original construction of the Homes and placed on the dividing line between two Homesites shall constitute a party fence. To the extent not inconsistent with the provision of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the party walls and party fences.

2. The cost of reasonable repair and maintenance of a party wall and/or party fence shall be shared by the Owners who make use of the wall or fence in proportion to such use.

3. If a party wall and/or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall and/or fence may restore it, and if the other Owners thereafter make use of the wall and/or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a large contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

4. Notwithstanding any provision of this Article, an Owner who, by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

6. In the event of any dispute arising concerning a party wall and/or party fence under the provisions of this Article, each party shall choose an arbitrator, and such arbitrator shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

#### ARTICLE XIV

#### USE RESTRICTIONS

1. **NO TRADE OR BUSINESS.** No trade, business, profession, or commercial activity, or any other non-residential use, shall be conducted upon any portion of the Neighborhood or within any Homesite or Home.

2. **PROHIBITION AGAINST ENCLOSURE OF GARAGES.** Notwithstanding anything contained herein to the contrary, no garages shall be enclosed or converted into a living area, and must at all times be useable as a garage for car storage purposes.

3. **OUTSIDE STORAGE OF PERSONAL PROPERTY.** The personal property of any resident of the Neighborhood shall be kept inside the resident's Home or a fenced or a walled-in yard, except for tasteful patio furniture and other personal property commonly kept outside.

4. **PORTABLE AND TEMPORARY BUILDINGS.** No portable, storage, temporary or accessory buildings or structures, or tents, shall be erected, constructed or located upon any Homesite for storage or otherwise, without the prior written consent of the Association.

5. **GARBAGE AND TRASH.** Each Owner shall regularly pick up all garbage, trash, refuse or rubbish on the Owner's Homesite. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters or garbage facilities shall be stored inside a Home or fenced-in area and screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

6. **PARKING.** The parking facilities shall be used in accordance with the regulations adopted by the Community Association. Owners automobiles shall be parked in their assigned parking spaces. All lawn maintenance vehicles shall park on the driveway of the Homesite and not in the roadway or swale. No vehicle which cannot operate on its own power shall remain on the Properties for more than twelve hours, except in the garage of a Home. No repair, except emergency repair, of vehicles shall be made within the Properties, except in the garage of a Home. No commercial vehicle, recreational vehicle, boat or camper, may be kept in the Community except in the garage of a Home. The term commercial vehicle shall not be deemed to include recreational vehicles (i.e. Broncos, Blazers, Explorers, etc.) up to 21'6" or clean "non-working" vehicles such as pick-up trucks, vans or cars if they are used by the Owner on a daily basis for normal transportation.

7. **PETS.** No animals of any kind shall be raised, bred or kept within the Neighborhood except that normal fish tanks and two (2) domestic pets or animals (i.e. dogs or cats) not to exceed twenty-five (25) pounds each, may be kept in each Home. Any pet must be carried or kept on a leash when outside of a Home or fenced-in area. No pet shall be kept outside of a Home unless someone is present in the Home. Any pet must not be an unreasonable nuisance or annoyance to other residents of the Community. Any resident shall pick up and remove any solid animal waste deposited by his pet in the Neighborhood, except for designated pet-walk areas, if any. No commercial breeding of pets is permitted within the Community. The Association may require any pet to be immediately and permanently removed from the Community due to a violation of this Use Restriction.

8. **AIR CONDITIONING UNITS.** Only central air conditioning units are permitted, and no window, wall, or portable air conditioning units are permitted.

9. **CLOTHESLINES AND OUTSIDE CLOTHES DRYING.** No clothesline or clothespole shall be erected, and no outside clothes drying is permitted, except where such activity is advised or mandated by governmental authorities for energy conservation purposes, in which event the Association shall have the right to approve the portions of any Homesite used for outdoor clothes drying purposes and the types of devices to be employed in this regard, which approval must be in writing.

10. NUISANCES. No nuisance shall be permitted within the Neighborhood, and no use or practice which is an unreasonable source of annoyance to the residents within the Neighborhood or which shall interfere with the peaceful possession and proper use of the Neighborhood by its residents shall be permitted. No unreasonably offensive or unlawful action shall be permitted and all laws, zoning ordinances and regulations of all controlling governmental authorities shall be complied with at all times by the Owners.

11. OUTSIDE ANTENNAS. No outside signal receiving or sending antennas, dishes or devices are permitted.

12. SIGNS. No signs shall be placed in or upon any Home or Homesite which are visible from the exterior of the Home.

13. WINDOW TREATMENTS. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired.

14. WELLS AND SEPTIC TANKS. No individual wells will be permitted on any Homesite within this Neighborhood, and no individual septic tanks will be permitted on any Homesite within this Neighborhood. This restriction will be enforceable as long as the water services and sewage disposal are in operation, satisfactorily servicing each Homesite on which a completed building is located in said Neighborhood in accordance with the standard requirements as provided for by the State Board of Health Regulations and the charge for said services, as set forth in the rate schedule in the third Party Beneficiary Agreement placed of record, covering said utilities, is not in excess of the amounts provided for therein or as modified and changed in accordance with legal procedure in the future.

15. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Homesite, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Homesite. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Homesite.

16. VISIBILITY IN CORNER HOMESITES. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the Department of Public Works.

17. BARBECUES. Barbecues may be located or permitted upon the back patio or yard of a Home and upon such portions of the Common Area as are, from time to time, designated by the Association; provided, however, that barbecuing shall be subject to such rules and regulations as may be promulgated from time to time by the Board.

18. REMOVAL OF SOD AND SHRUBBERY; ADDITIONAL PLANTING. No sod, topsoil, trees or shrubbery shall be removed from the Neighborhood, no change in the elevation of such areas shall be made and no change in the condition of the soil or the level of the land of such areas shall be made which results in any permanent change in the flow and drainage of surface water which the Board, in its sole discretion, considers detrimental; provided, however, that Owners may place additional plants, shrubs or trees upon their respective Homesites subject to approval by the Board or its appointed Committee.

19. INCREASES IN INSURANCE RATES. No Owner may take any action which will result in an increase in the rate of any insurance policy or policies covering any portion of the Neighborhood.

20. CASUALTIES. In the event that a Home or any part thereof is destroyed by casualty or otherwise, or in the event any improvements upon the Common Area are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and (subject to the duties and obligations of the Association) commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration.

21. RECONSTRUCTION. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Common Area or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas

as originally constructed or with new plans and specifications approved by the Board or its appointed Committee. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Home or any part or parts thereof shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed or the new plans and specifications approved by the Board or its appointed Committee, and the Owner of such Home.

22. RULES AND REGULATIONS. The Association may adopt additional reasonable rules and regulations relating to the use and maintenance of the Neighborhood, and rules and regulations relating to the recreational facilities within the Neighborhood may be posted at such recreational facilities. Copies of such rules and regulations and amendments shall be furnished by the Association to an Owner upon request.

23. WAIVER. The Association shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any Homesite where, in the discretion of the Board, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of the Association, or any other person having the right to enforce these restrictions, from insisting upon strict compliance with respect to all other Homesites, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future. Notwithstanding the foregoing, so long as Developer owns any Homesite, if any waiver or deviation of any restriction requires the consent of the Association, such consent shall be obtained from Developer and not from the Association, unless Developer voluntarily relinquishes this right at an earlier date.

24. EXCEPTIONS. The foregoing use and maintenance restrictions shall not apply to Developer, or to any portion of the Neighborhood while owned by Developer, and shall not be applied in a manner which would prohibit or restrict the development of any portion of the Neighborhood and the construction of any Homes and other improvements thereon, or any activity associated with the sale of any new Homes by Developer. Specifically, and without limitation, Developer shall have the right to: (i) construct any buildings or improvements within the Neighborhood, and make any additions, alterations, improvements, or changes thereto; (ii) maintain customary and usual sales, general office and construction operations on the Neighborhood; (iii) place, erect or construct portable, temporary or accessory buildings or structures upon the Neighborhood Lands for sales, construction, storage or other purposes; (iv) temporarily deposit, dump, accumulate materials, trash, refuse and rubbish in connection with the development or construction of the Neighborhood; and (v) post, display, inscribe or affix to the exterior of a Home or upon the Neighborhood, signs and other materials used in developing, constructing, selling or promoting the Neighborhood.

25. LEASES. No portion of a Home (other than an entire Home) may be rented. All leases shall be on forms approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles and By-Laws of the Association, applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Neighborhood or administered by the Association. Leasing of Homes shall also be subject to the prior written approval of the Association and the Association may reject the leasing of any Home on any grounds the Association elects. No lease shall be approved for a term of less than ninety days. Only two (2) leases shall be permitted within a 365 day period, which 365 day period shall be deemed to commence on the date of the lease. This Section 25 shall remain in force and effect for a period of five (5) years from the date Home Owners other than Developer elect a majority of the Board of Directors of the Association. Thereafter, this Section shall remain in effect until Home Owners owning not less than eighty (80%) percent of the voting interests represented at any meeting at which a quorum has been attained vote to change this Section in whole or in part. As a condition to the approval by the Association of a proposed lease of a Home, the Association, has the authority to require a security deposit in an amount not to exceed the equivalent of one month's rent be deposited into an escrow account maintained by the Association. The security deposit shall protect against damages to the Common Areas or Association Property. Within 15 days after a tenant vacates the Home the Association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this Section 25 shall be handled in the same fashion as disputes concerning security deposits under Florida Statutes, Section 83.49. The Home Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for



Injury or damage to property caused by the negligence of the tenant. All leases shall also comply with and be subject to the provisions of Section 26 hereof.

26. OCCUPANCY. Each Home shall be used as a residence only, except as otherwise herein expressly provided. A Home owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families and guests: (i) the individual Home Owner, (ii) an officer, director, stockholder or employee of such corporation, (iii) a partner or employee of such partnership, (iv) the fiduciary or beneficiary of such fiduciary, or (v) permitted occupants under an approved lease or sublease of the Home (as described below), as the case may be.

Occupants of an approved lease or subleased Home must be the following persons, and such persons' families and guests: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder or employee of a corporate lessee or sublessee, or (iv) a fiduciary or beneficiary of a fiduciary lessee or sublessee.

Under no circumstances may more than one family reside in a Home at one time. "Families" or words of similar import used herein shall be deemed to include spouses, parents, parents-in-law, brothers and sisters. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom with a maximum of 4 persons per Home. The Board of Directors shall have the power to authorize occupancy of a Home by persons in addition to those set forth above. The provisions of this Section 27 shall not be applicable to Homes used by the Developer for model apartments, sales offices, other offices or management services.

27. AGE OF RESIDENTS; SERVICES AND FACILITIES. Subject to all local ordinances, as they may be amended from time to time, at least one person over the age of fifty-five (55) years of age must be a permanent occupant of each Home, whenever any person occupies said Home. Persons under the age of fifty-five (55) years and more than eighteen (18) years of age may occupy and reside in a Home as long as at least one of the occupants is over the age of fifty-five (55) years. No person under the age of eighteen (18) may be a permanent occupant of any Home, except that persons under the age of eighteen (18) may be permitted to visit and temporarily reside for periods not to exceed thirty (30) days in total in any calendar year. Notwithstanding the above, if a Home is transferred by inheritance, the requirement as to one occupant of said Home being over the age of fifty-five (55) years is waived as to occupancy by the heirs so long as no permanent occupant is under the age of eighteen (18) years and further so long as at least eighty (80%) percent of all of the Homes in the Development are occupied by one person over the age of fifty-five (55) years. It shall be the responsibility of the Board of Directors of the Community Association to determine whether eighty (80%) percent of the Homes in the Development are occupied by at least one person who is over the age of fifty-five (55) years. Subject to the terms of this Declaration, the Articles of Incorporation and By-Laws of the Association the Board shall have the authority to make any additional capital improvements upon the common areas necessary to provide facilities or services specifically designed to meet the requirements of the Fair Housing Amendments Act of 1988.

Children shall be the direct responsibility of their parents or legal guardians, including full supervision of them while within the Neighborhood and including full compliance by them of these restrictions and all rules and regulations of the Association. All children under eighteen (18) years of age must be accompanied by a responsible adult when entering and/or utilizing the Recreation Area or any other commonly used facilities.

ARTICLE XV  
GENERAL PROVISIONS

1. Enforcement. This Declaration, the Articles of Incorporation and By-Laws may be enforced as follows:

- (a) Breach of any of the covenants contained in the Declaration or the By-Laws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Owner, the Developer, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the Court may deem reasonable, in favor of the

prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and Court costs.

- (b) The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.
- (c) The remedies herein provided for breach of the covenants contained in this Declaration or in the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive.
- (d) The failure to enforce any of the covenants contained in this Declaration or in the By-Laws shall not constitute a waiver of the right to enforce thereafter.
- (e) A breach of the covenants, conditions and restrictions contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Home, provided, however, that any subsequent Owner of such Home shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

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

3. Term. The covenants and restrictions of this Declaration shall run with and bind the Neighborhood Lands covered thereby, and shall inure to the benefit of and be enforceable by the Association, the Developer or the Owner of any Home subject to this Declaration, their respective legal representatives, successors, heirs and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants, conditions, reservation of easements, equitable servitudes and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument, approved by the then Owners of a majority of the Homes, has been recorded, agreeing to change said covenants and restrictions in whole or in part.

4. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the maintenance of community recreational facilities and other commonly used facilities. The articles and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural, the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

5. Amendments. The developer shall have the right, at any time until the termination of the class B membership to amend this Declaration as it, in its sole discretion, deems appropriate. After the class B member terminates, except as provided to the contrary herein or as otherwise consented to by Developer, this Declaration may be amended at any time, and from time to time, upon the recordation of an instrument executed by the Association upon vote of: (i) seventy-five percent (75%) of the Board; and (ii) the Owners who are entitled to vote seventy-five percent (75%) of all votes of each class of voting membership in the association who are entitled to vote on the matter as set forth in the Articles and By-Laws. Until the termination of the class B membership, the Developer's written consent to any amendment must first be obtained. No amendment, whether before or after the termination of the class membership, shall affect the rights of Developer without the prior written consent of the Developer, which may be withheld in after the subordination provisions of this Declaration without prior approval of any mortgagee enjoying the benefit of such provisions.

Notwithstanding anything contained herein to the contrary, if the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration then the prior written consent of such entity or agency must also be obtained.

6. No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Areas to the public, or for any use. However, the Association shall have the right to dedicate or transfer all or any part of the Common Areas to any municipally, public agency or authority for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument in writing executed by not less than Members owning two-thirds (2/3) of the Members subject to assessment and by the Developer (provided that at said time the Developer still owns any portion of the Neighborhood Lands).

7. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Home or other portion of the real property in the Neighborhood does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which said person acquired an interest in such property.

8. Additions to Common Areas. Until the Developer shall have completed development, promotion and sale of all Homes to be located in the Neighborhood, Developer (or anyone claiming by, through or under Developer) shall have the right in its sole discretion to add additional facilities or improvements to the Common Areas. Developer shall be the sole judge as to the size, contents, designs, style, plans and specifications on all of such additional facilities or improvements and the equipment and personally contained therein; and Developer shall also have the right, in its sole discretion, to add additional lands and improvements and shall, upon designation by Developer, be deemed part of the Common Areas and subject to all of the terms and provisions of this Declaration and, except as otherwise set forth herein, the Members shall be obligated to pay their proportionate share of all taxes, assessments, insurance, utilities, maintenance, management, and other expenses of operation of such additions as if they were a portion of the original Common Areas. In the event Developer decides to construct such additional improvements, Developer shall also have the right to record such instruments in the Public Records of St. Lucie County, Florida, as are necessary for the construction, provided that title is delivered in accordance with the provisions of this Declaration.

9. Use of Common Areas. Until the Developer shall have completed development, promotion and sale of all housing units to be located at the Neighborhood, Developer (or anyone claiming by, through or under Developer) shall have the following rights with regard to the Common Areas (without cost or charge):

- (a) the right to use and occupy on a non-exclusive basis any portion of the Common Areas for sales, promotional or administrative purposes;
- (b) the right to use, occupy and demonstrate, on a non-exclusive basis, all of the Common Areas for the purpose of promotion and aiding in the sale or rental of the residential units on or to be constructed at the Neighborhood.

10. Notice. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

11. Refund of Taxes, Fees and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by the Developer to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to the Developer in the event said refund is received by the Association.



DESCRIPTION:

BEING A PORTION OF ACREAGE TRACT "A", PARCEL 42B, PARCEL 14A AND ALL OF PARCEL 14B AND CONSERVATION TRACT NO. 88, ALL ACCORDING TO ST. LUCIE WEST PLAT NO. 36 - ACREAGE AND CONSERVATION TRACTS AS RECORDED IN PLAT BOOK 30, PAGES 1, 1A THRU 1U, PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID PARCEL 14B, SAID CORNER BEING ON THE ARC OF A CIRCULAR CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 1,472.69 FEET, A CENTRAL ANGLE OF 13°49'02" AND WHOSE RADIUS POINT BEARS SOUTH 86°43'21" WEST FROM SAID CORNER; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 355.13 FEET TO A POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 1,392.69 FEET AND A CENTRAL ANGLE OF 00°43'09"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 17.48 FEET TO AN INTERSECTION WITH A NON-RADIAL LINE BEARING NORTH 89°19'33" EAST; THENCE NORTH 89°19'33" EAST ALONG SAID NON-RADIAL LINE, A DISTANCE OF 687.71 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 715.00 FEET AND A CENTRAL ANGLE OF 35°32'10"; THENCE EASTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 443.48 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 55°08'17" EAST, A DISTANCE OF 329.36 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00"; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.27 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 34°51'43" WEST, A DISTANCE OF 330.61 FEET; THENCE SOUTH 55°08'17" EAST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 34°51'43" WEST, A DISTANCE OF 250.00 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 250.00 FEET, AND A CENTRAL ANGLE OF 42°55'16"; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 187.28 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 08°03'33" EAST, A DISTANCE OF 89.39 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 400.00 FEET, AND A CENTRAL ANGLE OF 9°08'58"; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 63.64 FEET TO A POINT OF REVERSE CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 550.00 FEET AND A CENTRAL ANGLE OF 6°30'50"; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 62.63 FEET TO A POINT OF RADIAL INTERSECTION WITH THE NORTHERLY LINE OF KINGS ISLE I, ST. LUCIE WEST PLAT NO. 48, RECORDED IN PLAT BOOK 32, PAGES 21, 21A THRU 21E INCLUSIVE, PUBLIC RECORDS OF ST. LUCIE COUNTY; THENCE WESTERLY ALONG SAID NORTHERLY LINE, THE FOLLOWING TWO COURSES: THENCE SOUTH 79°20'19" WEST, A DISTANCE OF 100.00 FEET; THENCE NORTH 75°35'45" WEST, A DISTANCE OF 423.36 FEET TO THE SOUTHEAST CORNER OF CONSERVATION TRACT NO. 88 ACCORDING TO SAID ST. LUCIE WEST PLAT NO. 36 - ACREAGE AND CONSERVATION TRACTS; THENCE NORTHERLY AND WESTERLY ALONG THE BOUNDARY OF SAID CONSERVATION TRACT NO. 88, THE FOLLOWING ELEVEN COURSES:

THENCE NORTH 10°58'44" EAST, A DISTANCE OF 215.45 FEET;  
THENCE NORTH 16°05'09" WEST, A DISTANCE OF 266.66 FEET;  
THENCE NORTH 73°14'03" WEST, A DISTANCE OF 108.42 FEET;  
THENCE NORTH 67°20'01" WEST, A DISTANCE OF 64.88 FEET;  
THENCE NORTH 32°43'04" WEST, A DISTANCE OF 69.95 FEET;  
THENCE NORTH 01°29'09" WEST, A DISTANCE OF 61.60 FEET;  
THENCE NORTH 03°47'21" WEST, A DISTANCE OF 85.51 FEET;  
THENCE NORTH 33°05'12" WEST, A DISTANCE OF 80.93 FEET;  
THENCE NORTH 63°15'46" WEST, A DISTANCE OF 78.31 FEET;  
THENCE SOUTH 74°47'11" WEST, A DISTANCE OF 69.87 FEET;  
THENCE SOUTH 86°43'21" WEST, ALONG A RADIAL LINE, 118.87 FEET TO THE POINT OF BEGINNING.

CONTAINING 22.489 ACRES, MORE OR LESS.

EXHIBIT A TO DECLARATION