

DECLARATION OF COVENANTS FOR RESIDENTIAL PROPERTIES

EXHIBIT 4:

DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS, AND EASEMENTS OF THE KEY WEST GOLF CLUB

- A TOWN HOME PLANNED UNIT DEVELOPMENT

This instrument was prepared by and return to:

John R. Allison, III, Esq.

Allison & Robertson, P.A.

100 S.E. 2nd Street

#3350 Miami, Florida 33131-1101

DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS OF THE KEY WEST GOLF CLUB, A TOWNHOME PLANNED UNIT DEVELOPMENT

THIS DECLARATION, made by KEY WEST GOLF CLUB DEVELOPMENT, INC., a Florida corporation, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the sole owner of all of that certain real property (the "Property"), located in Monroe County, Florida, as more particularly described in Exhibit A, annexed hereto; and WHEREAS, in order to develop the Property into a residential community known as "The Key West Golf Club, a Townhome Planned Unit Development" (hereinafter, "The Golf Club") and preserve and enhance the values and amenities of The Golf Club and, the architectural integrity and standard of The Golf Club, it is necessary to declare and subject The Golf Club to certain land use covenants, easements, restrictions, reservations, regulations, burdens and liens and to delegate certain powers, controls, easements and other rights to the homeowners' association to be formed for such purposes; and

WHEREAS, Declarant has caused the Association, the Members of which shall be the respective Owners of Units in The Golf Club and the Declarant, to be formed for the purpose of exercising the functions aforesaid; and

WHEREAS, Declarant intends to develop and/or operate all of the properties comprising The Golf Club pursuant to a general plan and subject to certain covenants and restrictions, all running with title to The Golf Club as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Declarant hereby declares that The Golf Club shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, easements, restrictions, reservations, regulations, burdens and liens hereinafter set forth and that the provisions of this Declaration shall be covenants running with the lands which comprise The Golf Club, i.e., the Property, and shall be binding on all parties having any right, title or interest in The Golf Club or in any portion thereof, their heirs, personal representatives, successors and assigns and shall inure to each portion of The Golf Club. The easements, restrictions, covenants, conditions, reservations, liens, charges and equitable servitudes set forth herein shall (i) run with the title to The Golf Club or any portion thereof (including the respective appurtenances thereto) and the Common Properties and shall be binding upon and inure to the benefit of all persons having any right, title or interest therein, or any part thereof, their heirs, executors, administrators, personal representatives, successors and assigns; (ii) shall, without limiting the generality of the foregoing subparagraph, inure to the benefit of and be binding upon Declarant, its successors-in-interest, and each Owner, and his (or their, as the case may be) respective successors-in-interest and his or their, as the case may be) agents, servants, employees, contractors, tenants, invitees, licensees and guests; and (iii) may be enforced by any Owner, and his successors-in-interest, including a mortgagee who has acquired the interest of any Owner by foreclosure or by deed in lieu of foreclosure, by the Association, and by the Declarant so long as it owns any portion of the Property (including, but not limited to, any Lot, Unit, or other portion of the property).

ARTICLE 1

ESTABLISHMENT OF THE GOLF CLUB TOWNHOMES

1.1 Establishment. The Golf Club is hereby established by Declarant and the Property is hereby governed, restricted and in all respects encumbered by this Declaration and all amendments hereafter made in accordance with the provisions herein.

1.2 Existing Property. The parcel of real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Monroe County, Florida, as more particularly described in Exhibit A annexed hereto.

1.3 Development Plan. The property described herein is being developed as a Townhome Planned Unit Development consisting of 390 Townhome Units to be known as The Key West Golf Club, a Townhome Planned Unit Development. Each Unit will be owned by an Owner, as hereinafter defined, in fee simple. Reference herein to properties within The Golf Club shall not create any right, title or interest therein or constitute constructive notice thereof of any right, title or interest by any person or persons claiming by, through, under or against Declarant unless and until said property, or any portion thereof, has been deeded by the Declarant to an Owner. Nothing herein contained shall impose upon the Declarant an obligation or commitment to develop and construct or complete the development plan unless and until the Declarant has conveyed said properties to an Owner. Further, notwithstanding that an Owner may have acquired a Unit as then depicted in a site plan proposed by Declarant, any reliance given to such site plan by an Owner shall not prohibit Declarant from modifying the site plan for The Golf Club; provided, only, that any such modification shall not materially and adversely alter or deprive an existing Owner of the view from the rear of the Owner's Unit toward the Golf Course. Specifically, Declarant reserves all rights and powers provided in this Declaration, including, without limitation, the right to amend the Zoning Agreements for the purpose of decreasing or increase the aggregate number of Units buildable on the Property, and those additional rights, reservations and exemptions more particularly enumerated in Articles 11 and 12 hereof.

ARTICLE 2

DEFINITIONS

2.1 Interpretation and Flexibility. The defined terms set forth below shall apply to all capitalized terms used in this Declaration unless the context shall require a contrary interpretation. In the event of any ambiguity or question as to whether any person, entity, property or improvement shall fall within any of the definitions contained in this Article, Declarant's determination (as evidenced by a recorded amendment to this Declaration) shall be binding and conclusive.

2.2 "Affiliate" shall mean, when used to modify the term "Declarant ", any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Declarant. The term "control" as used in this definition means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of person, corporation, partnership or other association, whether through the ownership of voting securities, by contract or otherwise.

2.3 "Articles" means the Articles of Incorporation of the Association which have been filed in the office of the Secretary of State, State of Florida for the Key West Golf Club Homeowners' Association, Inc., a Florida not-for-profit corporation, as the same may be amended from time to time.

2.4 "Assessment" means a share of the funds required for payment of Common Expenses, which from time to time is charged to the Unit Owner(s).

2.5 "Assigns" means any person to whom some or all rights of a Owner have been validly transferred by sale, lease, mortgage or otherwise.

2.6 "Association" means the Key West Golf Club Homeowners' Association Inc., a not-for-profit Florida corporation, which is the entity responsible for the operation of The Golf Club.

2.7 "Board of Administration" or "Board" means the board of directors responsible for administration of the Association.

2.8 "Building(s)" means the building(s) consisting of the attached townhome structures and improvements situated on the Property, all as more fully described herein.

2.9 "By-Laws" means the by-laws of the Association, as they exist from time to time.

2.10 "Committee" means the Architectural Control Committee.

2.11 "Common Expenses" means all expenses and assessments properly incurred by the Association for The Golf Club, including, without limitation,:

- A. expenses of operation, maintenance, repair or replacement of Common Properties;
- B. costs of carrying out the powers and duties of the Association; and
- C. any other expenses designated as Common by this Declaration or the By-Laws.

2.12 "Common Properties" means those portions of The Golf Club excluding all Townhome Units but including the entrance ways, lighting equipment, roadways, easements, public sidewalks, paths, lawns, fire lanes, green belts, fences, parking areas and Recreational Facilities, and personal property used in connection with such portions of The Golf Club; where the context so requires "Common Properties" shall include Limited Common Properties, as hereinafter defined, and portions of the Townhome Unit for which the Association has the responsibility to maintain, e.g. Common Roofs.

2.13 "Common Receipts" means the following items collected by the Association on behalf of the Members:

- A. funds collected from Owners for payment of Common Expenses or otherwise; and
- B. receipts designated as common by law, Declaration or the By-Laws.

2.14 "Common Roof" means any roof which is a unitary roof covering all or part of one Townhome Unit in common with all or part of the roof of an adjoining Townhome Unit. A Common Roof is distinguished from "roof overhang" and "encroachment" which are more particularly described in Article 3 of this Declaration.

2.15 "Common Surplus" means the excess of all Common Receipts over Common Expenses.

2.16 "Conservation Areas" means that portion of Common Properties described in Exhibit A-1 which, contemporaneously with the recording of this Declaration, have been dedicated as easement areas for fish and wildlife habitats, and which are to remain in their natural state, without alteration, in perpetuity. Such areas are subject to the restrictions set forth in the conservation easement, and as summarized in Paragraph 9.25 of this Declaration. Owners are advised that their Lots may contain or be adjacent to conservation areas.

2.17 "County" means Monroe County, Florida and its duly authorized agencies and authorities, as applicable.

2.18 "Declarant" means: (a) Key West Golf Club Development, Inc., a Florida corporation, its successors and those to which Declarant's rights hereunder shall be assigned specifically; and (b) for purposes of taking actions on Declarant's behalf under this Declaration, Declarant's duly appointed agent(s). Declarant shall have the right to assign all or a portion of its rights hereunder in connection with all or a portion of The Golf Club. In the event of any partial assignment, the assignee shall not be deemed "a Declarant," but shall have all such rights as specifically assigned to it. As used with regard to Declarant, "successors and/or assigns" specifically does not include transferees of individual Townhome Units.

2.19 "Declaration" means this Declaration of Covenants, Restrictions and Easements of The Key West Golf Club, a Townhome Planned Unit Development being established pursuant to this Declaration, including all Exhibits annexed hereto, as well as all amendments to this Declarations, if and when filed of record.

2.20 "Development Agreement" means that certain Interdevelopment and Operating Agreement between Declarant and Key West Country Club, Inc., a memorandum of which was recorded in the County in Official Records Book 1338 at Page 1137.

2.21 "Golf Course" means that certain public golf course located contiguous to The Golf Club, which golf course is owned and operated by parties other than Declarant.

2.22 "Improvement" means any structure or artificially and intentionally created condition, together with all appurtenances thereto, of every type and kind located within The Golf Club, including, without limitation, buildings, walkways, sprinkler pipes, roads, sidewalks, alleys, street lights, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, windbreaks, planted trees and shrubs, conduits for telephone lines, storm drainage, cable television lines and site lighting poles, signs and shared equipment and/or utility-type services such as water, sewer and electrical systems, and other commonly shared equipment and/or utility-type services, if any.

2.23 "Institutional Lender" means any bank, insurance company, FHA approved mortgage lending institution, recognized pension fund investing in mortgages or federal or state savings and loan association which has a mortgage lien upon any Townhome Unit or which has acquired and holds title to such Townhome Unit either as a result of its foreclosure of any such mortgage lien or by its receipt of a deed in lieu of foreclosure.

2.24 "Lot" means a homesite lot, as tentatively shown in the Master Site Plan, and as ultimately determined in the surveyor's certificate to be attached to the deed of conveyance from Declarant to Owner, which deed shall be recorded in the County, and any and all improvements thereon.

2.25 "Master Site Plan" the Master Site Plan of the Property filed with and approved by the City of Key West, as same may be amended from time to time.

2.26 "Member" means member of the Association.

2.27 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Townhome Unit.

2.28 "Property" means the real property described in Exhibit A, as the same may be amended from time to time by Declarant.

2.29 "Recreational Facilities" shall mean the tennis courts, pools, pool decks and pool houses, and park area generally depicted in the Master Site Plan, as the same may be hereinafter ultimately constructed and located by Declarant and as the same may be thereafter altered, amended or relocated hereinafter by the Declarant in its sole discretion.

2.30 "Townhome Unit" means each attached townhome residential dwelling together with that portion of land located within the property line of the area to be deeded in fee simple by the Declarant to Owner. Each such Townhome Unit's boundary line shall be specifically set forth on a deed of conveyance from Declarant and with reference to a survey. The Declarant reserves the right to adjust the boundary lines between adjoining Townhome Units at any time prior to the initial conveyance thereof to Owner by Declarant. Any such adjustment in boundary lines of Townhome Units will be recorded by Declarant in the public records of the County, as an amendment to this Declaration. It is hereby declared that by reason of this Declaration each parcel of real property and Townhome Unit shall be legally described and conveyed with the form of reference as follows:

Townhome Unit ____ of The Key West Golf Club Development, according to the Declaration of Protective Covenants, Restrictions and Easements of The Key West Golf Club, a Townhome Planned Unit Development, as recorded in Official Records Book ____, at Page ____ of the Public Records of Monroe County, Florida, and any amendments thereto, and with the attachment as an exhibit to the deed of the metes and bounds description for Lot and Townhome Unit.

2.31 "Zoning Agreement" shall mean the agreements entered into between the Declarant and the City of Key West as the same relate to The Golf Club, the Property and/or The Golf Course, as the same may be amended from time to time.

ARTICLE 3

PROPERTY RIGHTS

3.1 Owner's Easement of Enjoyment. Every Owner shall have a non-exclusive, common right and easement of ingress and egress and of enjoyment in, to and over, and use of, the Common Properties which shall be appurtenant to and shall pass with title to every Unit and Parcel and other Property within The Golf Club. subject to the following conditions:

A. The right of the Association to reasonably limit the number of guests, invitees or licensees using the Common Properties, except as provided by law or herein to the contrary.

B. Uniform rules and regulations established by the Association from time to time pertaining to the use of the Common Properties, Townhome Units, and the Lots including, but not limited to, all parking restrictions established by the Association from time to time within the Common Properties.

C. The right of the Association, in accordance with its Articles of Incorporation, Bylaws and this Declaration, with the vote or written assent of two-thirds (2/3rds) of the votes of Members in the Association, to borrow money for the purpose of improving the Common properties and facilities and in connection therewith, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinate to the use rights of the Owners hereunder.

D. The right of the Association to suspend the voting rights specified in Article 7 of Members and the right to use the Common Properties (except means of ingress and egress) of an Owner for any period during which any Assessment against such Owner's Unit remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of this Declaration or the rules and regulations of the Association, provided that any suspension of such voting rights or right to use the Common Properties shall be made only by the Board as provided in the Bylaws of the Association.

E. The right of the Association to dedicate, release, alienate, transfer or encumber all or any part of the Common Properties to or in favor of any public agency, authority or utility at any time and from time to time for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation or transfer shall be effective unless approved by the vote or written assent

of two-thirds (2/3rds) of the votes of Members in the Association.

F. The right of the Declarant (and its agents, customers, representatives, servants, employees, licensees and invitees) to the non-exclusive use of the Common Properties, the facilities thereof, and an easement on, over, under and through the Common Property or any portion thereof without charge, for the purpose of construction, reconstruction, repair and maintenance of the Improvements including, but not limited to, utility lines and for sales, display, access, ingress, egress, exhibit and other purposes.

G. The right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Properties, in accordance with the original design, finish or standard or construction of such Improvement, or of the general Improvements within the Common properties, as the case may be.

H. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Properties and to maintain same and any systems serving same including, but not limited to, irrigation and sprinkler systems.

I. The right of the Association to permit portions of the Common Properties, including, but not limited to, recreational facilities, to be used by one or more Owners and their guests for private parties and other similar functions, subject to the right of the Association to impose reasonable conditions and limitations on such use, including, but not limited to, the posting of a deposit to insure proper conduct and necessary clean-up and repairs.

J. The right of the Declarant to grant such other and rights over and upon the Common Properties as in its sale discretion, deems appropriate, including, without limitation, rights of the public to access by, through across and upon the Common Properties (which easements and rights shall be similarly granted by the Association) .

K. The rights set forth in Article 16 hereof.

L. The rights set forth in Article 17 hereof.

M. The right of Declarant and the Association, subject to the provisions of applicable law, to restrict access, ingress and egress to and from The Golf Club by maintaining a controlled entry system at locations designated by Declarant or the Association from time to time and such other restrictions as the Declarant or the Association shall impose from time to time.

N. The right of Declarant and the Association to designate a central exclusive mail facility for the purpose of receiving and distributing any and all mail, addressed to certain Owners, tenants and occupants at The Golf Club.

O. Such other matters affecting title to the property within The Golf Club and rights of governmental authorities.

P. As irrevocable power of attorney, coupled with an interest, of all Owners in favor of Declarant, for as long as Declarant owns any property, Unit or Parcel within The Golf Club, to exercise any of the foregoing or other rights or discharge any of the foregoing or other obligations which may be set forth herein for the benefit of Declarant or as an obligation of any Owner. This power of attorney shall be self-operative and shall not require any additional instrument to effect same. An Owner, by acceptance of a deed, thereby acknowledges and confirms (and, to the extent required, grants) the power of attorney set forth herein. Anything to the contrary herein notwithstanding, no action authorized in this Section 3.1 shall be taken without prior written consent of the Declarant as long as the Declarant owns any property, Lot, or Unit within The Golf Club.

3.2 Delegation of Use; Use by Others. Any Owner may delegate by lease, in accordance herewith and with the By-Laws, his such Owner's right of enjoyment of the Common Properties and Recreational Facilities to such Owner's permitted tenants (but once so delegated, any such Owner shall not have such rights until the applicable lease expires, unless such Owner owns other Units where such rights were not so delegated). All guests, invitees and licensees of Owners shall also be entitled to use the Common properties, subject to applicable rules, regulations and limitations on such rights.

3.3 Parking Rights. Declarant shall have the right at any time and from time to time to grant to specific Townhome Units the exclusive right to use, as Limited Common Properties, one or more parking spaces for vehicles, including golf carts.

A. At the time that title to a Townhome Unit is conveyed to an Owner thereof, the Declarant may grant to such Owner, as an appurtenance to the Townhome Unit (and not separately alienable therefrom), a parking space as tentatively depicted in the Master Site Plan and as ultimately constructed and determined by surveyor's certificate filed with the deed of conveyance to the assignee, together with the right of ingress and egress to and from said parking space. Such parking spaces shall be Limited

Common Properties, owned in fee simple by the Association upon conveyance by the Declarant, and such Owner to whom such assignment has been made (his family members, tenants, guests and invitees) shall thereby be entitled to the exclusive use, benefit and possession of such parking space. These parking spaces shall be part of the Limited Common Properties, and the maintenance and repair of these parking spaces shall be effected by the Association in the manner set forth hereinafter.

B. Declarant may grant to an Owner, as an appurtenance to the Townhome Unit (and not separately alienable therefrom), a golf cart parking space, the location of which shall be on Common Properties, together with the right of ingress and egress to and from said parking space. Such parking spaces shall be Limited Common Properties, owned in fee simple by the Association upon conveyance by the Declarant, and such Owner to whom such assignment has been made (his family members, tenants, guests, and invitees) shall thereby be entitled to the exclusive use, benefit and possession of such parking space. These parking spaces shall be part of the Common Property, and the maintenance and repair of these parking spaces shall be effected by the Association in the manner set forth hereinafter. The Association may adopt such rules and regulations as it deems appropriate for the use of such parking spaces, including without limitations, restrictions of size, type or other specifications of the golf cart to be parked in such spaces.

C. The interest in the parking Spaces and Golf Cart Spaces shall be transferred by Declarant in the deed of conveyance of the Unit or by separate recordable assignment, at the election of the Declarant. Any Owner acquiring an interest in a Golf Cart Spaces may transfer such interest to another Owner, subject to the right of first refusal herein reserved by the Declarant pursuant to Article 11 hereof, provided, however, that such transfer shall be restricted to an Owner within The Golf Club. Any transfer to a person or entity who is not an Owner shall be void, and Declarant shall have the right to acquire the Golf Cart Space from the transferring Owner for a repurchase price equal to the purchase price paid by such transferring Owner to Declarant as consideration for Declarant conveying the Golf Cart Space to such Owner. All consideration, fees or other charges collected by Declarant for Parking Spaces and Golf Cart Spaces shall be the sole property of and shall be retained by the Declarant. Until transferred by Declarant, all Parking Spaces and Golf Cart Spaces may be used by Declarant or its designees for any purpose without interference from the Association. Anything to the contrary notwithstanding, any Parking Space assigned pursuant to Section 3.3A or Golf Cart Space assigned pursuant to Section 3.3B may be relocated by Declarant until The Golf Club has been fully constructed and all Lots have been transferred by Declarant to Owners unaffiliated to Declarant.

D. Temporary or guest parking shall be permitted only within spaces and areas designated for such purposes by Declarant or Association. Association, through its Board, is hereby empowered to establish parking regulations and may make provisions for involuntary removal of violating vehicles. The Association may suspend the Owner's right to use an assigned parking space(s) during any period when such Owner's assessments are delinquent; provided, however, Association shall not have the right to suspend or otherwise interfere with Declarant's right to use such parking spaces.

3.4 No Waiver of Use. No Owner may release his Lot from assessments and liens hereunder by waiver of the use and enjoyment of the Common Properties.

3.5 Conveyance of the Common Properties. After all Lots and Units have been conveyed to purchasers other than a Declarant Affiliate, or sooner at the option of the Declarant, the Declarant shall convey all of the Common Properties to the Association, and the Association shall accept said conveyance. The Common Properties shall be conveyed by Special Warranty Deed by Declarant. Such conveyance shall be free and clear of all liens and encumbrances, and subject only to:

- A. All taxes and assessments for the year of conveyance and subsequent years;
- B. Restrictions, conditions, easements, agreements, limitations, and reservations of record including, without limitation, easements and restrictions for use of the Conservation Areas;
- C. Perpetual non-exclusive easements from and to any portion of the Property within The Golf Club owned by the Declarant or its assignees at the time of the conveyance, which easements shall be for the use, benefit and enjoyment of Declarant, the Owners, its or their guests, invitees, licensees, successors and assigns; and
- D. The Development Agreement;
- E. This Declaration as the same may be amended from time to time.

3.6 Declarant's Right to Encumber. Until the Declarant conveys the Common Properties to the Association, Declarant shall have the right to mortgage the Common Properties for the purpose of financing the development and construction thereof, or for any other purpose, provided that (a) the lender

recognizes the rights of the Owners hereunder, (b) the Common Properties shall be free of mortgages at the time of conveyance to the Association, and (c) the Association or any of the Members (other than Declarant, if it so chooses) shall not be personally liable for payment of the debt secured by such mortgage(s).

3.7 Common Properties for Benefit of Owners. The Declarant, and after conveyance to it, the Association, shall hold title to (and such rights in) the Common Properties for the benefit of those persons entitled to use same under the provisions of this Declaration (which shall be applicable from and after the date this Declaration is recorded whether or not the Common Properties are then owned by the Association) .

3.8 Taxation of Common Properties. It is the intent of this Declaration that the Tax Assessor of the County shall include all ad valorem taxes for the Common Properties within the tax bill for the individual Townhome Units. In the event the Common Properties are taxed for the Common Properties, the Association shall pay such taxes and assess the Townhome Units on an equal, pro rata basis.

3.9 Construction Activities. Declarant, its agents, contractors, subcontractors, licensees and/or other designers may, from time to time, be engaged in construction, excavation, and other activities within or in proximity to The Golf Club. By acceptance of a deed or other conveyance or mortgage, leasehold, license or other interest, each such Owner, lender and user and their respective successors and assigns automatically acknowledge, stipulate and agree:

A. None of the aforesaid activities shall be deemed a nuisance or offensive activity;

B. Not to enter upon or allow other persons under their direction or control to enter upon any portion of The Golf Club where such activity is being conducted (even if not being conducted actively at the time of entry, such as at night or otherwise during non-working hours); and

C. Declarant, its agents, contractors, subcontractors, licensees and designees, shall not be liable for any direct or consequential losses, damages, injuries or deaths arising from or relating to the aforesaid activities.

3.10 Declarant's Reserved Rights. All of the foregoing property rights are subject to the rights reserved by the Declarant in this Declaration including those rights and exemptions In Articles 11 and 12 hereof.

3.11 Prohibition of Subdivision of Townhome Units. Unless preapproved in recordable form by Declarant, no Townhome Unit shall be subdivided or broken into smaller parts than as constructed by Declarant and described in the surveyor's certificate attached to the deed of conveyance from the Declarant to the transferee-Owner of such Townhome Unit, nor shall any Townhome Unit or portion thereof be added to or incorporated into any other Townhome Unit.

ARTICLE 4

Association Membership and Voting Rights

4.1 Automatic Membership. Every Owner automatically shall be a member of the Association upon becoming the Owner of such Townhome Unit and shall remain a member until his ownership ceases for any reason, at which time his membership shall cease automatically. Other than as an incident to a transfer of title to a Townhome Unit, membership in the Association shall not be transferable and any attempted transfer shall be null and void. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Townhome Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in the Association, or to any of the rights or privileges of such membership.

4.2 Limitation Upon Liability of the Association. Notwithstanding its duty to maintain and repair the Common Properties, the Association shall not be liable to Owners for injury or damage, other than the cost of maintenance and repair caused by latent conditions of the Common Properties. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements made by or on behalf of any Owner(s).

4.3 Declarant's Representation on the Board and Voting Rights. Declaration reserves unto it self the following rights notwithstanding any other provision in this Declaration, Articles or By-Laws.

A. Until Declarant has transferred all of the Lots within The Key West Golf Club Development to unaffiliated Owners, Declarant shall be a Member of the Association having one (1) vote for each Lot or Unit owned by Declarant and three hundred fifty (350) additional votes.

B. Until Declarant has transferred 235 Lots to Owners who are not affiliated with Declarant, Declarant shall have the right to elect all of the Directors to the Board of the Association and to remove and replace any person(s) elected by it, as is set forth in the Articles and By-Laws. The Directors elected by Declarant

need not reside in The Golf Club. No Director selected by Declarant shall be required to disqualify himself for voting upon any contract or lease between Declarant and the Association where Declarant may have a pecuniary or other interest. Declarant shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any contract or lease between Declarant and the Association where Declarant may have a pecuniary or other interest. All rights in favor of Declarant reserved in this Declaration, the Articles of Incorporation and the By-Laws are assignable to and may be exercised by Declarant's successors and assigns.

C. After Declarant has transferred 235 Lots to Owners who are not affiliated with Declarant, Declarant shall have the right to elect three-fifths (3/5) of all of the Directors to the Board and to remove and replace any person(s) elected by it, as is set forth in the Articles of Incorporation and By-Laws, and the Owners shall have the right to elect two-fifths (2/5) of all of the Directors to the Board. The Directors elected by Declarant need not reside in The Golf Club. No Director selected by Declarant shall be required to disqualify himself for voting upon any contract or lease between Declarant and the Association where Declarant may have a pecuniary or other interest. Declarant shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any contract or lease between Declarant and the Association where Declarant may have a pecuniary or other interest. All rights in favor of Declarant reserved in this Declaration, the Articles and the By-Laws are assignable to and may be exercised by Declarant's successors and assigns.

4.4 Declarant's Right to Transfer Voting Rights. Declarant shall have the right to transfer all or any portion of its voting rights and/or any or all of its rights to appoint members of the Board and hereby reserves the right to transfer any or all of its voting rights and any or all of its rights to appoint members of the Board. The number of votes entitled to be cast, if any, and/or the number of members of the Board entitled to be appointed which are transferred by Declarant shall be set forth in the deed of conveyance or other instrument of conveyance by the Declarant in Declarant's sole and absolute discretion. Such transferee, upon becoming the record owner of any portion of the Property shall be entitled to exercise the privilege of voting and/or of appointing such number of members to the Board as designated as aforesaid in the deed or other instrument of conveyance. The voting rights so transferred by Declarant shall not be thereafter assigned or transferred by such transferee of Declarant without Declarant's written consent, which consent may be unconditionally withheld. Notwithstanding such limitation, one vote for each Lot or Unit transferred by such transferee shall be entitled to one vote pursuant to the terms of this Declaration.

4.5 Voting Rights. Subject to the Declarant's voting rights in Section 4.3 hereof, each Lot shall be entitled to one (1) vote to be cast by the Owner. When more than one person holds an interest in a Lot, the vote for the Lot shall be cast by the Owner designated in a certificate filed with the Association and signed by all persons owning an interest in the Lot. The vote for each Lot is indivisible. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot. Transfer of Lot ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall thereupon be vested in the transferee. Notwithstanding anything contained in this Declaration to the contrary, until such time as Declarant shall have conveyed all the Lots (whether or not improved with Townhome Units) contained within The Golf Club, exclusive of conveyances to entities related to or affiliated with Declarant or conveyances to other Declarants, or until Declarant sooner shall elect to transfer control to the non-Declarant members of the Association, Declarant shall have the sole and exclusive right to elect all officers and directors of the Association. During the period of Declarant's control, all Owners other than Declarant shall have a non-voting membership in the Association unless this provision is waived in writing by Declarant. In the event Declarant, in its absolute discretion, elects to turn over control of the Association to the Owners prior to Declarant transferring all Lots within The Golf Club, Declarant shall retain the right to appoint one (1) Director to the Board for so long as Declarant or an entity related to Declarant owns a Lot within The Golf Club.

ARTICLE 5

Duties and Powers of the Association

5.1 In General. The Association shall govern, operate, control, manage and maintain the Common Properties, including without limitation, the Conservation Areas, pursuant to the terms and provisions of this Declaration, the Articles of Incorporation and the By-Laws. The Association shall pay all real property ad valorem taxes and all governmental liens assessed against the Common Properties. The Association shall further have the responsibility to hire personnel and to maintain, repair, and replace the Common Properties, including, without limitation, street lights and the community sign, at the expense of the

Association.

5.2 Additional Powers of Association. The Association, acting through the Board, shall also have the power and duty to:

A. Maintain, protect, repair, replace and otherwise manage the Common Properties, including without limitation, the Conservation Areas, and all Improvements thereon in accordance with the provisions of this Declaration;

B. To preserve and enhance the natural beauty of The Golf Club, the Conservation Areas and the properties of the Members of this Association;

C. To promote the health, safety and social welfare of the Owners;

D. To own, operate, govern, administer and manage the Common Properties;

E. To control the specifications, architecture and design appearance of The Golf Club, including, but not limited to, elevation and location of, and landscaping around, all improvements of any type, including: walls, fences, swimming pools, dune crossings, docks bulkheading, antennae, sewers, drains, disposal systems, or other structures constructed, placed or permitted to remain in The Golf Club, as well as the alteration, improvement, addition or change thereto in order to preserve and maintain an integrated architectural design within The Golf Club;

F. To insure compliance with the Zoning Agreements as described in Article 2, Section 2.29 hereof, and to maintain all permits for the operation of The Golf Club, of whatever nature, as required by governmental entities having jurisdiction over The Golf Club;

G. To make and collect assessments, of any type, in accordance with the terms herein;

H. To control any waterways, lagoons, lakes and inlets in The Golf Club and to comply with the terms of the Water Management System and any other permits, licenses and governmental approvals in connection with any waterways;

I. To provide for private security and/or telecommunications system(s) in The Golf Club, and such other services the responsibility for which has been delegated to this Association by the terms hereof, and to provide capital improvements and equipment related thereto on the Common Properties;

J. To provide, purchase, acquire, replace, improve, maintain and/or repair such buildings, structures, landscaping, paving and equipment, both real and personal, related to the health safety, and social welfare of the Members as the Board, in its discretion, determines to be necessary, appropriate, and/or convenient;

K. To preserve scenic assets, natural features and natural and man-made recreational areas in The Golf Club, to the maximum extent feasible;

L. To oversee the general operation and maintenance of The Golf Club in such a manner as to prevent substantial injury to the use and value of all or any part of The Golf Club;

M. To operate without profit for the sole and exclusive benefit of its Members;

N. To assure that the provisions of the Declaration are duly enforced;

O. Maintain all private streets within the Common Properties, including cleaning and periodic resurfacing, and to maintain, operate and replace any street lights now located or to be installed on the Common Properties;

P. For the benefit of the Common Properties and the entire Project, (i) obtain all commonly metered water, sanitary sewage, gas and electric services and other such utilities or services, and (ii) provide for all refuse collection and cable or master television service (if any), as necessary. Nothing herein shall create any liability on the part of the Association for consequential or other damages resulting from the inability of the Association to so obtain, produce, circulate and provide any of the foregoing services for reasons beyond the Association's reasonable control, nor prohibit the Association from temporarily interrupting the foregoing services in order to effect necessary repairs, maintenance and replacement;

Q. Grant easements, rights of way or strips of land, where necessary, for utilities, and sewer facilities and other services over the Common Properties to serve the Common Properties and other portions of The Golf Club;

R. Maintain such. policy or policies of liability, fire, flood, windstorm and other insurance with respect to the Common Properties and personal property located thereon or used in connection therewith, if any, owned by the Association or the Declarant as provided herein in furthering the purposes and protecting the interests of the Association and Members and as directed by this Declaration and the Bylaws of the Association;

S. Employ or contract with a management company (which may be an affiliate of Declarant) to perform all or any part of the duties and responsibilities of the Association, and delegate, at the option of the Board,

its powers to committees, officers and employees (which may also be employees of association(s) in The Golf Club, in which case compensation shall be equitably apportioned) ;

T. Install and maintain security devices, detectors and communications facilities, and employ or contract for employment of security services, guards and watchmen for the Common Properties, if so desired by the Board;

U. Operate and maintain (or contract for the operation and maintenance) of a cable TV or similar system for the benefit of Owners as specified herein, if so desired by the Board;

V. To enter into agreements to manage associations and maintain the exterior landscaping and grounds of all Townhomes within The Golf Club;

W. Take such other action which the Board shall deem advisable with respect to The Golf Club as may be permitted hereunder or under law;

X. To do and perform all such other acts and things permitted and to exercise all powers granted to a corporation not for profit under the laws of the State of Florida as those laws now exist or as they may hereafter provide;

Y. To comply with all federal, state and local requirements concerning environmental protection including, but not limited to: the compliance with all water quality monitoring requirements; and the maintenance of the Water Management System;

Z. To maintain and otherwise provide perpetual maintenance of the Conservation Areas pursuant to the conservation easement granted by Declarant to the South Florida Water Management District including, without limitation, the installation and perpetual maintenance of all required signage in connection therewith; and

AA. To take any action against any third party, including any owner, as necessary to enforce the conditions of the conservation easement encumber the Conservation Areas and any governmental permit issued in connection therewith.

5.3 Association Expenses. The Association shall, through the Board, fix and determine from time to time the sum(s) necessary and adequate to provide for the expenses of the Association. The expenses of the Association shall be assessed against the Owners as provided in Article 6 hereof.

5.4 Title to Common Properties; Conveyances to the The Association. The Association shall be obligated to accept any and conveyance delivered to it by Declarant which deed(s) to all or any portion of the Common Properties.

5.5 Rules and Regulations. The Board may from time to time adopt or amend Rules and Regulations governing the details of the operation, use, maintenance, management and control of the Lots and the Common Properties.

5.6 Budget and Accounting. The Board shall adopt a budget for each fiscal year. Such budget shall contain estimates of all costs and expenses for the proper operation, management and maintenance of the Common Properties, including a reasonable allowance for contingencies and reserves, and shall take into account the projected income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Common Expenses also shall include the cost of maintaining leaseholds, memberships and other possessory or use interests in lands and facilities to provide enjoyment, recreation or other Use or benefit to Owners, all as acquired by lease or agreement in form and content satisfactory to the Board, including amounts which the Association may agree to pay to Declarant for services or availability of service, including management. Assessments shall be established based upon such budget. Upon adoption of the budget, a copy of same shall be delivered to each Owner, although failure to deliver a copy of the budget to each Owner shall not affect the liability of any Owner for such assessment. The Association shall maintain accounting records which shall be open to inspection by Owners or their authorized representatives at reasonable times. Written summaries of such accounting records shall be furnished to Owners or their representatives at least annually.

5.7 Reserves.

A. Reserves for Capital Expenditures and Deferred Maintenance. Each annual budget shall include sums to be collected and maintained as reserves to be used for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by the Board by means of a formula based upon completed Units and the estimated life and estimated replacement cost of each reserve item for such completed Units. Such reserves may be waived or reduced for a fiscal year by the affirmative vote of at least one-half (1/2) of the Voting Interests of the Association at a duly called meeting of the Association. If such a meeting shall have been called and the necessary vote for waiver or

reduction shall not have been attained or a quorum shall not have been obtained, the reserves as set forth in the budget shall go into effect.

B. General Operating Reserve. Each annual budget may include a sum to be collected and maintained as a general operating reserve, which sum may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Owners or as a result of emergencies or to pay other costs or expenses placing financial stress upon the Association.. The amount to be allocated to such operating reserve and collected therefor shall not exceed ten percent (10%) of the current annual assessment levied against all of the Owners. Upon accrual in the operating reserve of a sum equal to thirty percent (30%) of the current annual assessment, no further payments shall be collected, unless such operating reserve shall be reduced below the thirty percent (30%) level, in which event, contributions to such operating reserve shall be included in the annual assessment so as to restore the operating reserve to thirty percent (30%) of the current annual assessment.

5.8 Collections. All monies collected by the Association shall be treated as the separate property of the Association. Such monies may be applied by the Association to the payment of any expense of operating the Association, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws. Monies for -any assessment paid to the Association by any Owner may be commingled with monies paid to the Association by the other Owners. Although all funds and the Common Surplus shall be held for the benefit of the members of the Association, no member shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Townhome Unit. When a owner shall cease to be a member of the Association, the Association shall not be required to account to him for any share of the funds or assets of the Association, or for any sums which he may have paid to the Association.

5.9 Members' Rights. The Association shall be run by the Board and the Members shall only have such power as is specified herein or in the Articles or Bylaws. In the absence of a specific requirement of approval by Members, the Board may act on its own through its proper officers with or without a specific authorizing resolution.

5.10 Exterior Maintenance by the Association. In addition to maintenance upon the Common Properties, the Association may provide exterior maintenance service to and upon any structure located on any Lot, Unit, or any property in The Golf Club, provided such exterior maintenance is, in the opinion of the Board, required, including without limitation: paint; repair, roof repair and replacement; installation of gutters, downspouts and exterior building surfaces; yard clean-up; bulkheading; dredging, and otherwise maintaining the Common Properties. In addition, the Association may provide maintenance to the landscaping, sprinklers, trees, shrubs, grass, pools, walks, private drives, shorelines and streets, Owner's irrigation systems, and may provide maintenance to other exterior improvements. To the extent such maintenance is provided in a manner satisfactory to the Association by another association or an Owner, or by the Declarant for any part of The Golf Club, such maintenance shall not be provided for or duplicated by the Association. The provision of any exterior maintenance services by the Association to any Class of Property and/or to any property in The Golf Club owned by the Declarant shall not be deemed to constitute and does not constitute an acceptance of the ongoing responsibility to maintain such properties or the Ownership of such properties, except as herein provided. At such time as the Association renders exterior maintenance services, it shall do so at the sole expense of the responsible Owner(s) or the Declarant for which services such Owner or Declarant shall be assessed in accordance with this Declaration as a Special Assessment.

The cost of such maintenance may be assessed as a Special Assessment against a Unit Owner, Lot Owner, the Declarant or against the Units, Lots or other property in The Golf Club which, in the opinion of the Association, benefit from same. This exterior maintenance assessment shall be separate, apart and in addition to any annual or other special maintenance assessments. Any such exterior maintenance assessment shall be a lien on the Unit, Lot and/or property within The Golf Club and which is the subject of the maintenance assessment, shall be a personal obligation of the Owner and shall become due and payable in all respects, together with interest, charges, penalties and late fees as provided by the Board. The provisions of Article 6 of this Declaration shall apply to any such Special Assessment for exterior maintenance.

5.11 Access at Reasonable Hours. Except in the case of emergency when no notice is required, for the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after five days' written notice to the Owner or the Declarant, to enter upon any Parcel or the exterior of any Unit, Lot and/or property owned by the

Declarant which is the subject of the maintenance assessment at reasonable hours on any day except on Sunday. Said notice shall be delivered either in person or mailed to the Owner or to the Declarant, by certified mail, return receipt requested. The notice shall be deemed given when mailed.

5.12 Easement for Exterior Maintenance. The Association is hereby granted a non-exclusive easement to enter upon any Lot, the exterior of any Unit, and any property in The Golf Club owned by the Declarant in order to provide exterior maintenance service to and upon any structure located on or upon any of such enumerated properties in accordance with the terms of this Article, including, without limitation, the right to erect and maintain thereon scaffolding or other equipment required for such maintenance service.

5.13 Fines. Notwithstanding the availability of other remedies set forth elsewhere in this Declaration, the Association shall also have the power to assess reasonable fines to enforce any of the provisions of this Declaration, the By-Laws, or rules and regulations promulgated in connection herewith, provided only that appropriate notice and right to appear be granted to any subject to such fines.

ARTICLE 6

Assessments

6.1 Purpose. Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation, welfare and aesthetics of the Owners and to maintain, repair and replace the Common Properties.

6.2 Assessments. The Board shall have the power to fix, determine and collect from all Owners, as provided in the By-Laws, the sums necessary and adequate to provide for the Common Expenses and such other expenses as are specifically provided for in this Declaration and the By-Laws. The Board shall furnish prompt notice to Owners of all assessments payable.

A. Allocation. Unless otherwise stipulated, all assessments shall be levied in proportion to each Owner's Common Interest. Should the Association be the owner of any Townhome Unit(s), the assessment which otherwise would be due and payable to the Association on such Townhome Unit(s), shall be levied ratably among all of the Townhome Owners excluding the Association, based upon their Common Interests, reduced by any income derived from the leasing of such Townhome Unit(s) by the Association.

B. Special Assessments. Should the assessments prove to be insufficient to pay the costs of operation of the Association, or should any emergency arise, the Board shall have the authority to levy such additional assessment(s) as it may deem necessary, subject to obtaining the Association Membership's approval of such Special Assessment by majority vote at a duly called meeting of the Association at which a quorum is present. The specific purpose(s) of any Special Assessment shall be set forth in a written notice of such assessment sent or delivered to each Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose(s) set forth in such notice or returned to the Owners; provided, however, that upon completion of such specific purpose(s), any excess funds shall be considered Common Surplus. Anything herein to the contrary notwithstanding, so long as Declarant owns at least two (2) Townhome Units in The Golf Club, no Special Assessment shall be authorized without Declarant's prior written approval.

C. Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Owner or Townhome Unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Owner with respect to the Townhome Unit. Any person other than the Owner who relies upon such certificate shall be protected thereby.

D. Payment: Default. The assessments levied against each Owner shall be payable at the main office of the Association in such installments and at such time as may be determined by the Board of Administration as provided in the By-Laws. The payment of any such assessment shall be in default if it is not paid to the Association on or before its due date.

6.3 Annual Assessments; Budget. The Board shall fix, determine and collect the sums necessary and adequate to pay for the general expenses of the Association. The annual assessment shall be determined by the Board based upon an estimated annual budget, which shall be prepared at least forty-five (45) days prior to the commencement of the fiscal year. The Association's fiscal year shall be the calendar year beginning with the calendar year in which this Declaration is recorded in the Public Records of the County. Assessments shall be payable monthly in advance or, at such other time as determined by the Board at the main office of the Association. The payment of any assessment shall be in default if it is not paid to the Association on or before its due date.

6.4 Special Assessments and Special Individual Assessments. In addition to the annual assessments, the Association may levy special assessments to pay the costs of such items as are determined necessary or

appropriate by the Board, including, without limitation, the following: (a) reconstruction of portions of the Common Properties; and (b) unexpected repairs or replacements. Special assessments shall be shared equally by each Lot and shall be due and payable in the amount and at the time determined by the Board. Notwithstanding the foregoing, special individual assessments may be charged against certain Lots and Owners and in differing amounts as necessary or appropriate.

6.5 Subordination of Liens to Mortgages. Assessment liens shall be superior to all other liens, except tax liens and first mortgage liens in favor of Institutional Lenders or Declarant which are amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. The sale or transfer of a Lot, pursuant to a decree of foreclosure or where the Institutional Lender takes a deed in lieu of foreclosure, shall extinguish the lien of such assessments as to payments which became due and payable prior to the date of such decree or deed in lieu of foreclosure only pursuant to superior mortgages as provided above. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment. Notwithstanding anything herein to the contrary, the provisions of this Section 5.6 shall not be amended without the prior written consent of Monroe County, Florida.

6.6 Certificates. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing by an officer of the Association, setting forth whether assessments have been paid. Such certificate shall be conclusive evidence as to any assessment therein stated to having been paid.

6.7 Liability of Declarant. Anything to the contrary herein notwithstanding I Declarant shall not be liable for any Assessments imposed upon Units or Lots for which it is the Owner as long as the Declarant pays all deficits in operation of the Association above the Assessments and capital contributions and other sums collectible from other Owners or otherwise. Declarant may at any time and from time to time be relieved of all obligations to fund deficits by electing, for any Assessment period or periods, to pay Assessments imposed on Units or Lots for which it is the Owner.

6.8 Assessments for Limited Common Properties. Anything to the contrary notwithstanding, the costs and expenses attributable to the maintenance, repair, replacement and operation of the Limited Common properties (which shall be effected by the Association) shall be charged to the Owners having the exclusive right to use such Limited Common Properties (including with respect to parking spaces) in an amount reasonably determined by the Board to be equal from time to time to such costs and expenses. Such charges shall be Special Assessments hereunder. There shall be no need to calculate each Owner's specific charge. If the Declarant elects, such area may be maintained, repaired and operated at its expense, in which case it shall be exempt from the foregoing.

6.9 Initial Assessment for New Members. Declarant shall collect from every Owner at the time of closing and every such Owner, other than Declarant, its successors or assigns, shall pay to the Association an amount equal to two months of monthly assessment charges to be used as working capital for the Association. This obligation to pay an initial capital assessment shall apply to transferees from the Declarant and all subsequent subsequent transferees from time to time.

ARTICLE 7

EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF ASSOCIATION

7.1 Application of Proceeds in Event of Default. In the event that a Townhome Unit is to be sold, leased or mortgaged at a time when payment of any assessment by the Owner shall be in default (whether or not a notice of lien has been recorded by the Association), then the rent or proceeds of such purchase or mortgage shall be applied by the lessee, purchaser or mortgagee first to payments of any then delinquent assessment or installments thereof due to the Association before the payment to the Owner in default.

7.2 Liens: Enforcement.

A. The assessments shall be levied against each Townhome Owner(s) who is bound to pay them. Common Expenses and assessments shall constitute a lien against each Townhome Unit and shall have the priority afforded by law. Actions to enforce such claims shall be in conformity with the law. Each Townhome Owner also shall be liable personally to the Association for the payment of all such assessments and for interest on any delinquent payment and for all costs of collecting such payment and interest thereon, including reasonable attorneys' fees. No Owner may exempt himself from liability for any assessment levied against him by waiver of the use or enjoyment of any of the Common Properties, or by abandonment of the Townhome Unit or in any other way. Assessments which are unpaid after the due date shall bear interest at the maximum rate of interest chargeable to an individual as permitted by the

laws of the State of Florida. Once interest has accrued, any subsequent payment shall be applied first to payment of interest and collection costs and then to the payment of the assessment first due.

B. Each such lien shall secure: (i) all advances for taxes, payments on account or superior mortgages, liens or encumbrances and any other payments which the Association may pay in order to preserve and protect its lien and (ii) all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing the lien upon the Townhome Unit.

C. Each lien herein granted to the Association shall be effective upon recording a notice of lien in the Public Records of the County. A notice of lien shall state the description of the Townhome Unit encumbered thereby, the name of the record owner, the amount due and the date when due. No lien shall continue for a period longer than one (1) year after the claim of lien shall have been recorded, unless within that time an action to enforce the lien shall be commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

D. The Association, acting through the Board, shall have the right to assign to Declarant or to any Owner(s) or third party its lien rights for the recovery of any unpaid assessments.

E. A lien granted to the Association may be foreclosed. No foreclosure action may be filed until at least thirty (30) days after the Association gives written notice to the Owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be delivered personally to the Owner or mailed and delivered by registered or certified mail, return receipt requested. If, after diligent search and inquiry, the Association cannot find the Owner or a mailing address at which the Owner will receive the notice, the notice shall be given as required by law. The notice requirements of this subsection are satisfied if the Townhome Unit records a notice of contest of lien as provided in the Act.

F. If the Owner remains in possession of the Townhome Unit and the claim of lien is foreclosed, the court, in its discretion, may require the Owner to pay taxes and prior encumbrances and interest thereon, all as provided above. Such notice of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

G. Institution of a suit at law to collect payment of any delinquent assessment shall not prevent the Association from thereafter seeking enforcement of the collection by foreclosure of any sums then owing to it. Proceeding by foreclosure to effect such collection shall not preclude the institution of a suit at law to collect any sum then owing to it.

H. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Owner and shall be subject to all of the provisions of this Declaration, the By-Laws, the Rules and Regulations and applicable law. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by grantee. Any person who acquires an interest in a Townhome Unit (except through a foreclosure of a recorded first mortgage or acceptance of a deed in lieu thereof), shall not be entitled to occupancy of the Townhome Unit or enjoyment of the Common Properties until such time as all unpaid assessments and other charges due and owing by the former owner have been paid.

I. When an Institutional Lender of record, or other purchaser of a Townhome Unit shall obtain title to a Townhome Unit by a purchase at a public sale resulting from the Institutional Lender's foreclosure judgment in a foreclosure suit in which the Association shall have been properly named as a defendant junior lienholder, or as a result of a deed given in lieu of foreclosure, such acquirer of title, its successors and assigns shall not be liable for the share of Common Expenses or assessments attributable to the Townhome Unit or chargeable to the former Owner of the Townhome Unit which became due prior to such acquisition of title unless the share shall be secured by a claim of lien for assessments recorded prior to the recording of the foreclosed mortgage. The unpaid share of Common Expenses or assessments shall be Common Expenses collectible from all of the Owners' including such acquirer, its successors and assigns. An Institutional Lender acquiring title to a Townhome Unit by foreclosure or deed in lieu of foreclosure shall not, during the period of its ownership of the Townhome Unit, whether or not

the Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

7.3 Liens: Personal Obligations. Owner hereby gives and grants unto the Association a lien against all Lots for each Lot's applicable share of the assessments due the Association. The lien herein granted shall commence upon the recording of this Declaration in the Public Records of the County. Owner, for each Lot owned by it, and each other Owner, by acceptance of a deed thereto, shall be deemed to covenant and agree to pay to the Association: (a) annual assessments; (b) special assessments; and (c) special individual assessments. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, shall be a charge on the applicable Lot and shall be a continuing lien thereon against which each such assessment is made. Each such assessment, together with interest, late charges I costs and reasonable attorneys' fees shall also be the personal obligation of the person(s) owning such Lot at the time when the assessment came due.

7.4 Delinquencies: Enforcement. Unpaid assessments shall be a continuing lien on the applicable Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain as personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Assessments shall bear interest from the due date until paid at the maximum rate allowed by law for an individual. A late charge shall be due in the amount of twenty-five (\$25.00) dollars per monthly assessment or portion thereof past due or fifty percent (50%) of the monthly assessment past due, whichever is greater, and the Association may bring an action at law against the Owner personally obligated to pay the same or an action to foreclose the lien against the Lot, and there shall be added to the amount of such assessment reasonable attorneys' fees and costs incurred in collecting such assessment and in the event that judgment is obtained, such judgment shall include interest on the assessment and late charges as above provided and reasonable attorneys' fees, together with the cost of the action, including attorneys' fees and costs on appeal. Liens may be foreclosed in the same manner as mortgages are foreclosed.

ARTICLE 8

ARCHITECTURAL/LANDSCAPE CONTROL

8.1 Members of Committee. The Architectural Control Committee, sometimes referred to in this Declaration as the "Committee", shall consist of three (3) members. The initial members of the Committee shall consist of persons designated by Declarant. Each of said persons shall hold office until all Units planned for The Golf Club have been constructed, created and conveyed, or sooner at the option of Declarant. Thereafter, each new member of the Committee shall be appointed by the Board and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause. The Board shall have the right to appoint and remove all members of the Committee.

8.2 Review of Proposed Construction.

A. Subject to Articles 11 and 12 of this Declaration and any other exemption granted to Declarant pursuant to the terms of this Declaration, no Building, fence, wall or other structure or Improvement (including landscaping, trees, shrubs, vegetation and ground cover) shall be commenced, removed, altered, painted, erected or maintained in The Golf Club, nor shall any addition, change or alteration visible from the exterior of Units or Parcels be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of Buildings or other improvements, 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 by, the Committee (after first having been approved by any applicable association or architectural control committee thereof.) The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations, additions or use contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of The Golf Club as a whole and that the appearance of the surrounding area of The Golf Club as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alteration or additions are to common property of an association, said approval shall also be subject to the prior approval of said association. The Committee may condition its approval of proposals and plans and specifications 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 submission of plans for approval. The Committee may require such detail in plans and specifications submitted for its review as deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation 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. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not approved within such 30-day period, said plans shall be deemed approved. The Committee herein shall be the ultimate deciding body and its decisions shall take precedence over all others.

B. The Committee shall have the right to promulgate such further rules and regulations as it deems necessary in order to preserve the values and appearance of The Golf Club and hereafter, to modify, alter, amend, rescind and augment any of same (collectively "Design Rules") provided that the Design Rules so promulgated shall not be in conflict with the provisions of the Declaration. Such Design Rules shall not become effective until approved by the Declarant in writing so long as the Declarant owns any portion of The Golf Club and thereafter by the Board. The Committee may adopt a schedule of reasonable fees for the processing of applications which fees shall be subject to the approval of the Board.

C. The Committee shall also have the right to determine from time to time the use that each Unit, Parcel or Property (or port ion thereof) may be subject to, and may prohibit or restrict a particular use notwithstanding that such use may be permitted by any applicable zoning law, ordinance, rule or regulation.

D. All changes and alterations shall be subject independently to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

8.3 Meeting of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee shall continue an act of the Committee.

8.4 No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

8.5 Compensation of Members. The members of the Committee shall receive compensation for services rendered as determined by the Board, in addition to reimbursement for expenses incurred by them in the performance of their duties hereunder.

8.6 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon the completion of any work for which approved plans are required under this Article 8, the applicant (who may be an Owner or an appropriate association) for such approval (the "Applicant") shall give written notice of completion to the Committee.

B. Within ten (10) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such ten (10) days period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

C. If a noncompliance exists, the Applicant shall remedy or remove same within a period of not more than thirty (30) days of such notification. if, upon the expiration of thirty (30) days from the dateú of such notification, the Applicant shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. The Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, plus a 25% administrative charge. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a Special Assessment against such Applicant for reimbursement plus the 25% administrative charge. In the event said Applicant is an association, the aforementioned Special Assessment (but not the 25% administrative charge) shall be levied against all Units in the association in proportion to their respective interests in said association. The entry upon the property by the Association or its agents for the purpose of affecting the terms of this provision is expressly permitted and shall not constitute a trespass.

D. If for any reason the Committee fails to notify the Applicant of any noncompliance within thirty (30) days after receipt of said written notice of completion from the Applicant, the Improvement shall be deemed to have been made in accordance with said approved plans.

8.7 Non-Liability of Committee Members. Neither the Committee, nor any member thereof, nor its duly authorized Committee representative, shall be liable to the Association, any association, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and then only that member shall have any liability. The Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to The Golf Club. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

8.8 Variance. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any supplemental declaration, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing which must be signed by at least two (2) members of the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration or of any supplemental declaration for any purpose except as to the particular property and particular improvement for which the variance was granted.

8.9 Exterior Appearance and Design. The Owners of any building or improvement which has suffered damage may apply for approval to the Architectural Committee for reconstruction, rebuilding or repair of the Improvements therein. Application for such approval shall be made in writing, together with full and complete plans and specification, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Architectural Committee shall grant such approval, only if upon completion of the work the exterior appearance and design will be substantially like that which existed prior to the date of the casualty. Failure of the Architectural Committee to act within thirty (30) days after receipt of such a request in writing together with the drawings and plot plans showing the full and complete nature of the proposed changes shall constitute approval thereof. If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work.

8.10 Time Limitation Commencement and Completion of Construction. The Owner of a Unit or Parcel shall commence construction of the Unit(s) permitted to be constructed thereon not later than the first to occur of (a) six months following the date on which the last of the requisite approvals have been obtained by Declarant for the issuance of building permits with respect to said Unit(s) or Parcel or (b) one year after the date of closing on the transfer of the Unit(s) or Parcel by Declarant to the Owner as evidenced by the date of delivery of the deed to said Unit(s) or Parcel. Said Unit Owner shall complete construction of said Unit(s) (as evidenced by issuance of a certificate of occupancy) within 180 days of commencement. Parcel Owners shall be required to complete construction of all Units in said parcel (evidenced by the issuance of a certificate of occupancy therefor) within two years from the date of closing on the transfer of the Parcel by Declarant to the Parcel Owner. Once commenced, the Owner shall diligently and continuously proceed with the uninterrupted construction of the improvements thereon. In the event that an Unimproved Unit has been improved but has not had a Certificate of Occupancy issued thereof, the Declarant may, subject to the Right of Repurchase pursuant to Article 11 hereof, enter upon the property and complete the improvements required for the issuance of a Certificate of Occupancy therefor and charge to the Owner the costs incurred thereby (including hard and soft costs) as a Special Assessment and thereafter the property shall be assessed as an Improved Unit. The entry upon the property by the Association and its agents for the purpose of affecting the terms of this provision is expressly permitted and shall not constitute a trespass thereon.

8.11 Time Limitation - Destruction. The Owner or Owners of any damaged Building, the Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder, and the responsible party shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year, after damage occurs, unless prevented by causes beyond

their reasonable control.

8.12 Improvements. All Improvements shall comply with all applicable minimum standards established by the Committee and zoning laws. No Improvement shall be constructed, removed, changed or installed without the Committee's prior written approval (except as hereinafter provided as to Declarant). The Committee shall control not only the initial structure and improvements, landscaping, walls and fences to be constructed, but also any additions, changes or modifications thereof on any Townhome Unit, except that all structures constructed by Declarant as well as landscaping, walls and fences installed or constructed by Declarant shall be deemed approved by the Committee. Anything herein to the contrary notwithstanding, any Owner may make alterations, changes and modifications within the interior of his Townhome Unit without obtaining the Committee's consent.

8.13 Maintenance of Improvements. All Improvements shall be kept in a clean, neat and attractive condition consistent with the general appearance of The Golf Club and in conformity with the terms and conditions of this Declaration and all rules and regulations hereinafter adopted by the Association.

8.14 Maintenance and Repair.

A. By Owners. Each Owner agrees to: (a) maintain in good condition and repair his Townhome Unit, including front and rear yards and appurtenances and interior surfaces such as walls, ceilings and floors, and screens, windows and doors, and to replace such items, when necessary; and (b) maintain, repair and replace, if necessary, the fixtures and equipment within the Townhome Unit. The Association shall have the right, at its discretion, to make such maintenance or repair, if the Owner fails to do so following ten (10) days' written notice, or written or oral notice of a shorter duration in the event of an emergency situation, and to charge the Owner for the costs of same. If the Association charges a Owner for such repairs or maintenance, and the Owner fails to make prompt payment, the Association shall be entitled to place a lien against that Owner's Townhome Unit and proceed as provided in Article 6 hereof. An Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his act or negligence or by that of any member of his family or his or their guests, invitees, employees, agents or lessees, but only to the extent that expense is not met by the proceeds of insurance carried by the Association and then, conditioned on the extent of the right of subrogation of the Association's insurer.

B. By the Association. The Association shall be responsible for the maintenance, repair and replacement of all of the Common Properties including those portions which contribute to the support of the building, and all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services. Should any incidental damage be caused to any Townhome Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Properties, the Association, shall, at its expense, repair such incidental damage. The costs of such maintenance on the Common Properties (including Limited Common Properties) shall be apportioned in equal shares among the Owners affected. However, to the extent such maintenance, repairs or replacement's are necessitated by the negligence, misuse or neglect of a Owner, his family, guests or invitees, such costs shall be assessed against his Townhome Unit and paid by the Owner. In the event of any dispute among the Owners regarding the costs of repair, maintenance or restoration of the Common Properties the Owner hereby designates the Administration as arbiters of such dispute, whose decision shall be binding and conclusive upon them. In the event that one of such Owners is an Administrator, he shall stand down from such office during the hearing and decision on the dispute. Whenever it is necessary to enter any Townhome Unit for maintenance, alteration or repair to any portion of the Common Properties, each Owner shall permit other Owners or their representatives, or the Association's duly constituted and authorized agent, to enter such Townhome Unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable notice.

ARTICLE 9

PARTICULAR USE RESTRICTIONS. RULES AND REGULATIONS

9.1 Applicability. The provisions of this Article shall apply to The Golf Club, but shall not apply to Declarant, any of its affiliates, contractors or subcontractors. If requested by any interested party, Declarant shall give a written statement as to whether any particular person or entity shall be exempt from the provisions of this Article and to which Land or Townhome Units and for what period of time such exemption shall exist.

9.2 Nuisances. No noxious, offensive or unlawful activity shall be carried on within The Golf Club nor shall anything be done in The Golf Club which may be or may become an annoyance or nuisance to other Owners. By accepting a deed of conveyance of a Lot or Unit, the Owner acknowledges that certain

inherent risks are associated with the ownership of property within a residential community adjacent to a golf course, and in connection therewith each Owner agrees:

A. The operation of a golf course is from a sunrise to sunset operation, including the mowing of greens, tees and fairways in the early morning hours, and Owner agrees that all usual operations of a golf course shall not be considered a nuisance for which the Declarant shall have any liability.

B. Another risk associated with a residential community adjacent to a golf course is damage to person or property caused by golf balls being hit from within the golf course and unintentionally striking objects outside of the golf course. In such events, Owner agrees to hold Declarant harmless from any and all damages caused by such misdirected golf balls. Nothing herein shall be deemed or construed to waive any claim against the golfer responsible for misdirecting a golf ball which causes damage to property or person.

9.3 Signs. No sign of any kind shall be permitted on the Common Properties or any Lot; nor shall any sign be permitted on or visible from any, including, without limitation, any signs indicating that a Lot or Unit is for sale or for lease. Notwithstanding the foregoing, all signs in connection with the Conservation Areas shall be permitted as required by the South Florida Water Management District and informational signs, e.g., no parking, restricted parking, speed and directional signs, shall be permitted at the discretion of the Association and with the consent of the Declarant. All permitted signs shall, in all respects, be in accordance with rules and regulations promulgated by the Association. Notwithstanding anything herein to the contrary, Declarant shall be entitled to place signs of such size and design as Declarant shall determine upon any Lot(s) or Townhome Unit(s) to advertise for sale or other purposes.

9.4 Parking and Vehicular Restrictions. Parking in The Golf Club shall be restricted to the parking areas therein designated for such purpose. Except for temporary purposes in order to service Units, Parcels, other Class of Property or the Common Properties, no person shall park, store or keep on any portion of The Golf Club any large commercial-type vehicle (for example, dump truck, cement mixer truck, oil or gas truck, delivery truck), nor may any person keep any other vehicle on the Common Properties which is deemed to be a nuisance by the Board. No person shall conduct major repairs (except in an emergency) or major restorations of any motor vehicle will be subject to height, width and length restrictions and other rules and regulations now or hereafter adopted.

9.5 Animal Restriction. No livestock, reptiles or poultry of any kind shall be raised, bred or kept on The Golf Club. Pets shall be prohibited from all portions of the Common Properties excepts where designated by the Association. All pets must be controlled by Owners per rules and regulations to be enacted from time to time.

9.6 Garbage. Refuse and Sewage Disposal. No portion of The Golf Club shall be used or maintained as a dumping ground for rubbish. Trash and garbage shall not be kept except in sanitary containers or as required by the Association or the applicable County ordinances. All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. No individual sewage disposal system shall be permitted in The Golf Club.

9.7 Temporary. Play and Auxiliary Structures. No structure of a temporary character, trailer, basement, tent, shack, shed, barn or other outbuilding shall be built, installed or used in The Golf Club at any time. No platform, doghouse, playhouse or similar structure shall be constructed in any part of The Golf Club without the Committee's prior written approval. No outdoor clotheslines shall be permitted. No building, fence, screen enclosure, wall or other structure shall be erected or maintained, nor shall any exterior addition, change or alteration thereof be made, unless consistent with the general aesthetics of The Golf Club Project as described in the Master Declaration and unless and until plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted and approved in writing by the Committee.

9.8 Other Facilities. Nothing shall be altered or constructed in or removed from The Golf Club except upon the written consent of the Committee.

9.9 Outside Installation. Except for permitted uses in connection with Commercial Properties, Hotel Property and Marina Property or as otherwise approved by the Board, no exterior radio antenna, television antenna or other antenna of any shall type shall be erected or maintained in the buildings or elsewhere on The Golf Club, provided that a master antenna or antennae, or cable television antenna or antennae, may be provided for the use of Owners, and Declarant may grant and hereby reserves easement for such purposes. The erection of such antenna shall be subject to restriction of record as amended from time to time.

9.10 Insurance Rates. Nothing shall be done or kept in the Common Properties which will increase the

rate of insurance on any properties insured by the Association without the approval of the Board, nor shall anything be done or kept in the Buildings, Units or Parcels or on the Common Properties which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law. In the event that an Owner does anything to increase the rate of insurance, said Owner shall be responsible for payment of the increased amount as a Special Assessment in accordance with the terms hereof.

9.11 Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted in or on The Golf Club, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted. No derrick or other structure designed for use in boring for water, oil, natural gas or minerals shall be erected, maintained or permitted on or around The Golf Club.

9.12 Selling of Units. No Residential Unit Owner other than the Declarant may sell his Unit except by complying with the right of first refusal reserved by Declarant as set forth in Section 11.5 hereof.

9.13 Leasing. A Unit shall be used only as a residential dwelling and may be available for lease. All leases for Residential Units shall be on forms approved by the Association and shall provide that the Association has the right to terminate the lease upon default by the lessee in observing any of the provisions of this Declaration, the Articles, By-Laws of the Association, and all applicable rules and regulations adopted by the Association. The Board shall establish such rules and regulations in regard to the leasing of Units by Owners as it determines necessary including, without limitation, rules and regulations requiring minimum length of term, maximum rentals during a fixed period of time, and requirements and standards for credit and similar references. Until modified by the Association, the minimum duration for any rental period shall be seven (7) consecutive days. Such rules and regulations shall be applied and enforced without discrimination on the basis of race, religion, color, creed or sexual preference. All persons approved as lessees shall be subject to this Declaration, the Articles and By-Laws of the Association and all supplements and amendments thereto.

9.14 Maintenance of The Golf Club. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon the property within The Golf Club and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon the property within The Golf Club. All lawns, landscaping and sprinkler systems and any property, structure, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition. During the course of construction of any kind within The Golf Club, the owner of the property upon which such construction work is being done shall store all construction materials, including equipment and vehicles, supervise all construction personnel and manage all phases of the construction in a manner reasonably designed to minimize traffic, congestion, dust, noise and other similar distractions, disturbances and inconveniences. Excepted from the foregoing shall be any portion of the property within The Golf Club owned by Declarant or its nominee through the period of construction of Units or other buildings or structures thereon. Upon the failure to maintain the premises as aforesaid to the satisfaction of Declarant or the Association, and upon the Association's or an Owner's failure to make such correction within thirty (30) days of being given written notice by Declarant or the Association (which written notice does not have to be given by Declarant or Association in the case of emergency, in which event, Declarant or Association may without any prior notice directly remedy the problem), Declarant or the Association may, in furtherance of Declarant's overall plan for the development and uniform appearance of The Golf Club, enter upon such premises and make such improvements or correction as may be necessary, the costs of which shall be paid by the Association, association or Owner, as the case may be, or Declarant or the Association may bring an action at law or in equity. Such entry by Declarant or the Association or their agents shall not be a trespass and, by acceptance of a deed for a Unit, such party has expressly given Declarant and the Association the continuing permission to do so, which permission may not be revoked. If any Owner, the Association or association fails to make payment within fifteen (15) days after request to do so by Declarant or the Association, as appropriate, the payment requested shall be a lien in accordance with the Special Assessment provisions hereof.

9.15 Maintenance by the Owner. The responsibility of each Owner to keep his Parcel, Unit or other Class of Property in compliance with standards promulgated by the Architectural Control Committee of the Board shall be as follows:

A. To maintain, protect repair and replace, at his own cost and expense, all portions, above and below the mean high water line, of his Parcel, Unit or other Class of Property together with all improvements and equipment located thereon, except any portions to be maintained, repaired and replaced by the Association or another association within The Golf Club. Such maintenance, protection, repair and replacement shall be done without disturbing the rights of the other Owners;

B. Not to modify or change the appearance or design of any portion of the exterior of any Parcel, Unit or other Class of Property without the prior written approval of the Association, and of any applicable association of which a Unit is a part;

C. To report promptly to the Association any defect or need for repairs, maintenance or replacements for which the Association or other association is responsible.

9.16 Exterior Maintenance of Units by the Association. In addition to maintenance upon the Common Properties, the Association may provide exterior maintenance service to and upon any structure located on any Lot and any property in The Golf Club, provided such exterior maintenance is, in the opinion of the Board, required, including without limitation: paint; repair; roof repair and replacement; installation of gutters, downspouts and exterior building surfaces; yard clean-up; bulkheading; dredging, and otherwise maintaining the Marina. In addition, the Association may provide maintenance to the landscaping, sprinklers, trees, shrubs, grass, pools, walks, private drives, shorelines and streets, Owner's irrigation systems, and may provide maintenance to other exterior improvements.

The provision of any exterior maintenance services by the Association shall not be deemed to constitute and does not constitute an acceptance of the ongoing responsibility to maintain such properties, except as herein provided. At such time as the Association renders exterior maintenance services, it shall do so at the sole expense of the responsible Owner(s) or the Declarant for which services such Owner or Declarant shall be assessed in accordance with this Declaration as a Special Assessment.

The cost of such maintenance may be assessed as a Special Assessment against a Unit Owner, or against the Lots or Units.

9.17 Use of Land. No Improvement or any portion of The Golf Club shall be used for any purpose other than residential; provided however that temporary uses by Declarant, its affiliates and designees for model homes, sales displays, parking lots, sales offices and other offices, or any combination of such uses shall be permitted until Declarant shall determine that such use is no longer needed.

9.18 Exterior Colors. The exterior colors of all Improvements shall remain the colors initially established by Declarant. Unless approved by the Committee, all brick exteriors shall remain as such and shall not be painted, stuccoed or otherwise altered.

9.19 Satellite Dishes; Exterior Antennas. No satellite dishes, exterior radio antenna, television antenna, citizens band antenna or any other antenna of any type or nature shall be permitted in The Golf Club without the Committee's prior written approval.

9.20 Motor Vehicles. Boats and Boat Trailers. No trucks, commercial vehicles, recreation vehicles, campers, derelict automobiles, boats or boat trailers may be parked in The Golf Club

9.21 Windows; Interior Window Treatments; and Shutters. No Owner shall place aluminum foil on either the interior or exterior surface of any exterior window or glass door. No Owner shall install any interior window treatment other than the type and specification provided by the Declarant at the time Declarant first transfers the Townhome or as subsequently approved by the Association. No storm shutters shall be installed without the Committee's prior written approval.

9.22 Exterior Lighting. No Owner shall install exterior lighting (in addition to such exterior lighting as originally provided for the Townhome Unit by Declarant) without the Committee's prior written approval.

9.23 Use of Limited Residential Common Properties. It is hereby declared that certain areas may be erected, improved designed and maintained solely to provide recreational facilities, meeting areas, roadways, accessways, parks, and such other use as the Association shall approve for the benefit of the owners of Residential Units and Parcels and their guests and invitees. Such areas shall be as designated and shown upon any recorded, plat within The Golf Club and as modified from time to time by the Declarant or the Association by additions to or deletions from such Limited Residential Common Properties. Such Limited Residential Common Properties shall be subject to assessment as a Special Assessment District pursuant to Article 6.

9.24 Fences. No fences shall be permitted within The Golf Club unless installed by Declarant during construction periods or as otherwise approved by Declarant or the Committee.

9.25 Alteration and Use of Conservation Areas. The Conservation Areas may not be altered from their present condition with the exception of exotic or nuisance vegetation removal, or restoration in accordance with the restriction plan included in the conservation easement or as otherwise approved by the South Florida Water Management District. Exotic vegetation may include Melaleuca, Brazilian Pepper, Australian Pine, and Japanese Climbing Fern. Nuisance vegetation may include Cattails, Primrose Willow and Grape Vine. The only use permitted for the Conservation Areas are uses consistent with the conservation easement granted for such areas. Activities prohibited within the conservation areas

include, but are not limited to: construction or placing soil or other substances such as trash removal or destruction of trees, shrubs, or other vegetation with the exception of exotic/nuisance vegetation removal; excavation, dredging, or removal of soil material; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

ARTICLE 10

SECURITY AND TELECOMMUNICATION SYSTEM

10.1 Installation. Declarant hereby reserves unto itself and its designees, successors, assignees and licensees the right (though no obligation is hereby assumed) to construct or install over, under, across and upon any portion of The Golf Club for the used of the Owners and their permitted or authorized guests, invitees, tenants, and family members a security and/or telecommunications system (the "System") the exact description, location and nature of which have and hereby reserves to itself and its designees, successors, assignees and licensees a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (scope, extent, size and the location of which over, across, upon and through The Golf Club shall be determined solely by Declarant, its successors, designee and assigns from time to time) together with a perpetual and exclusive right and privilege of (i) unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving, and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, television and radio signals, surveillance, fire, police and emergency medical protection; and (ii) transmitting (the facilities and equipment of which shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees) .

10.2 System Services. Declarant shall have the right to enter contracts for the exclusive provision of the System as Declarant or its successor (including the Association) shall deem, in its sole discretion, to be in the best interests of the Project. The contract may provide that the basic System shall be mandatory for all Owners.

The contract for the System may also provide as follows:

A. Every Unit shall be subject to a charge, payable per Unit on the first day of each month or quarter in advance, for basic cable television programming services and basic surveillance services.

B. Every association within the Project shall impose, along with common expense assessments and its regular maintenance assessment, against each Unit contained within the association, the amount of the basic fees due and payable for the System and shall collect same and forthwith remit the amount collected to the Contractual Designee providing the System services.

C. Every Unit Owner hereby agrees that the Association or the applicable association within the Project responsible for collection of the said fee and their respective successors and assigns shall have a lien upon such Unit for the respective charges.

D. Any mortgagee becoming a Unit owner by reason of foreclosure of its mortgage or by accepting a deed in lieu thereof shall be excused from the payment of fees while it is such Owner and has not placed any other person in possession of such Unit. Where a mortgagee or other Owner of a Unit obtains title to the Unit as a result of the foreclosure of a mortgagee, such acquirer of title, its successors and assigns, shall not be liable for the payment of the aforementioned charges pertaining to such Unit which become due prior and where secured by a recorded lien to acquisition of title in the manner provided above.

E. The Contractual Designee may impose such additional charges for optional System services as is consistent with the rates for such services as approved by any local governmental agency having jurisdiction over the franchising of such services. Such services shall not be mandatory and charges therefor shall be individually billed to the Unit Owner.

F. Declarant may excuse portions of the Project from the provisions of this Article 10 which, in the determination of Declarant, have uses for System services inconsistent with the overall design of such services in the Project as a whole.

G. The term "Contractual Designee" or "Designees" shall mean the company or companies with which Declarant or the Association has contracted for the furnishing of such System services, and may include an affiliate of Declarant.

H. The provisions of this Article 10 shall be effective for a period of fifteen (15) years from and after the

date of recordation after which time they shall be extended, automatically, for successive periods of fifteen (15) years initially and two (2) ten (10) year periods thereafter, provided that upon demand of Declarant and/or the Association, or their successors and assigns, given at least one (1) year prior to the expiration of each term, the Contractual Designee or Designees, their successors and assigns, update their Systems to the then current state-of-the-art as determined by agreement or, in its absence, by arbitration.

I. Enforcement shall be by an appropriate action at law or in equity against any parties or persons violating or attempting to violate any covenants. The bringing of one action shall not constitute Designee enforces the provisions of this Article 10, it shall be entitled to payment of court costs and reasonable attorneys' fees.

ARTICLE 11

DEVELOPER RIGHTS, RESERVATIONS AND EXEMPTIONS

11.1 Declarant's Rights. Declarant hereby reserves to itself, and the grantee of any Unit or other property within The Golf Club hereby agrees, by acceptance of a deed of conveyance thereto, that Declarant shall have the following rights, without notice or approval, so long as Declarant owns any portion of the Property in The Golf Club, including portion of the Property, Lot or any Townhome Unit owned by Declarant as the result of any reconveyance from a third party to Declarant, or until Declarant causes to be recorded a Certificate of Termination of Interest in The Golf Club (or unless expressly provided to the contrary herein), which Certificate terminates any and all right, title, interest and obligation of Declarant in The Golf Club:

A. The right to replat, vacate or withdraw any area of any platted area from the property subject to this Declaration, provided that Declarant owns all property which is subject to the plat. The invalidization or unenforceability of this right shall in no way affect the enforceability of the other covenants and restrictions contained in this Article, this Declaration or any supplemental declaration. Any such invalidation and unenforceability shall cause this reservation of right to be void;

B. The right to dispense pesticides throughout the Property;

C. The right to retain legal and equitable title to the Common Properties, or to sell, lease or otherwise convey all or any part of its interest in the Property and to demolish, alter or modify in whole or in part, any improvements on the Common Properties;

D. The right to establish easements for itself and others over any portion of the Property which is owned by Declarant;

E. The right to convey, in whole or in part, any easements granted in favor of Declarant, as created in this Declaration or as recorded in the Public Records of Monroe County, Florida, which pertain to The Golf Club;

F. The right, for any reason, including, without limitation, in order to meet requirements of any applicable law code, ordinance, rule or regulation of any governmental or quasi- governmental authority or lending institution or bond issuing authority or development agency or the like, to make changes, amendments, supplements or modifications to any or all of the covenants, restrictions, easements, reservations, agreements, documents or instruments affecting the Property, The Golf Club or any portion thereof, whether recorded, or unrecorded, as Declarant, its successors and assigns, may deem reasonable, necessary, appropriate or convenient, provided that anyone of the foregoing singly or taken collectively will not materially adversely affect the Unit of any owner. The foregoing shall not restrict or limit Declarant, or its successors' and assigns' ability to amend, modify or supplement this Declaration as herein otherwise provided.

G. The right to purchase any Unit where there was a violation of Section 3.3, Section 9.12 or Section 11.5. The price for which Declarant may repurchase shall be (a) in the event of any unimproved Lot, the Repurchase Price shall be the Cost Price paid by the Owner, which Cost Price shall be deemed to be the amount of consideration paid by Owner to Declarant and reported for the computation of Florida state documentary stamp tax due on the conveyances of such Lot by Declarant to Owner, less the outstanding principal balance of any purchase money mortgage note made by Owner to Declarant in connection with Owner's purchase of said Lot; or (b) in the event of a partially improved Lot, the Repurchase Price shall be the then fair market value of the Lot as may be agreed upon by the parties or the value arrived at by a bona fide appraisal in the event of a dispute, exclusive of the value of any improvements erected on said Lot which were not approved by the Association in accordance with the terms of this Declaration. In the event the parties are unable to agree upon the fair market value of the Lot then each shall be entitled to

name an appraiser. The two appraisers shall then select a third appraiser. The fair market value of the Lot, as determined by the three appraisers, shall be the amount for which Declarant purchases the Lot (the "Repurchase Price"). The Owner shall deliver a general warranty deed to the Lot in exchange for the Repurchase Price to be paid by Declarant at the closing of the repurchase which shall be held within thirty (30) days following written determination of the Repurchase Price. This right to repurchase shall terminate and be of no further force and effect thirty (30) years from the date of the initial recordation of this Declaration in the Public Records of Monroe County, Florida;

H. The right to erect or grant to an Owner the right to erect temporary buildings on any portion of the Property which is owned by Declarant or title to which has been granted by Declarant to an Owner;

I. The right to maintain an easement, for construction, reconstruction or repair purposes, across any property within The Golf Club;

J. The right to alter and amend the Zoning Agreements; provided that approval from all governmental agencies having jurisdiction over such Zoning Agreements has been obtained;

K. The right to alter, amend, approve, dispose of, and designate the plan and facilities which provide water and wastewater treatment service and irrigation service to the Property, provided that approval from all governmental agencies having jurisdiction over same has been obtained;

L. The right to maintain a sales office in The Golf Club, including, without limitation, a sales office on a portion of the Common Properties, and to erect signs and to conduct sales throughout The Golf Club;

M. The right to establish the security system in The Golf Club;

N. The right to appoint the members of the Architectural Control Committee for such time as Declarant owns any property in The Golf Club;

O. The right to conduct the development, marketing and sale of property in The Golf Club owned by Declarant or any third party with whom Declarant may so contract to provide such services;

P. During the time Declarant is engaged in construction on The Golf Club, the right to install and maintain a radio communications system;

Q. The right to have affiliates of Declarant engaged to provide management, maintenance and similar services for the Association;

R. An irrevocable power of attorney, coupled with an interest, of all Owners in favor of Declarant, for as long as Declarant owns any portion of the Property or any Unit within The Golf Club, to exercise any of the foregoing or other rights or discharge any of the foregoing or other obligations which may be set forth therein for the benefit of Declarant or as an obligation of any owner. This power of attorney shall be self-operative and shall not require any additional instrument to effectuate same. An Owner, by acceptance of a deed, thereby acknowledges and confirms (and, to the extent required, grants) the power of attorney set forth herein: and

S. An irrevocable designation and appointment of Declarant, its successors and assigns, by each Owner, as such Owner's attorney-in-fact, to execute and deliver any applications for approval, platting, consents, amendments, variance or other documents or instruments as Declarant, its successors and assigns, may from time to time request. The foregoing power-of-attorney, designation and appointment shall be coupled with an interest, shall be self-operative and shall not require any additional instrument to effect same; provided, however, that same shall be limited in time and duration to a period of ten (10) years from and after the date that the initial Owner, other than Declarant or an affiliate of Declarant, takes title to a Unit from Declarant.

11.2. Veto Power. Declarant hereby expressly reserves to itself, and any grantee of any Lot or Unit hereby agrees, by acceptance of a deed of conveyance thereto, that Declarant shall have the right to veto any of all of the following events so long as Declarant owns any part of the Property or The Golf Club, including property owned by Declarant as the result of any reconveyance of property, or until Declarant causes to be recorded a Certificate of Termination of Interest in The Golf Club, which Certificate terminates any and all right, title interest and obligation of Declarant in The Golf Club:

A. Shoreline contour changes approved by the Association;

B. Construction of improvements approved by the Association;

C. Construction of any dune or accessway approved by the Association;

D. Association approval which permits the conduct of any commercial enterprise within The Golf Club;

E. Any or all Association budgets, annual or otherwise which constitute an increase or reduction of fifteen percent (15%) over the prior year's (or other applicable interval) budget;

F. Approval of any plans or specifications for any structure made by the Architectural Control Committee;

G. Attempted resubdivision of the Property or any part thereof;

- H. Any attempted dissolution or termination of the Association;
- I. Attempted amendment of this Declaration, Articles, and By-Laws, any supplementary declaration of protective covenants and restrictions or the Zoning Agreements;
- J. Any management contracts entered into by the Association or Board;
- K. Any reduction to the security system for The Golf Club;
- L. Attempted relocation of the sales center used by Declarant, its successors or assigns;
- M. The creation of any special assessments by the Association;
- N. Any capital improvement assessments by the Association;
- O. Any settlement of any claim made by Association to collect upon any policy of casualty insurance which insures the Common Properties;
- P. Any attempted cancellation or reduction of insurance coverage insuring all or any part of The Golf Club; and
- Q. Any matter adversely affecting Declarant or its interests.

11.3 Right to Alter Limited Common Properties and Common Properties. Declarant hereby reserve the right, in their sole discretion, as follows:

A. to alter all or any portion of the Common properties and/or Limited Common Properties to which Owner holds title, but not to remove from status as Common Properties;

B. to mortgage all or any portion of the Common properties to which Owner holds title; provided that the Common properties shall be free of mortgages at time of conveyance to the Association.

11.4 Declarant's Additional Reserved Rights. Notwithstanding anything herein to the contrary, Declarant shall have the right, with respect to the development of The Golf Club, to construct buildings and Townhome Units and other Improvements and install landscaping of such type, nature, shape, height, color, materials and location as Declarant shall determine in its sole and absolute discretion; provided, however, that same shall comply with the applicable building codes and County zoning laws in force at that time. Until such time as Declarant shall own no Land or Townhome Units within The Golf Club, Declarant shall be entitled to place on Land and/or Townhome Units owned by Declarant temporary construction or sales trailers and other temporary facilities and conduct its sales and marketing efforts as Declarant shall deem appropriate.

11.5 Declarant's Rights to Repurchase. Declarant shall have the following repurchase rights:

A. Right of First Refusal. Any Unit Owner who receives a bona fide offer to purchase his Unit (such offer to purchase a Unit, is called an "Outside Offer", the party making any such Outside Offer is called an "Outside Offeror", and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he intends to accept, shall within five (5) days following receipt of such Outside Offer give notice by certified mail, return receipt requested, to Declarant of the receipt of such Outside Offer. Said notice shall be accompanied by a copy of the written Outside Offer and shall state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as Declarant may reasonably require. The giving of such notice to Declarant shall constitute an offer by such Unit Owner to sell his Unit to Declarant or its designee upon the same terms and conditions as contained in such Outside Offer and shall also constitute a warranty and representation by the Unit Owner who has received such Outside Offer to Declarant that such Unit Offer believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as Declarant may reasonably request. Not later than thirty (30) days after receipt of such notice, together with such further information as may have been requested, Declarant or its designee may elect, by sending written notice to such Offeree Unit Owner before the expiration of said thirty (30) day period by certified mail, to purchase such Unit upon the same terms and conditions as contained in the outside Offer and as stated in the notice from the Offeree Unit Owner. In the event Declarant or its designee shall fail to accept such offer within said thirty (30) day period, the Offeree Unit Owner shall be free to accept the Outside Offer. within sixty (60) days after (i) notice of release of Declarant's right of first refusal; or (ii) the expiration of the period within which Declarant or its designee might have accepted such offer, as the case may be. In the event the Offeree Unit Owner shall not, within such sixty (60) day period, accept, in writing, the Outside Offer or if the Offeree Unit Owner shall accept the Outside Offer within such sixty (60) day period, but such sale shall not be consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing thereunder, then, should such Offeree Unit Owner thereafter elect to sell such Unit, the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Section. Any deed to an Outside Offeror shall provide (or shall be deemed to provide) that the acceptance thereof by the grantee shall constitute an assumption of the

provisions of the Declaration, the By-Laws, the Articles of Incorporation, applicable rules and regulations and all other agreements, documents or instruments affecting The Golf Club or administered by Declarant, as the same may be amended from time to time.

B. Sale Voidable. Any purported sale of a Unit in violation of this Section shall be voidable at any time at the election of Declarant, and Declarant shall have the right to institute legal proceedings to void the conveyance. Said Unit Owner shall reimburse Declarant for all expenses (including attorneys' fees and disbursements incurred in connection with such proceedings).

C. Release by Declarant of the Right of First Refusal. The right of first refusal contained in this Section 11.5 may be released or waived by Declarant only in the manner provided in subsection 11.50 hereof. In the event Declarant shall release or waive its right of first refusal as to any Unit, such Unit may be sold or conveyed to the Outside Offeror.

D. Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by Declarant stating that the provisions of this Section 11.5 have been satisfied by a Unit Owner, or stating that the right of first refusal contained therein has been duly released or waived by Declarant and that, as a result thereof, the rights of Declarant thereunder have terminated (as to that sale only) shall be conclusive with respect to all persons who rely on such certificate in good faith. Declarant shall furnish such certificate upon request to any Unit Owner in respect to whom the provisions of such Section have, in fact, terminated or been waived. No fee shall be charged by Declarant in connection with the furnishing of such certificate.

E. Exceptions. The provisions of this Section 12 shall not apply with respect to any sale, transfer, gift or conveyance of any Unit by (i) the Unit Owner thereof to his spouse, adult children, parents, parents-in-law, adult siblings or a trustee, corporation or other entity where the Unit Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trust, corporation or other entity, or to anyone or more of the above, (ii) the Declarant, (iii) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of foreclosure, or (iv) an institutional first mortgagee (or its designee) deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure; provided, however, that each succeeding Unit shall be bound by, and his Unit subject to, the provisions of this Section 11.5.

F. Restriction Upon Sale of Unimproved Lot. Except as may be otherwise agreed by Declarant in writing, no Owner shall sell or otherwise transfer by deed, agreement for deed or otherwise, its interest whether legal, equitable or otherwise in an unimproved Lot for a period of two (2) years from the date of closing on the transfer of said Lot to said Owner by Declarant. This provision shall not restrict the Owner's right to mortgage said Lot in connection with a construction or similar loan to finance the cost of improvements to be made to said Lot nor prohibit the acquisition and resale by any such mortgagee of title to such Unit or Parcel by foreclosure or by deed in lieu thereof within said two (2) year period.

ARTICLE 12

DECLARANT'S EXEMPTIONS

No Owner nor the Association shall do anything to interfere with Declarant's activities at The Golf Club. As used in this Section and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of individual Units. Without limiting the foregoing, nothing in this Declaration shall be construed or interpreted to:

A. Prevent Declarant, its successors or assigns, or its or their agents, contractors or subcontractors, from doing on any property owned by them or on the Common Properties whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration and removal of Improvements and the reallocation of any use thereon and the termination of services as Declarant deems advisable in the course of development (all models or sketches showing plans of The Golf Club may be modified by Declarant at any time and from time to time, without notice to any Owner, prospective Owner, or other person or entity); or

B. Prevent Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any portion of the Property owned or controlled by them or on the Common Properties, such structures as may be reasonably necessary in Declarant's judgment for the conduct of its or their business of completing said work and establishing The Golf Club as a community and disposing of the same by sale, lease or otherwise; or

C. Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of Improvements to be included as part of The Golf Club, including Improvements on the Common

Properties; or

D. Prevent Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, maintaining, altering or otherwise using signs on the Property owned or controlled by any of them or on "the Common properties as may be necessary in connection with the sale, lease, operation or marketing of Units or Lots, or otherwise from taking such other actions deemed appropriate in connection with such signs.

In general, Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any manner with the Declarant's plans for operation, construction, development, use, sale or other disposition of the Property and/or The Golf Club, or any part thereof.

ARTICLE 13

DAMAGE OR DESTRUCTION TO COMMON PROPERTIES

Damage to or destruction of all of any portion of the Common Properties shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

A. In the event of damage to or destruction of the Common Properties, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Properties to be repaired and reconstructed substantially as it previously existed.

B. If the insurance proceeds are within One Million Dollars (\$1,000,000.00) or less of being sufficient to effect total restoration to the Common Properties, then the Association shall cause such Common Properties to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment against each of the Owners, in accordance with the provisions of Article 6 of this Declaration.

C. If the insurance proceeds are insufficient by more than One Million Dollars (\$1,000,000.00) to effect total restoration to the Common Properties, than by written consent or vote of two thirds (2/3) of the Members, they shall determine whether (1) to rebuild and restore the Common Properties in substantially the same manner as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying Reconstruction Assessments against all Owners, (2) to rebuild and to restore in a way which is less expensive than replacing these Improvements in substantially the same manner as they existed prior to being damaged, or (3) subject to the approval of the Committee, not to rebuild and to retain the available insurance proceeds. Anything to the contrary herein notwithstanding, no decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall be effective without the written approval of the Committee, which can require rebuilding as it deems appropriate.

D. Each owner shall be liable to the Association for any damage to the Common Properties not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, tenants, guests and invitees, both minor and adult. Notwithstanding the foregoing, the Association reserves withstanding the foregoing, the Association reserves the right to charge such Owner a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of Property, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Special Assessment against the Unit or Parcel or other Class of Property and may be collected as provided herein for the collection of Special Assessments.

ARTICLE 14

Insurance and Reconstruction

14.1 Owner's Casualty Insurance. Each Owner shall bear the risk of loss and damage to his Townhome Unit and any and all furniture, personal effects and other personal property belonging to him or carried on his person which property is located either in the Townhome Unit or in or on the Common Properties. The foregoing shall not apply: (1) to any property constituting a portion of the Common Properties; or (2) to fixtures, installations or additions covered by the Association's casualty policy as provided in this Declaration. Each Owner may, at his own expense, obtain insurance coverage for loss of or damage to his Townhome Unit and personal property.

14.2 Owner's Liability Insurance. Each Owner shall be liable for injuries or damages resulting from an accident in his own Townhome Unit, to the same extent that a homeowner would be liable for an accident occurring within his house. Each Owner may, at his own expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Townhome Unit

or upon the Common Properties. No Owner shall be liable personally for any damages caused by the Association in connection with the use of the Common Properties.

14.3 Requirements Concerning Owner's Insurance. All such insurance obtained by any Owner shall, wherever available, state that the insurer waives its right of subrogation as to any claims against: (1) other Owners; (2) the Association; and (3) the respective servants, agents and guests of other Owners.

14.4 Reconstruction of Townhome Unit. In the event of loss or damage to a Townhome Unit, the Owner, with all due diligence, shall repair, replace and restore such damaged or destroyed portions of the Townhome Unit to a condition as good as that before such loss or damage: (1) in accordance with the original plans and specifications for the building; or (2) as the building was last constructed; or (3) in accordance with plans approved by the Board of Administration. If the Owner shall refuse or fail to commence repair, replace or restore his Townhome Unit within thirty (30) days, or to complete such work within six (6) months, the Association may repair, replace or restore the Townhome Unit and charge the Owner for the cost of such work. The Association shall have a lien on the Townhome Unit to secure such cost.

14.5 Association's Casualty Insurance. The Association shall maintain casualty insurance covering all buildings, including fixtures, installations or additions comprising parts of the buildings within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Townhome Units initially installed or replacements thereof, in accordance with the original plans and specifications, together with all service machinery contained therein, in an amount not less than 100% of the replacement value thereof (subject to reasonable deductible clauses), excluding foundation and excavation costs, all as determined annually by the Board. Such coverage shall afford protection against: (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. Coverage shall not include floor coverings, wall coverings or ceiling coverings. With respect to the coverage provided in this paragraph, the Owners shall be considered additional insureds under each policy. All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or other insurance or of invalidity arising from any acts of the insured and of pro rata reduction of liability, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all mortgagees of Townhome Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Institutional Lenders at least ten (10) days prior to the expiration of the current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the buildings (exclusive of foundation), including all of the Townhome Units and all of the Common Properties therein; without deduction for depreciation, for the purpose of determining the amount of fire insurance to be obtained pursuant to this Article.

14.6 Association's Liability Insurance. The Association shall maintain comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with The Golf Club or adjoining driveways and walkways, or any work, matters or things related to The Golf Club or to this Declaration and its exhibits, with such coverage as shall be required by the Board, but with combined single limit liability of not less than \$1,000,000.00 for each accident or occurrence, \$300,000.00 per person and \$50,000.00 property damage, and with cross liability endorsement to cover liabilities of the Owners as a group to a Owner and vice versa.

14.7 Association's Workers' Compensation Insurance. The Association shall maintain workers' compensation insurance to meet the requirements of law.

14.8 Other Types of Insurance. The Association also shall maintain:

- A. flood insurance;
- B. fidelity insurance covering all officers and employees of the Association and the Management Company;
- C. directors' liability insurance, if obtainable, with limits of \$300,000.00;
- D. such other insurance as the Board shall determine from time to time to be necessary and proper.

14.9 Insurer's Waiver. When appropriate and obtainable each of the foregoing policies shall waive the insurer's right to: (1) subrogation against the Association and against the Owners individually and as a group; (2) the pro rata clause that reserves the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and (3) avoid liability for a loss that is

caused by an act of the Board or by an Administrator or by one or more Owners.

14.10 Purchase of Association's Insurance. All authorized insurance for the Common properties shall be purchased by the Association. The cost of the insurance shall be a Common Expense, as shall be any other fees and expenses incurred which may be necessary or incidental to carrying out the provisions hereof, except that the amount of increase in any premium occasioned by misuse, occupancy or abandonment of a Townhome Unit or its appurtenances by a Owner shall be assessed against such Owner. Each policy shall be issued by an insurance company authorized to do business in Florida and with an office or agent located in the County.

14.11 Named Insured. The named insured shall be the Association individually and as agent for Owners and their mortgagees covered by the policy, without naming them.

14.12 Custody of Policies and Payment of Proceeds. All policies shall provide that the insurer's payments for losses shall be made to the Insurance Trustee, and that all policies and endorsements shall be deposited with the Insurance Trustee.

14.13 Mortgagees. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee shall be subject to the approval of the Institutional Lender then holding the greatest dollar volume of Townhome Unit mortgages. One copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the Association to each mortgagee included in the mortgagee register. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, whichever date shall occur first.

14.14 Insurance Trustee: Proceeds. All insurance policies of the Association shall be for the benefit of the Association and the Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee, as designated by the Board, which shall be any bank, savings and loan or trust company in Florida with trust powers and with its principal place of business in the County. The Insurance Trustee shall not be liable for payment of premiums or for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds. The Insurance Trustee's duty shall be to receive such proceeds as are paid and to hold the same in trust for the Owners and their respective mortgagees in the following shares (which shares need not be set forth in the Insurance Trustee's records).

14.15 Damage to Common Properties. An undivided share of the proceeds shall be held for each Owner in proportion to his Townhome Unit's Common Interest.

14.16 Damage to Townhome Units.

A. When a building is to be restored, an undivided share of the proceeds shall be held for each Owner in such building in that the cost of repairing the damage sustained by each Townhome Unit, as determined by the Association, bears to the total proceeds received.

B. When a building is not to be restored; an undivided share of the proceeds shall be held for each Owner in proportion to his Townhome Unit's Common Interest.

14.17 Assessments Where Proceeds are Insufficient. If it shall appear that the insurance proceeds covering casualty loss or damage are insufficient to pay for the repair, replacement or reconstruction of the loss or damage sustained by the Common Properties, then the Association shall deposit with the Insurance Trustee a sum which, together with the insurance proceeds, will be sufficient to completely pay for the repair, replacement or reconstruction of such loss or damage. The monies so deposited by the Association may be drawn from the replacements reserve fund. If the sum in such fund is insufficient, then the Association shall levy and collect an assessment proportionally against all the Owners, in the amount needed to pay for such repair, replacement or reconstruction.

14.18 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed in the following manner:

A. Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefor.

B. Reconstruction or Repair. If the damage shall be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying such costs shall be distributed according to Common Interests to the Owners and their mortgagees, being payable jointly to them.

C. Failure to Reconstruct or Repair. If it is determined that the damage shall not be reconstructed or repaired, the remaining proceeds shall be divided among all the Owners in proportion to their respective Common Interests; provided, however, that no payment shall be made to a Owner until all liens on his

Townhome Unit have been satisfied from his share of the fund by distributing first to the Institutional Lender in an amount sufficient to satisfy and pay its mortgages in full, and the balance, if any, to the Owner with the provision that remittances to the Owner and his mortgagee shall be payable jointly to them.

D. Certificate. In making distribution to Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association executed by its President and Secretary as to the names of the Owners, their mortgagees and their respective shares of the distribution.

14.19 Mortgagees. Certain provisions in this Article are for the benefit of the mortgagees of Townhome Units and may be enforced by such mortgagees. No mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made pursuant to this Article. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

14.20 Association as Agent. The Association is hereby irrevocably appointed agent for each Owner, mortgagee and owner of any other interest in the Common Properties to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

14.21 Determination to Reconstruct or Repair. The Association shall be responsible for reconstruction and repair after casualty loss or damage to the Common Properties. The Board shall arrange for necessary repairs and reconstruction either within sixty (60) days from the date the Insurance Trustee notifies the Board that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work or within ninety (90) days after the Insurance Trustee notifies the Board that such proceeds of insurance are insufficient to pay said estimated costs of such work. Such reconstruction and repairs shall apply to all damaged Townhome Units and shall include bathroom and kitchen fixtures as initially installed by Declarant, but shall not include furniture, furnishings, and other personal property supplied or installed by any Owner or tenant. The Insurance Trustee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

14.22 Plans and Specifications. Any reconstruction or repair must either be: (1) substantially in accordance with the original plans and specifications for the original improvements; or (2) according to plans and specifications approved by the Board and the Architectural Committee of the Homeowners' Association. If the damaged property is a building containing Townhome Units, then the plans and specifications must be approved by the Owners owning at least two-thirds (2/3) of the Townhome Units, including the Owners of all Townhome Units (and their respective mortgagees) which are to be altered by virtue of such plans and specifications.

14.23 Contracts for Repair. The Association shall obtain reliable and detailed estimates of the cost to rebuild or repair damage. The estimates shall be obtained immediately after a determination is made to rebuild or repair. Before they may become binding, all contracts for repair, replacement or reconstruction of loss or damage shall be approved by the Board.

14.24 The Construction Fund. The construction fund shall consist of: (1) insurance proceeds collected by the Insurance Trustee as a result of casualty loss or damage; and (2) the Association's assessments and/or reserve funds to be deposited with the Insurance Trustee in the event insurance proceeds are insufficient to cover the cost of necessary repair, replacement and reconstruction. Construction funds shall be disbursed in the following manner and order:

A. Minor Damage. If the amount of the estimated costs of reconstruction, replacement and repair is less than \$10,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board, unless a mortgagee of a damaged Townhome Unit notifies the Insurance Trustee of such mortgagee's objection(s), in which case such funds shall be disbursed in the manner provided for disbursements for major damage.

B. Major Damage. If the amount of the estimated costs of reconstruction and repair is more than \$10,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board together with the approval of an architect qualified to practice in Florida and employed by the Association to supervise the work. .

C. Distribution of Excess Proceeds. If the proceeds in the construction fund are in excess of all paid costs of repair, replacement and reconstruction, then such excess proceeds shall be applied first to the Association's reserve funds, to the extent that the Association deposited reserve funds with the Insurance Trustee, and the remainder shall be to Owners, to the extent of special assessments by the Association,

and any further amount shall be distributed pursuant to this Declaration.

D. Certificate. The Insurance Trustee may rely upon a duly executed certificate of the Association as to all of the following matters: (a) whether Association assessment and reserve funds shall be deposited with the Insurance Trustee; (b) whether an architect's approval shall be necessary for disbursement from the construction fund; (c) whether any disbursement shall be made from the construction fund; (d) names of payees and amounts to be paid; and (e) whether all costs have been paid, leaving excess proceeds for distribution.

14.25 Responsibility to Insure Improvements. Each Owner shall insure the Improvements owned by such Owner. Insurance coverage for the Townhome Units shall include all-perils, including, without limitation, hazard, fire, windstorm and flood. The cost of such insurance shall be borne by the Owner. Insurance for each Townhome Unit shall be in an amount equal to the full "replacement" value thereof. The term "replacement value" shall mean one hundred (100%) percent of the then current replacement costs', exclusive of land, foundation, items of personal property and other items normally excluded from such coverage. Upon the written request of any Owner within a Building mailed by certified mail, return receipt requested, the requested Owner shall provide written proof of insurance to the requesting Owner by certified mail, return receipt requested.

ARTICLE 15

MORTGAGEE PROTECTION CLAUSE

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

A. Each institutional first mortgagee holding encumbering any Unit or Parcel, at his written request, is entitled to written notification from the Association of any default by the Owner of such Unit or Parcel in the performance of such Owner'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 and to written notification of the recording of a Claim of Lien pursuant to Article 7.

B. Unless at least 66-2/3 % of such mortgagees (based upon one vote for each such mortgage owned), and at least 66-2/3% of the votes of Members of the Association, have given their prior written approval, neither the Association nor the Owners shall:

1. by act or omission seek to sell or transfer the Common Properties and the Improvements thereon which are owned by the Association (the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Properties or any portion thereof to another not for profit association of the Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public or condominium ownership shall not be deemed a transfer within the meaning of this clause);
2. fail to maintain fire and extended insurance on insurable portions of the Common Properties as provided herein; or
3. use hazard insurance proceeds for losses to any Common Properties for other than the repair, replacement or reconstruction of such Improvements (except as contemplated herein).

C. Such mortgagees shall have the right to examine the books and records of the Association during normal business hours.

D. All such mortgagees who have registered their names with the Association, and as long as it owns a mortgage on any Unit or Parcel, shall be given (1) thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or By-Laws of the Association and prior to the effective date of any termination of any agreement for professional management of the Common Properties hereafter entered into, if any, following a decision of the Owners to assume self-management of the Common Properties; and (2) immediate notice following any damage to the Common Properties whenever the cost of reconstruction exceeds One Hundred Thousand Dollars (\$100,000.00), and as soon as the Board learns of any threatened condemnation proceeding or proposed acquisition or any portion of the Common Properties;

E. Such mortgagees may, jointly or singly, pay taxes or other charges which are in default and which mayor have become a charge against any portion of the Common Properties and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and such mortgagees making such payments shall be owed immediate reimbursement therefore from the Association and the appropriate Owners.

ARTICLE 16

ENCROACHMENTS AND EASEMENTS

16.1 Encroachments. When the wall, window, roof or any other part of a Townhome Unit (hereinafter called "overhang"), as initially constructed by the Declarant, encroaches beyond the property line of an adjoining Townhome Unit, the ownership and responsibility for the maintenance of said wall, window, roof or overhang encroaching upon said adjoining Townhome Unit's property line shall be that of the Owner of the Townhome Unit to which said wall, window, roof or other overhang is a part. In order to maintain, repair, replace or reconstruct (hereinafter, collectively, "maintenance"), the said wall, window, roof or other overhang, the Owner of the Townhome Unit of which said wall, window, roof or other overhang and, if applicable, the Association, is a part shall have the following easements:

A. An easement through, over and upon the Townhome Unit adjoining it for the purpose of maintaining the structural integrity and aesthetic appearance of the wall, window, roof or other overhang which easement shall only be used at a time convenient to the Owner of the adjacent Townhome Unit; and

B. An easement into the airspace of the adjoining Townhome Owner's property for the purpose of permitting the encroachment of the aforementioned wall, window, roof or other overhang, as initially constructed by the Declarant.

16.2 Party Walls. Each wall built as part of the initial construction by the Declarant of the Townhome Units upon the Land and placed on the property line dividing individual Townhome Units shall constitute a party wall and each adjoining Owner shall own that portion of the party wall which has been erected upon his property, with a cross-easement for support and maintenance in the remaining portion of the party wall. For the purpose of maintaining structural integrity to common party walls, the costs for such maintenance and repairs thereto shall be shared equally by the Owners of the adjoining Townhome Units making use of the common party wall. In the event of damage or destruction of the common party wall from any cause whatsoever, other than the negligence or willful misconduct of either Owner thereto, the Owners shall, at their joint expense, repair or reconstruct the common party wall and each Owner shall have the right to full use of said common party wall so repaired or rebuilt. If either Owner's negligence or willful misconduct causes damage or destruction of said wall, the Owner guilty of such negligence or willful misconduct shall pay the entire cost of such repair or reconstruction. If one of the Owners refuses to pay his share, or all of such costs in the case of negligence or willful misconduct, the other Owner shall have the right to have such common party wall repaired or reconstructed and shall be entitled to a lien on the premises of the Owner so failing to pay for the amount of such defaulting Owner's reasonable share of the repair or reconstruction costs.

16.3 Common Roof. Certain Townhome Units may be erected initially by the Declarant with a Common Roof. In the event of damage or destruction of the Common Roof from any cause whatsoever, other than the negligence or willful misconduct of either Owner thereto, the Association shall repair or reconstruct the Common Roof and each Owner shall have the right to full use of said Common Roof so repaired or rebuilt. If either Owner's negligence or willful misconduct causes damage or destruction of said Common Roof, the Owner guilty of such negligence or willful misconduct shall be assessed by the Association for the entire cost of such repair or reconstruction.

16.4 Easements in General. If any grant of any easement in this Declaration would otherwise fail by virtue of the nonexistence of the grantee thereof as of the date of this Declaration, then the Association automatically shall be deemed to be the attorney-in-fact for such grantee to hold the interest created by such grant of easement until such grantee shall come into existence, at which time the interest created by such grant of easement automatically shall become vested in such grantee. The Common Properties shall be subject to a perpetual non-exclusive easement in favor of each Lot, which shall be appurtenant to and shall pass with title to each Lot, for use by the Owner, his immediate family, guests and invitees, for all proper and normal purposes including ingress and egress. The Common Properties also shall be subject to such a perpetual nonexclusive easement in favor of Owner and Declarant and their respective agents, employees, invitees, successors and assigns.

16.5 Easements for Public and Private Utility Facilities.

Drainage and Access. It being understood that at the time of the recording of this Declaration the exact location of utility facilities, drainage facilities and ingress and egress roadways, and appurtenant equipment within The Golf Club have not yet been determined, Declarant hereby reserves for itself, its successors and assigns, such perpetual easements as are necessary and required over, under, upon and/or through the Property for ingress, egress and access to and the installation construction, operation, alteration, expansion, repair, replacement and maintenance of utilities, cable television, drainage facilities

and roadways for ingress and egress. This reservation hereby grants to the utility entities and the Declarant (so long as Declarant is constructing, repairing or relocating utilities and facilities appurtenant thereto in aid of construction of the property) the right of ingress, egress and access to and the right to construct, install, operate, alter, expand, replace and maintain such utilities, cable television, drainage facilities and roadways for ingress and egress within any part of the Property, provided, however, use of such easements and improvements shall not unreasonably interfere with the use of the Property for the purposes intended for the Townhome Units. In order to accomplish the foregoing, each portion of the Property shall have an easement in common with all other portions thereof to use, maintain, repair, alter or replace all pipes, wires, ducts, vents, cables, conduits, utility lines, sanitary sewers, storm drains, water lines, manholes, liftstations, pumping stations and similar or related facilities located within the Property and serving such portion or portions. Each portion of the Project shall be subject to an easement in favor of all other portions thereof to use, maintain, repair, alter and replace the pipes, wires, ducts, vents, cables, conduits, utility lines, sanitary sewers, storm drains, water lines, manholes, liftstations, pumping stations and other similar or related facilities located in such portion of the Property and serving other portions thereof.

Independent of the foregoing rights, Declarant, its successors or assigns, and Association are hereby granted the additional right to grant such additional easements or relocate existing easements throughout the Property as Declarant or Association may deem necessary and desirable provided that such additional easements or relocation of easements do not unreasonably interfere in the use of the Property for the purposes so intended, and further provided that in the event of a conflict in decisions between Declarant and Association, the Declarant's decision shall control until such time as all Townhome Units have been constructed and transferred by Declarant to third-party Owners.

16.6 Easements of Support. Whenever any structure included in the Common Properties adjoins any structure included in any other portion of the Property, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

16.7 Easements for Maintenance. Easements are hereby reserved in favor of the Association under, upon, across, through and over all portions of The Golf Club for the purpose, as deemed necessary by the Association for preserving and maintaining the Land, the Townhome Units and carrying out its responsibilities under this Declaration; provided, however, that all such activity shall be undertaken in a manner so as to minimize interference with any Owner's use of his property. Where any Land, including any Improvement thereon, ("the Servient Estate") shall abut an adjacent lot line ("the Dominant Estate"), then the Owner of the Dominant Estate shall have an easement over the Servient Estate, which easement shall only be to extent necessary and in any event not to exceed four (4) feet wide contiguous to the interior property line running from the front to the rear property line of the Servient Estate for the following purposes:

- A. For painting (where permitted), repairing and otherwise maintaining each wall of the Townhome Unit in such Dominant Estate abutting the aforesaid property line.
- B. For support in and to all structural members, footings and foundations of any Improvements on the Dominant Estate; provided, however, that nothing herein shall be construed as requiring the Owner of the Servient Estate to erect (or permit erection of) columns, load bearing walls or other structures on the Servient Estate for support of the Improvements on the Dominant Estate.
- C. For entry upon and ingress and egress through the Servient Estate with persons, materials and equipment to the extent reasonably necessary in the performance of maintenance, repair, replacement of any of the Improvements on the Dominant Estate.
- D. For overhanging troughs, gutters and downspouts and the discharge therefrom of rainwater and subsequent flow thereof over the easement area.

16.8 Easement for Improvements.

If, for any reason:

- A. Any Improvements are built or exist upon any portion of the Land or Townhome Units; or
- B. Any other similar situation shall hereafter or heretofore exist as a result of:
 - 1. Construction by Declarant of any improvement;
 - 2. Settling or shifting of any Improvement; or
 - 3. Any repair or restoration of any Improvement after damage by fire or other casualty or taking by condemnation or eminent domain proceedings; then, in any such event, an easement shall exist for such Improvements and for the maintenance of same so long as the said Improvements shall exist.

16.9 Easement for Pedestrians and Vehicles. In addition to the general easements for use of the

Common Properties reserved herein, there shall be, and the Declarant hereby reserves and covenants for itself and all Owners with The Golf Club that each and every Owner, and Declarant and their respective licensees, invitees, grantees, successors and assigns as permitted by Association, shall have, a non-exclusive easement appurtenant for pedestrian and vehicular traffic over, through and across all pedestrian and vehicular accessways within the Common Properties, subject to the parking provisions of this Declaration. Declarant hereby expressly retains the right to grant licenses, easements and rights to the public in general and the owners, operators and users of the Golf Course as contemplated by the Development Agreement, over and upon the Common Properties and other property with The Golf Club. Association and any Member which is required to join in the grant of any such easement shall be obligated to execute any such instrument as may be requested of it from time to time to effect such grant of easement.

16.10 Easements for Public and Private Utility Uses. In addition to the foregoing easements affecting the Common Properties, there shall be, and Declarant hereby grants perpetual easements for public, Federal, State, County, City and private utility and other services, including, but not limited to, the right of the police to enter upon, pass over and across any part of the Common Properties for the purpose of enforcing the law or maintaining security, and the right of all lawful emergency vehicles, equipment and persons in connection therewith to enter upon, pass over and across all portions of the property to service the Declarant, Owners, residents and all Improvements and the right of all public and private utility companies to install, construct, operate, alter, expand, repair, replace and maintain their equipment and facilities in areas designated for such purposes.

Independent of the foregoing rights, Declarant, its successors or assigns, and Association are hereby granted the additional right to grant such additional easements or relocate existing easements throughout the Property as Declarant or Association may deem necessary and desirable provided that such additional easements or relocation of easements do not unreasonably interfere in the use of the Property for the purposes so intended, and further provided that in the event of a conflict in decisions between Declarant and Association, the Declarant's decision shall control until such time as all Townhome Units have been constructed and transferred by Declarant to third-party Owners.

16.11 Easements for Access. Repair and Maintenance. Declarant reserves unto itself, and its successors and assigns, perpetual non-exclusive easements of ingress and egress over and across the accessways existing from time to time in The Golf Club, and perpetual non-exclusive easement to enter upon, over, under or through all portions of the Property for the purpose of maintaining, repairing and replacing the Units, Improvements of Lots owned by Declarant and the Common Properties which easements shall be for the use of Declarant, Association (and its and their respective successors and assigns), Owners, and their respective lessees, employees, agents, invitees and licensees. Declarant hereby expressly retains the right to grant easements and rights to the public through, over, under and upon the Common Properties and other property within The Golf Club and to grant easements and rights to such municipal and governmental authorities as required from time to time, including, without limitation, water management agencies.

16.12 Emergency Access. The Association shall have the right, privilege and license to enter upon any Townhome Unit and upon and across the Common Properties for the purpose of effecting any emergency repairs to that same Townhome Unit or to any other Townhome Unit and/or exterior portion of any improvements thereon and/or to any Common Properties and to do such other maintenance and repairs as shall be reasonable necessary for the proper maintenance and repairs as shall be reasonably necessary for the proper maintenance of the same Townhome Unit or of any other Townhome Unit or of the Common Properties abutting such Townhome Unit.

16.13 Mortgagee Easements. There is hereby created an easement in favor of each Institutional Mortgagee or an agent of any Institutional Mortgagee for ingress and egress over, across and upon the Common Properties to a Townhome Unit which shall then be encumbered by the lien of the mortgage, as well as to the Common Properties. The Association shall be deemed the agent for all future Institutional Mortgagees for the purpose of the creation of this easement.

16.14 Easements for Golf Course. Declarant has granted or shall grant certain easements in favor of the owner and/or users of the Golf Course as more particularly set forth in the Development Agreement. Developer reserves the right to amend, enlarge or otherwise modify the Development Agreement and the easements contemplated thereunder for the purpose of coordinating the development of The Golf Club as an integral part of a golfing community. Declarant reserves the additional right to permit the owner or users of the Golf Course to use portions of the Common Properties pending completion of the Units and

Recreational Facilities.

16.15 Easement for Construction and Sales. Declarant (and its agents, realtors, salespersons, employees, contractors, subcontractors and suppliers) shall have an easement of ingress and egress over, under and across the Common Properties for construction purposes and to erect, maintain, repair and replace, from time to time, signs on the Common Properties for the purposes of advertising and sale and/or lease of Units or Lots and for the operation of any permitted enterprise within The Golf Club. In the event of such construction, portions of the Common Properties may be shut off from general access and use, and noise, dust and other disturbances will be likely. All Owners hereby agree that such disturbances have been accepted by them and they waive any and all claims or objections as a result of or in relation to such disturbances. No liability shall be assumed by Declarant by reason of the foregoing.

16.16 Easement for Conservation Areas. The Conservation Areas have been and by this Declaration are hereby dedicated as Common Properties. The Conservation Areas shall be the perpetual responsibility of the Association and may in no way be altered from their natural state. Activities prohibited within the Conservation Areas include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation, with the exception of exotic/nuisance vegetation removal; excavation, dredging or removal of soil material; diking or fencing; any other activities detrimental to drainage; flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation. Any Owner of a Lot adjacent to the Conservation Areas shall have no greater right or obligation in connection with the Conservation Areas than any other Owner or third party.

16.17 Extent of Easements. The rights and easements created hereby shall be subject to the all rights and easements retained in the Master Declaration. The rights and easements of enjoyment of the Common properties created hereby shall be subject to the following:

A. The right of the Association reasonably to limit the number of guests and invitees of Owners using the Common Properties;

B. The right of the Association to suspend the rights and easements of enjoyment of any member during which any assessment remains unpaid, and for a period not to exceed sixty (60) days, for any infraction of its Rules and Regulations, it being understood that any suspension for either non-payment of any assessment or breach of any Rules and Regulations of the Association shall not constitute a waiver or discharge of the member's obligation to pay the assessment; provided, however, that the Association shall not suspend the right to use any roadways belonging to the Association; and provided, further, that the Association shall not suspend any rights and easements reserved herein by Owner or Declarant;

C. The right of the Association to place any reasonable restrictions upon the use of any roadways owned by the Association including, but not limited to, the maximum and minimum speeds of vehicles using said roadways, and other traffic and parking regulations.

D. The right of the title holder to give, dedicate or sell all or any portion of the Common Properties to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by such title holder.

ARTICLE 17

GENERAL PROVISIONS

17.1 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit, Parcel or other portion of The Golf Club 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 hereto is contained herein, whether or not any referenced hereto is contained in the instrument by which such person acquired an interest in such Unit, Parcel or other property within The Golf Club.

17.2 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Land and Townhome Units in The Golf Club and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration shall be recorded ("the Initial Term"), after which time said covenants shall be extended automatically for successive periods of ten (10) years, unless this Declaration shall be terminated at the end of the Initial Term or prior to a successive ten (10) year period with the consent of not less than seventy-five (75%) percent of the Owners, in which event an instrument to this effect shall be recorded in the Public Records of Monroe County, Florida, subject, however, to Declarant's rights as set forth in this Declaration.

17.3 Amendments. This Declaration may be amended by Declarant unilaterally from time to time and at any time and without the joinder of any Owner: (a) to accomplish any of the purposes or objectives set forth in this Declaration; and/or (b) to correct any scrivener's errors. This Declaration also may be amended with the written consent not less than sixty-seven percent (67%) of the Owners and the approval by Institutional Lenders holding at least sixty-seven percent (67%) of the mortgages on Townhome Units in The Golf Club; provided, however, that no amendment shall be enforceable against Declarant so long as Declarant owns any Lot or Unit within The Golf Club, unless Declarant has consented in writing to such amendment, and (b) no amendment shall materially and adversely affect any provision granting easements or permitting encroachments or any provision concerning Institutional Lenders without a majority consent of all Institutional Lenders then having mortgages on Lots or Units. Each amendment shall be recorded in the Public Records of Monroe County, Florida.

17.4 Covenants Running with the Land. Anything herein to the contrary notwithstanding, the covenants, conditions, restrictions and easements of this Declaration shall be covenants running with the land. If any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid, such provision and/or application shall be judicially modified, if possible, to reflect the intent of such provision or application and then shall be enforced in a manner allowing the covenants, conditions, restrictions and easements to so run with the land. In the event that any such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the covenants, conditions, restrictions and easements hereof running with the land shall be achieved.

17.5 Enforcement: No Waiver. Any Owner, including the Declarant, and the Association shall have the right to enforce the provisions of this Declaration by any proceeding at law or in equity against any person(s) or entity(ies) as follows:

A. For violating or attempting to violate any covenant or restriction, either to restrain such violation, to recover damages or to enforce performance and against the applicable Lot and/or Townhome Unit to enforce any lien created herein;

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 does constitute a nuisance, and every remedy allowed by law or equity with respect to nuisances either public or private shall be applicable and may be exercised by Declarant, Association or Owners;

C. Remedies herein provided for breach of the covenants contained in this Declaration or the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive;

D. The failure by Declarant, Association or any Owner to enforce the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter;

E. Where litigation shall occur to enforce said provisions or to recover damages or to enforce any lien created herein, the prevailing party in such litigation shall be entitled to recover court costs and reasonable attorneys' fees, including court costs and reasonable attorneys' fees in any appellate proceeding; and

F. A breach of the covenants, conditions or 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 Lot or Unit; provided, however, that any subsequent Owner of such Lot or Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

17.6 Severability. Invalidity of any portion of this Declaration by judgment, court order or statute shall in no way affect any other provisions which shall remain in full force and effect.

17.7 Gender and Plurals. The use in this Declaration of the male gender shall include the female and neuter, and the use of the singular shall include the plural and vice versa, as the context requires.

17.8 Notices. Any notice required to be sent hereunder shall be deemed to have been properly sent when delivered or mailed, postage prepaid, to the last known address of the Owner or other addressee on the records of the Association at the time of such mailing.

IN WITNESS WHEREOF, the undersigned have executed this Declaration on this 6th day of November, 1995.

ATTEST: KEY WEST GOLF CLUB DEVELOPMENT, INC., a Florida corporation

By: _____ Secretary

Elaine London, President

STATE OF FLORIDA

} SS

COUNTY OF MONROE

BEFORE ME, a Notary Public, personally appeared Elaine London and Jacqueline Creath, President and Secretary,

respectively, of Key West Golf Club Development, Inc., a Florida corporation, who did acknowledge before me that they executed the foregoing instrument for the uses and purposes therein set forth, for and on behalf of said corporation. They are personally known to me and did not take an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at the county and state aforesaid, this _____ day of November, 1995.

NOTARY PUBLIC, State of Florida at Large

My commission expires:

11/6/95