

EXHIBIT A

“Substantial rewording. See governing documents for current text.”

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOLANA AT HERONS GLEN

For the purpose of preservation of the values and amenities in the community and for the maintenance of the common properties the original owner and developer of the properties more particularly described in Exhibit “A” attached hereto (such owner and developer being referred to herein as the “Declarant”), created a Declaration of Covenants, Conditions and Restrictions for Solana At Herons Glen, and caused the same to be recorded on July 30, 2004 in Official Records Book 04383, Page 2557, *et seq.*, of the Public Records of Lee County, Florida (the “Original Declaration”).

All real property in the Community shall be held, owned, sold, transferred, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth, which shall be binding upon persons having any right, title or interest in or to the subject real property, and their heirs, successors and assigns and shall constitute covenants running with the land.

W I T N E S S E T H

WHEREAS, Declarant created an exclusive residential community known as "Solana at Herons Glen" on the property described by Exhibit "A" and referred to herein as the “Properties”; and

WHEREAS, the Original Declaration provided for its amendment by vote of two-thirds (2/3) of the Voting Members at a meeting called for such purpose, or by an instrument signed by two-thirds (2/3) of the Voting Members exhibiting their approval of the amendments; and

WHEREAS, the Voting Members now desires to amend and restate the Original Declaration in order to further provide for the preservation of the values and amenities in the community and for the maintenance of the common properties; and

WHEREAS, the Declarant incorporated under the laws of the State of Florida, as a not-for-profit corporation, SOLANA AT HERONS GLEN HOMEOWNERS ASSOCIATION, INC., (the “Association”) for the purpose of exercising the functions powers of maintaining and administering the common properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing of the assessments and charges hereinafter created,

which Association is not intended to be a Condominium Association as such term is defined and described in the Florida Condominium Act (Chapter 718 of the Florida Statutes);

NOW, THEREFORE, the Voting Members, hereby declare that the real property described in the attached Exhibit "A" shall be held, transferred, sold, conveyed and occupied subject to the following covenants, restrictions, easements, conditions, charges and liens hereinafter set forth which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

Section 1. "Architectural Control Committee" or the "Design Review Board" shall mean and refer to the person or persons designated from time to time to perform the duties of the Design Review Board as set forth herein, and their successors and assigns.

Section 2. "Articles" shall mean the Articles of Incorporation of the SOLANA AT HERONS GLEN HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, attached hereto as **Exhibit "B"** and made a part hereof, including any and all amendments or modifications thereof.

Section 3. "Board" shall mean the Board of Directors of the Association.

Section 4. "Bylaws" shall mean the Bylaws of the Association attached hereto as **Exhibit "C"** and made a part hereof, including any and all amendments or modifications thereof.

Section 5. "Common Area" shall mean all real property (including the improvements thereon) now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas will be conveyed and deeded to the Association or the Master Association by the Declarant at a date no later than the date the last lot is sold and transferred to a third party owner.

Section 6. "Common Expense" shall mean and refer to any expense for which a general and uniform assessment may be made against the Owners (as hereinafter defined) and shall include, but in no way be limited to, the expenses of upkeep and maintenance of the Common Area, and shall include the assessments from the Master Association to the Association for the maintenance, repair, replacement and management of the areas of the Master Association responsibility.

Section 7. "Declaration" shall mean and refer to this AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOLANA AT HERONS GLEN and any amendments or modifications thereof hereafter made from time to time.

Section 8. "First Mortgagee" shall mean and refer to an Institutional Lender who holds a first mortgage on a Lot and who has notified the Association of its holdings.

Section 9. "Institutional Lender" shall mean and refer to the owner and holder of a mortgage encumbering a Lot or a residential Villa, which owner and holder of said mortgage shall be any federally or state chartered bank, insurance company, or governmentally approved mortgage lending institution.

Section 10. "Institutional Mortgage" shall mean and refer to any mortgage given or held by an Institutional Lender.

Section 11. "Interpretation" Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation". The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 12. "Lot" shall mean and refer to the least fractional part of the subdivided lands within any duly recorded plat of any subdivision which prior to or subsequently to such platting is made subject hereto and which has limited fixed boundaries and an assigned number, letter or other name through which it may be identified; provided, however, that "Lot" shall not mean any Common Area.

Section 13. "Master Association" shall mean and refer to HERONS GLEN HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns.

Section 14. "Master Declaration" shall mean and refer to the Restated Declaration of Covenants, Conditions and Restrictions for Herons Glen, together with any amendments thereto, recorded in the Public Records of Lee County, Florida.

Section 15. "Neighborhood" shall mean and refer to Solana which shall mean the Properties all as more particularly described in **Exhibit "A."**

Section 16. "Association" shall mean and refer to the neighborhood association of Solana at Herons Glen Homeowners Association, Inc., a Florida not for profit corporation, its successors and assigns.

Section 17. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 18. "Parcel" shall mean and refer to any part of the Properties other than the Common Area, Lots, Villas, streets and roads, and land owned by the Master Association, or a governmental body or agency or public utility company, whether or not such Parcel is developed

or undeveloped, and without regard to the use or proposed use of such Parcel. Any Parcel, or part thereof, however, for which a subdivision plat has been filed of record shall, as to such portions, cease being a Parcel, or part thereof. and shall become Lots.

Section 19. "Plat" shall mean and refer to the plat of Herons Glen Unit 13, recorded in Plat Book 78 at Pages 87 through 90, inclusive, Public Records of Lee County, Florida.

Section 20. "Properties" shall mean and refer to that certain real property described on attached Exhibit "A" made subject to this Declaration.

Section 21. "Surface Water Management System Facilities ("SWMS") shall mean to include, but are not limited to; all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas.

Section 22. "Villa" shall mean and refer to each and every residential unit constructed on any lot.

ARTICLE II. MAINTENANCE; IMPROVEMENTS

Section 1. Maintenance of Neighborhood Common Areas. Except as otherwise provided herein, the Association shall maintain, repair and replace any and all improvements constructed on the Common Areas, including without limitation all landscaping, drainage structures, utility lines, walkways, light fixtures, and other structures on common areas.

Section 2. Maintenance of Lots and Villas.

(A) Lots. The mowing, weeding, edging, fertilization, herbicide and pesticide applications of lawns and outside maintenance, repair and replacement of landscaping, including periodic trimming and pruning of trees, hedges/shrubbery, except those trees, beyond, i.e. to the rear of, front doors, is the Association's responsibility, and is a common expense. No person may add to or change the plantings, trees or landscaping on their lot without prior approval of the Master Association Design Review committee. If any trees are removed by the owner that owner must replace it/them with HOA-approved tree(s).

(B) Villas. The Villas are constructed with certain common structural elements which include; the roof, and exterior (bearing) walls. The Association shall clean and provide ordinary maintenance, repair and replacement of:

(i) the roofs, roof structural components,

(ii) the exterior walls and other exterior surfaces of the Villas and appurtenant structures such as privacy walls and garages, the need for which is caused by normal wear and tear and weathering to keep the appearance of the same in a

condition comparable to the condition of such improvements at the time of their initial construction.

(iii) Painting the outside of exterior doors, door and window frames and exterior caulking (during painting)

(iv) mailboxes and street lighting.

The above-described costs shall all be common expenses of the Association.

Otherwise the maintenance, repair and replacement of the Villas is the responsibility of the owners thereof. The owner or each Villa shall maintain, repair and replace, at his own expense, all portions of his Villa except-those portions specifically required to be maintained, repaired and replaced by the Association, as stated herein.

Specifically, but not exclusively, it is the owner's responsibility to repair, reconstruct or replace:

(i) all damage resulting from windstorm, fire, flood, hail, hurricanes, sinkholes, and other natural disasters, acts of God, and casualties that are or could be covered by property insurance carried by the owner under Section III below.

(ii) trees, including trimming, pruning and removal or replacement, in the rear of the villas, i.e. those not the responsibility of the Association as set forth above. For end units tree maintenance from the front door back is the owner's responsibility. If a tree is removed the owner must replace it within a reasonable time with a new tree of a size and type approved by the Master Association Design Review committee.

(iii) maintenance, repair, cleaning and replacement of gutters, downspouts, driveways and sidewalks;

(iv) all exterior lighting;

(v) all damage incurred due to modifications, and additions to, a villa;

(vi) The owner is responsible to maintain fire, wind, hazard, and casualty insurance on the Villa and in the event of a casualty loss, pay for any insurance deductibles. By way of illustration, and not imitation, the owner's maintenance, repair or replacement responsibilities include:

1) Windows, glass and screens, doors, door and window frames, hardware and locks.

2) All wiring, plumbing, and electrical or mechanical equipment or fixtures which serve only the Villa, regardless of location.

3) All interior improvements including walls and fixtures of any kind.

Each owner shall maintain his Villa and all fixtures and appliances located therein in good condition and repair at all times and in always compliance with the rules, procedures and Standards established by the Design Review Board and the Association Board. Garages and storage areas shall be maintained in an orderly condition, and the storage of combustibles or explosives other than ordinary household materials is prohibited. Each owner is prohibited from painting or otherwise decorating or changing the appearance of his Villa except as permitted in the Declaration.

The Association shall have a blanket easement over all the properties, including all necessary portions of the Villas to facilitate the Association's fulfillment of these maintenance obligations. Notwithstanding anything to the contrary herein, in the event the Association must perform any of the foregoing maintenance due to the negligence or misuse by, or intentional act of, an Owner of the Villa, or any of the Owner's family, guests, invitees or tenants, such Owner shall be responsible for the Association's costs and expenses of such maintenance or repair and the Association shall have the right to levy a Special Assessment against such Villa and Owners, which Special Assessment shall be a lien on the Villa and collectible in the same manner as any other assessment.

Insurance for Elements Maintained by the Association. The Association may, if it is available, maintain property and casualty insurance, including but not limited to, windstorm, in an amount equal to the then full replacement cost, exclusive of the land, foundation and other items normally excluded from such coverage, for all Structural Elements comprising the Villas for which the Association has maintenance responsibility. But expressly excluding the interior portions of the of the Villas which are the maintenance and insurance responsibility of the Owners. The insurance costs and expenses of the Association incurred in fulfillment of the Association's obligations herein shall be deemed Association Operating Expenses, i.e. Common Expenses.

Section 3. Enforcement of Maintenance. If the owner of a Villa fails to maintain it as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot and Villa, with or without consent of the owner. The Association may repair, replace, or maintain any item which constitutes an immediate hazard to other property or residents, or which has a material adverse effect on the appearance of the Neighborhood. Any expenses so incurred by the Association shall be assessed against the owner, together with reasonable attorney's fees and other expenses of enforcement.

Section 4. Negligence; Damage Caused by Condition in Villa. The owner of each Villa shall be liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees, but only to the extent that such expense is not met by proceeds of insurance. Each owner has a duty to maintain his Villa, and the personal property therein, in such a manner as to prevent

foreseeable and reasonably preventable damage to other Villas, the Common Areas or the property of other owners and residents. If any condition, defect or malfunction, resulting from the owner's failure to perform this duty causes damage to other Villas, the Common Areas, Association property or property within other Villas, the owner of the offending Villa shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Villas involved is not occupied at the time the damage is discovered, the Association may enter the Villa without prior notice to the owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the owner.

Section 5. Alterations and Additions. Funds necessary for material alterations or substantial additions to the Common Areas by the Association may be levied as special assessments by the association but only upon prior approval by a majority of the Board and a majority of the voting interests present and voting, at a meeting called for the purpose. Prior to the commencement of any such project relating to the Common Areas or to the buildings, the Association shall obtain the written approval of the Architectural Control Committee ("ARC"). However, if changes that are necessary to enable the Association to perform its legal duty to protect, insure, maintain, repair or replace the Properties also happen to constitute material alterations or substantial additions, no prior approval by the owners is necessary.

Section 6. Pest Control. The Association may elect to provide pest control services for the inside of each Villa, with the cost thereof being part of the common expenses. An owner has the option to decline such service unless the Association determines that such service is necessary for the protection of other Villas, in which case the owner must either permit the Association's pest control company to enter his Villa, or employ a licensed pest control company of his own selection to enter his Villa on a regular basis to perform pest control services and furnish written evidence thereof to the Association. The cost of pest control provided by the Association is a common expense, so the election of an owner not to use the service will not reduce the owner's assessments.

Section 7. Irrigation Systems. Irrigation is provided to all lots and common property as further defined and described under Article XVIII of the Restated Declaration of Covenants, Conditions and Restrictions for Herons Glen Country Club. All irrigation services will be provided by the Central Lot Irrigation Service. This Central Lot Irrigation Service hereinafter referred to as "CLIS" is the only permitted provider of irrigation water to parcels in Solana. To facilitate proper watering, residents are responsible for keeping sprinkler heads clear of grass, mulch, rock and other debris.

Section 8. Damage(s) incurred during a home inspection to a villa's roof tiles by an inspector will not become the responsibility of the Solana HOA to correct. If damage should occur to the roof tiles by the inspection it will be the sole responsibility of the inspector or the buyer to correct at their expense using Solana's roof contractor. It is highly suggested that only a visual inspection be performed of the roof tiles. This can be done with either a drone or by a visual observation from the ground or a ladder. A ceiling or attic inspection should determine if there are any existing roof leaks. If a roof tile issue is determined through the home

inspection an appointment will be made through the appropriate Solana board member to schedule an appointment with Solana's roof contractor.

Section 9. Any modification to the original structure of the roof (i.e., solar tubes, solar panels, attic vents, etc.) and/or roof tiles by a homeowner that results in damage to their roof or to a neighboring villa caused by those modifications shall be promptly repaired in a manner consistent with this Declaration at the expense of the owner who initiated the modification which resulted in the damage.

ARTICLE III. **INSURANCE OF VILLAS; RECONSTRUCTION AFTER CASUALTY**

Section 1. Duty to Insure and to Reconstruct. Each owner shall at all times maintain full replacement value property insurance on his Villa and covering all other insurable improvements on his Lot. If any Villa or other improvements located on any Lot is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane other casualty, the owner of such Villa or improvements shall cause repair or replacement to be commenced within sixty (60) days from the date that such damage or destruction occurred, and complete the repair or replacement within six (6) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition; shall utilize and conform with the original foundation and boundary of the original improvements; and shall be structurally compatible with any adjoining improvements which share a party wall as that term is defined in Section IV.1 below.

Section 2. Failure to Reconstruct. If the owner of any Lot fails to commence or complete construction, or repair or replace any damaged or destroyed improvements within the time periods provided above, the Association shall give written notice to the owner of his default. If after thirty (30) days the owner has not made satisfactory arrangements to meet his obligations, the Association shall be deemed to have been granted the right by the owner, as such owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this Section, which shall be in the sole discretion of the Board, the owner(s) of the Lot shall be deemed to have assigned to the Association any insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the owner of the Villa any costs not paid by insurance, and shall have a lien on the Lot and Villa to secure payment.

Section 3. Failure to Insure. Each unit owner shall be obligated to insure and produce a Certificate of Insurance evidencing that the proper insurance is in place. If an owner fails or refuses to maintain the insurance coverage required in this Article III, or if the owner allows the required insurance coverage to lapse, or for some other reason, causes the same to become ineffective, the Association may, but is not obligated to, purchase whatever coverage it deems reasonably necessary for the Association's benefit. The costs so incurred by the Association shall

become due and payable by the owner in all respects, together with interest, reasonable attorney's fees and costs of collection, immediately upon the Association notifying the owner in writing, that it has procured such insurance. The Association has the right from time to time to require each owner to produce proof of insurance. Association may, at its discretion, obtain insurance covering all exterior walls and villa roofs. If the Association obtains insurance to cover all exterior walls and villa roofs, each owner will still be required to insure walls in and interior coverage and liability.

Section 4. Association's Right of Entry. For the purpose of performing the duties authorized by this Article III, the Association, through its duly authorized agents and employees, shall have the right, after reasonable notice to the owner, to enter upon the Lot at reasonable hours.

ARTICLE IV. PARTY WALLS

Section 1. Definition. Any wall which is built as part of the original construction of any Villa subject to this Declaration and placed on the dividing line between adjoining Villas and Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article IV, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 2. Cost of Repairs. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the owners who share the wall.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who uses the wall may restore it, and if any other owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions. This paragraph shall be deemed to be in addition to, and not in lieu of or to the exclusion of, the repair obligations of the Association under Article IV (2) above.

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

Section 5. Contribution. The right of any owner to contribution from any other owner(s) under this Declaration shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Binding Arbitration. Any dispute concerning a party wall shall be submitted to arbitration under Chapter 682, Florida Statutes. Each party shall choose one arbitrator, and the arbitrators shall choose one additional arbitrator. The decisions of a majority of the arbitrators shall bind the parties.

ARTICLE V. ASSOCIATION INSURANCE

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

Section 1. Association Insurance; Duty and Authority to Obtain. The Board shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it may deem necessary. The premiums shall be a common expense. The name of the insured shall be the Association as agent for the owners without naming them, and they're mortgagees.

Section 2. Required Coverage. The Association shall maintain adequate liability insurance and casualty insurance covering all buildings and other insurable improvements (if any) for which the Association has maintenance, repair or replacement responsibility, with coverage equal to the maximum insurable replacement value thereof, as determined annually by the Board with such insurance to afford the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm) vandalism, and malicious mischief, and other hazards covered by what is commonly referred to as an "all risk" property contract.
- (B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board with cross liability endorsement to cover liabilities of the owners as a group to any single owner.
- (C) Automobile. Automobile liability for bodily injury and property damage for Association-owned motor vehicles, in such limits of protection and with such coverage as shall be required by the Board.
- (D) Fidelity Bonding. Adequate fidelity bond coverage for all individuals having control of or access to Association funds.

Section 3. Optional Coverage. The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Association and owners. Some common examples are:

- (A) Flood insurance.
- (B) Broad Form Comprehensive General Liability Endorsement.
- (C) Directors and Officers Liability.
- (D) Medical Payments.

Section 4. Description of Coverage. A detailed summary of the coverages included in the Association's policies shall be available for each owner upon request. All Association insurance policies shall be available for inspection by owners upon request.

Section 5. Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogate as to any claim against owners, the Association, or their respective servants, agents or guests, except for any claim based primarily upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

Section 6. Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, and all proceeds shall be payable to the Association.

Section 7. Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be used to defray the cost of repair or reconstruction. Any proceeds remaining after defraying costs shall become part of the Association's common surplus.

Section 8. Association as Agent. The Association is hereby irrevocably appointed agent for each owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Villas.

ARTICLE VI. EASEMENTS

Section 1. Easements Reserved in Common Area. The Association hereby reserves unto itself, its successors and assigns, whether or not expressed in the deed thereto, the right to grant easements over any of the Common Area, Lots, or any of the Properties for the installation, maintenance, replacement and repair of drainage, water, sewer, electric and other utility lines and facilities, provided such easements benefit land which is or will become part of the Properties and do not interfere with the Villas thereon. The Association shall further have the right, but without obligation, to install drainage, as well as water, sewer and other utility lines and facilities in, on, under and over the Common Area, provided such lines and facilities benefit land, which is or will be within the Properties and provided that any easement so created will not unreasonably interfere with owners use and enjoyment of their Villa. There is also hereby reserved for the Master Association and the Association, and their grantees, successors, legal representatives and assigns, an easement for ingress and egress to, over and across the Properties for the purpose of exercising their rights and obligations under this Declaration. Any incidental damage caused to walkways or driveways resulting from use, maintenance, repair or replacement of lines, facilities or improvements lying within the easement shall be repaired and restored at the sole cost and expense of the party to whom the easement is granted or reserved.

Section 2. Easement for Lateral and Subjacent Support. There shall be an appurtenant easement between lands adjacent to the other side of a structure's wall for lateral and subjacent support and for encroachments caused by placement, settling and shifting of any such walls as constructed or reconstructed.

Section 3. Easement for Maintenance of Boundary Walls. There is hereby reserved to the Master Association and the Association, their agents and contractors a non-exclusive perpetual easement as to all land adjacent to streets within the Properties or the Lots or streets bounding the perimeter thereof to the extent reasonably necessary to discharge the duties of boundary wall maintenance, if any, under this Declaration or the Master Declaration. Such right of entry shall be exercised in a peaceful and reasonable manner at reasonable times upon reasonable notice whenever the circumstances permit. There are reserved and established reciprocal appurtenant easements between the lands adjacent to either side of a boundary wall for lateral and subjacent support, and for encroachments caused by the settling and shifting of any such walls as constructed, repaired or reconstructed.

Section 4. Easements Established and Reserved for Utilities and Drainage.

(a) There is hereby established and reserved perpetual easements for the installation and maintenance of utilities and drainage areas in favor of the Association, the Master Association and Lee County in and to all utility easement and drainage easement areas shown on the Plat (which easements shall include, without limitation, the right of reasonable access over Lots to and from the easements areas), and Association, Master Association and Lee County each shall have the right to convey such easements on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Within easement areas, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with access to or the installation of the use and maintenance of the easement areas or any utilities or drainage facilities, or which may change the direction of flow or obstruct or retard the flow of drainage water in any easement areas, or which may reduce the size of any water retention areas constructed in such easement areas. The easement areas of each Lot, whether as reserved hereunder or as shown on the Plat, and all improvements in such easement areas shall be maintained continuously by the Owner of the Lot upon which such easement exists, except for those improvements for which a public authority or utility company is responsible.

(b) No permanent improvements or structures, which obstruct the drainage flow shall be placed or erected upon the Drainage Easements described on the Plat. In addition, driveways, pools and decks, patios, air conditioners, any impervious surface improvements, sprinkler systems, trees, shrubs, hedges, plants or any other landscaping element other than sod shall not be placed or erected upon or within such Drainage Easements without Association approval. Any structures or improvements placed in the easements shall be at the risk of the Owner.

(c) There is reserved for the Master Association and for the Association an easement ten (10) feet wide running along the rear and side lot line, as the case may be, of any Lot which is parallel to and adjacent to any roads and streets for the purpose of construction of name monuments for the Properties. Once such monuments, have been erected, the Master Association or the Association, as the case may be, shall have the obligation, at the Master Associations or Association's expense, which shall be a Common Expense, to

maintain, repair and replace such wall or fence and monuments in a neat and aesthetic condition.

(d) Association and Owners consent hereby to an easement for utilities, including but not limited to telephone, gas, water and electricity, sanitary sewer service, and irrigation and drainage in favor of all lands which abut the Properties, their present Owners and their successors and assigns. The easement set forth in this Paragraph shall include the right to "tie in", join and attach to the existing utilities, sanitary sewer service, irrigation and drainage in the Properties so as to provide access to these services to said abutting lands directly from the Properties.

(e) The Board of Directors shall have the right to create new easements for pedestrian and vehicular traffic and utility services across and through the Properties; provided, however, that the creation thereof does not adversely affect the use of any Lot.

(f) The creation of new easements as provided for in this Section shall not unreasonably interfere with ingress to and egress from a Lot or residence thereon.

(g) In the event that any structure or improvement on any Lot shall encroach upon any of the Common Areas or upon any other Lot for any reason other than the intentional or negligent act of the Owner, or in the event any Common Area shall encroach upon any Lot, then an easement shall exist to the extent of such encroachment for so long as the encroachment shall exist.

(h) If ingress and egress to any Villa is through the Common Area, any conveyance or encumbrance of the Common Area is subject to the Owner's easement for ingress, egress and utilities.

Section 5. Reciprocal Easements for Villas. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area adjacent thereto, or between adjacent Lots, or both, for the maintenance, repair and reconstruction of any walls or buildings or other improvements; for lateral and subjacent support; for roofs and eaves and for maintenance, repairs and replacements thereof for encroachments caused by the placement, settling, and shifting of any such walls including party walls or improvements as constructed by Declarant or the Association, or reconstructed in accordance with this Declaration; and for access to maintenance and repair of utility facilities serving more than one Lot. Without limiting the generality of the foregoing, in the event an electrical meter, electrical apparatus, CATV cable or other utilities apparatus is installed within a Lot and serves more than such Lot, the Owners of the other Lot(s) served thereby shall have an easement for access to inspection and repair of such apparatus, provided that such easement rights shall be exercised in a reasonable manner and the Owner of the Lot encumbered by the easement shall be reimbursed for any significant physical damage to his Lot as a result of such exercise by the Owner(s) making use of such easement(s).

Further, without limiting the generality of the foregoing, it is intended that the easement for encroachments provided herein shall include the encroachment of any Villa, including without limitation roofs and eaves, upon an adjacent Lot, where the original placement of any

wall including party wall is intended to be but is not located on the boundary between two Lots, or where roofs and/or eaves are extended and extend over the adjacent Lot(s). As to any such encroachment, the easement granted hereunder shall survive damage or destruction of the Villa or part thereof causing the encroachment, so that such Villa may be reconstructed as originally constructed, regardless of the encroachment, and the Owner of the encroaching Villa shall have an easement upon the adjacent Lot(s) as reasonably necessary for reconstruction or repair of the encroaching Villa. To the extent not inconsistent with the terms of this Declaration, the applicable case law of the State of Florida shall apply to the foregoing easements. The extent of said easements for lateral and subjacent support and for overhangs shall be that reasonably necessary to effectuate the purposes thereof, and said easements of encroachment shall extend to a distance of not more than five (5) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point. Notwithstanding the foregoing, in no event shall there be any easement for overhangs or encroachments if the same is caused by willful misconduct on the part of an Owner, tenant or the Association.

ARTICLE VII.
SURFACE WATER MANAGEMENT SYSTEM.
WETLAND AND WILD LIFE HABITAT

Section 1. Surface Water Management Systems ("SWMS"), Lakes and Wet Retention Ponds. The Master Association shall be responsible for maintenance of SWMS, ditches, canals, lakes, and water retention ponds in the Properties. All SWMS within the Properties which are accepted by or constructed by the Master Association, excluding those areas (if any) normally maintained by Lee County or another governmental agency, will be the ultimate responsibility of the Master Association, whose agents, employees, contractors and subcontractors may enter any portion of the Common Areas and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management.

(a) Other than those activities permitted by governmental authority, no construction activities may be conducted relative to any portion of the SWMS. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the SWMS. To the extent there exists within the Properties a wetland mitigation area or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the South Florida Water Management District ("District"). Construction and maintenance activities, which are consistent with the design and permit conditions approved by the District, may be conducted without specific written approval from the District.

(b) No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair, or landscaping purposes by the Master Association, the Association, or any appropriate governmental agency that may

reasonably require access. Nonexclusive easements therefore are hereby specifically reserved and created.

(c) No Lot, Parcel or Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas, which it abuts. No person shall fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of the Association. No person other than the Association may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(d) All SWMS and conservation areas, excluding those areas (if any) maintained by Lee County or another governmental agency, will be the ultimate responsibility of the Master Association. The Master Association may enter any Lot, Parcel or Common Area and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper SWMS. The cost shall be a Common Expense. NO PERSON MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

(e) Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter any SWMS or conservation areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including South Florida Water Management District, the Association and the Declarant, its successors and assigns.

LOTS MAY CONTAIN OR ABUT CONSERVATION AREAS WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING, WITHOUT LIMITATION, MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. THE MASTER ASSOCIATION IS RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY SFWMD, WHICH MAINTENANCE SHALL BE PERFORMED TO THE GREATEST DEGREE LAWFUL BY THE MASTER ASSOCIATION.

(f) The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, to the Master Association to compel it to correct any outstanding problems with the SWMS.

(g) Any amendment of the Declaration affecting the SWMS or the operation and maintenance of the SWMS shall have the prior written approval of the District.

(h) If the Master Association shall cease to exist, all Lot Owners, shall be jointly and severally responsible for the operation and maintenance of the SWMS in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility.

(i) No owner of property within the subdivision may construct or maintain any building, residence or structure, or undertake or perform any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the District Regulation Department.

Section 2. Proviso. Notwithstanding any other provision in this Declaration, no amendment of the governing documents by any person, and no termination or amendment of this Declaration, will be effective to change the Master Association's responsibilities for the SWMS or any conservation areas, unless the amendment has been consented to in writing by the District. Any proposed amendment which would affect the SWMS or any conservation areas must be submitted to the District for a determination of whether the amendment necessitates a modification of the surface water management permit. If the Master Association ceases to exist, all the Owners, shall be jointly and severally responsible for operation and maintenance of the SWMS facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility. The District shall have the right to take enforcement measures, including a civil action for injunction and/or to compel the correction of any outstanding problems with the SWMS facilities.

Section 3. Provision for Budget Expense. In the event the Properties have on site wetland mitigation as defined in the regulations which requires monitoring and maintenance, the Master Association shall include in its budget an appropriate allocation of funds for monitoring and maintenance of the wetland mitigation area(s) each year.

Section 4. Wetland Conservation Area. Some Lots may abut or contain Wetland Conservation Areas, which are protected under the Lee County Land Development Code. The Wetland Conservation Areas must be permanently retained in a natural state, and may not be altered from their present state, except as may be specifically authorized in writing by Lee County. Unless authorized in writing by Lee County, and unless specifically conforming to the Management Plan developed and adopted by Lee County:

(a) No structures or construction of any kind may be erected.

(b) No filling, excavation, dredging, prop-dredging, grading, paving, clearing, timbering, ditching, draining, contamination, or other development shall be permitted.

(c) No activity may be done or performed which would adversely affect or impair (i) endangered or threatened species of special concern as to nesting, reproduction, food source, habitat or cover or affect the vegetation itself; (ii) available habitat for fish and aquatic life or result in emigration from adjacent or associated ecosystems and macro habitats; (iii) existing biosystems or ecosystems; or (iv) recovery of an impaired system.

(d) No organic or inorganic matter or deleterious substances or chemical compounds may be discharged or placed in the Wetland Conservation Areas.

Section 5. Non-Liability for Fluctuation of Water Levels. Neither the Declarant, the Association the Master Association, nor any officer, director, employee or agent of such entities or persons shall have any liability for aesthetic conditions, damage to lateral plantings or direct or consequential damages of any nature or kind caused by the fluctuation of water levels.

Section 6. The SWMS facilities are located on land that is designated common property on the plat, are located on land that is owned by the Master Association, or is located on land that is subject to an easement in favor of the Association and its successors.

ARTICLE VIII. PROPERTY RIGHTS OF OWNER

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association from time to time in accordance with its Bylaws to establish, modify, amend and rescind reasonable rules and regulations regarding use of the Common Area;

(b) The right of the Association to charge reasonable admission and other fees for use of any facilities situated upon the Common Area;

(c) The right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any regular annual assessment levied under this Declaration against his Lot remains unpaid for a period in excess of ninety (90) days, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by its Articles;

(e) The right of the Association to grant easements as to the Common Arca or any part thereof as provided by its Articles; and,

(f) The right of the Association to otherwise deal with the Common Area as provided by its Articles.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers provided the foregoing actually reside at the Owner's Lot.

ARTICLE IX. MEMBERSHIP AND VOTING RIGHTS

Section 1. Voting Rights. Every Owner of a Lot, which is subject to assessment shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, Bylaws, Rules and Regulations, and this Declaration. The foregoing does not include persons or entities, which hold a leasehold interest or an interest merely as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. When, two or more persons or other legal entity owns any Lot of record, all such persons or entities shall be members. An Owner of more than one Lot shall be entitled to one membership for each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot, which is subject to assessment, and it shall be automatically transferred by conveyance of that Lot.

Section 2. Membership Classifications. The Association shall have one class of voting membership. All votes shall be cast in the manner provided in the Bylaws. The membership, and voting rights related thereto, are as follows:

(a) Members shall be all Owners of Lots subject to assessment. When more than one person or entity holds an interest in any Lot, the vote for such Lot shall be exercised as such persons determine, but in no event shall more than one vote be cast with respect to such Lot or Uni, nor shall any split vote be permitted with respect to such Lot.

ARTICLE X. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area, and shall keep the same in good, clean and proper condition, order and repair. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area, and performance of its other obligations hereunder. One purpose of the Association shall be to operate, maintain and repair the lawns on Lots including regularly scheduled mowing, weeding, edging, fertilization, herbicide and pesticide applications, periodic trimming of hedges/shrubbery, replacement of original installations, all subject to Board discretion, and annual mulch replacement as needed, but excluding: owner installed lawn, landscaping or other items unless approved by the Design Review Board; exterior repainting of Villas; and roof

shingle replacement. The Board may elect to undertake such additional maintenance obligations, as it deems appropriate from time to time.

Section 2. Manager. The Association may obtain, employ and pay for the services of an entity or person, hereinafter called the "Manager", to assist in managing its affairs and carrying out its responsibilities hereunder to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are furnished or employed directly by the Association or by the Manager. Any management agreement must be terminable for cause upon thirty (30) days notice, be for a term not to exceed three (3) years, and be renewable only upon mutual consent of the parties.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Association's Articles or Bylaws.

Section 4. Insurance. The Association at all times shall procure and maintain adequate policies of public liability insurance, as well as other insurance that it deems advisable or necessary. The Association additionally shall cause all persons responsible for collecting and disbursing Association moneys to be insured or bonded with adequate fidelity insurance or bonds. The Lot Owner shall be obligated to procure and maintain fire, windstorm and all hazard insurance on the Villa and for the personal property of the Lot Owner and public liability insurance. The Lot Owner shall be obligated to file with the Association, certificates of insurance evidencing the insurance required. The association may obtain a master insurance property and casualty for roofs and exterior for villas. If the Association obtains insurance to cover all exterior walls and villa roofs, each owner will still be required to obtain walls in and interior coverage and liability.

Section 5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, its Articles or Bylaws, or by law and every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privileges granted herein or therein.

Section 6. Common Expense. The expenses and costs incurred by the Association in performing the rights, duties, and obligations set forth in this Article, are hereby declared to be Common Expenses and shall be paid by members. All expenses of the Association in performing its duties and obligations or in exercising any right or power it has under this Declaration, the Articles of Incorporation or the Bylaws are deemed to be and are hereby Common Expenses. Common Expenses shall be borne by members.

Section 7. Suspension of Use Rights: Law of Fines. The Association may suspend for a reasonable period of time the rights of an Owner or an Owner's tenants, guests, or invitees, or both, to use the Common Areas and facilities and may levy reasonable fines, not to exceed

One Hundred and no/100 Dollars (\$100.00) per violation per day for each day of a continuing violation which amount shall not exceed One Thousand and no/100 Dollars (\$1,000.00) in the aggregate, against any Owner or any tenant, guest or invitee for failure to comply with the provisions of this Declaration, the Articles, Bylaws or rules and regulations promulgated by the Association.

Section 8. Litigation. This prohibition and/or limitation shall not be construed, however, to preclude the Association from responding to a counterclaim, cross claim or third party complaint where the Association has been brought as a party in such litigation nor shall it be interpreted to preclude an action on behalf of the Association against a member, other than the Declarant, or occupant, other than the Declarant, to enforce the terms and conditions of the Declaration of Covenants, Conditions and Restrictions.

ARTICLE XI . COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Owner of any Lot by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges and charges for Common Expenses; and (2) special assessments or charges against a particular Lot as may be provided by the terms of this Declaration. Such assessments and charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a lien upon the property against which such assessment is made. Each such assessment or charge, together with interest, late fees, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The Board shall be empowered to collect the annual assessment in quarterly installments in which case the annual assessment shall be paid in quarterly installments as set by the Board.

Additionally, there shall be a one-time initial contribution fee of \$300.00, which shall be paid by each Owner at the time of closing of title for the purchase of their Lot, and such payment shall be paid to the Association to fund its operations account. This fee may be adjusted in the future and will be at the discretion of the board.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties, and for the improvement and maintenance of the Common Area and of the Lots and Villas as provided herein, and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles and the Bylaws. Without limiting the generality of the foregoing, such funds may be used for the acquisition, improvement and maintenance of Properties, services and facilities related to the use and enjoyment of the Common Area, including the costs of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes and assessments made or levied against the Common Area, if any; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when

necessary or useful; the maintenance, landscaping and beautification of the Common Area and such public lands as may be designated by the Association; the maintenance, repair and replacement of monument signs required or permitted to be maintained by the Association; the employment of security personnel to provide services which are not readily available from any governmental authority; and such other needs as may arise, and the maintenance and repair obligations set forth herein to be performed on the Lots and the Villas.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the majority of the votes of members, voting in person or by proxy at a meeting duly called for this purpose or by electronic means.

Section 4. Notice of Meeting and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any vote called for the purpose of taking any action authorized under Section 3 and 4 of this Article shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the vote. At such meeting, the vote of members entitled to cast thirty (30%) percent of all the votes shall constitute a quorum.

Section 5. Exemption from Assessments. The assessments, charges and liens provided for or created by this Article VIII shall not apply to the Common Area or any other Homeowner's Association, any property dedicated to and accepted for maintenance by a public or governmental authority or agency, any property owned by a public or private utility company or public or governmental body or agency, and any property owned by a charitable or non-profit organization except for Lots.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The Board of Directors shall fix the amount of the annual assessment for Common Expenses against each Lot not later than December 15 of each calendar year for the following calendar year. Written notice or electronic means of the annual assessment for Common Expenses shall be sent to every Owner subject hereto at least fourteen (14) days in advance of the due date, January 1 of the following year. Unless otherwise established by the Board of Directors, annual assessments for Common Expenses shall be collected on an annual basis. The due date for special assessments shall be as established by the Board of Directors.

Section 7. Lien for Assessments. All sums assessed to any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorney's fees, shall be secured by a continuing lien on such Lot in favor of the Association.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within five (5) days after the due date shall be subject to a late fee of \$25.00 and shall bear interest from the date of delinquency at the maximum rate allowed by law. The

Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or abandonment of his Lot.

Section 9. Foreclosure. The lien for sums assessed pursuant to this Declaration may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Florida. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorney's fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the Owner's title is divested by foreclosure, The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the owner thereof.

Section 10. Homestead. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Lot shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provisions of Florida law, if for any reason such are applicable. This Section is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration, but to be construed in its favor.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by an Institutional Lender, but if such Lender takes title to the parcel by deed in lieu or by purchase at the foreclosure sale, such Lender shall be obligated to the Association for the lesser of one percent (1%) of its mortgage or one year's annual assessment. No sale or transfer shall relieve such Lot or Lot owner from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall comply with the statutory requirements for providing estoppel letters requested by Owners and Mortgagees, and their designees.

Section 12. Special Assessment for Maintenance Obligations of Owners. In the event an Owner shall fail to perform any maintenance, repair or replacement, or fails to obtain approval from the Design Review Board for any revision, change addition, improvement, or any modification of the exterior appearance of any improvement as required under the terms of this Declaration, the Association, upon ten (10) days prior written notice sent certified or registered mail, return receipt requested, or hand delivered, may enter upon such Lot and have such work performed, or correct the violation. The cost thereof, including attorneys fees incurred, with or without trial, shall be specially assessed against such Lot, which assessment shall be secured by the lien set forth in Section 8 of this Article VIII.

Section 13. Special Assessment for Unexpected and Unbudgeted Matters. In addition to the Annual Assessments, the Board may levy a special Assessment for defraying in whole or

in part Common Expenses not met or expected to be met by Annual Assessments.

ARTICLE XII. USE RESTRICTIONS

Section 1. Residential Use. All of the Subdivision shall be known, used and described as residential property and no more than one Villa unit may be constructed on any Lot, except that more than one Lot may be used for one Villa, in which event, all Restrictions and assessments shall apply to such Lots as if they were a single Lot, subject to the easements indicated on the Plat and the easement reserved in Section 4 of this Article. For purposes of this Declaration the term "Residential Use" means occupancy by no more than 2 persons per bedroom, except for short-term occupancy by owners' family and guests pursuant to rules established by the Board.

Section 2. Structures. No residence or structures, of any kind, shall be erected nearer than permitted by the setback lines shown on the Plat. Above ground swimming pools are prohibited.

Section 3. Villa. No Villa shall have a floor square foot area of less than Eleven hundred (1,100) square feet, exclusive of screened area, open porches, terraces, patios and garages. All Villas shall have at least one (1) inside bath. A "bath", for the purposes of this Declaration, shall be deemed to be a room containing at least one (1) shower or tub, and a toilet and wash basin. All Villas shall have at least a two (2) car garage attached to and made part of the Villa. Each Villa will have a driveway which will accommodate parking for two (2) vehicles. All Villas shall be constructed with concrete driveways and grassed front, side and rear lawns.

Section 4. Use of Accessory Structures. Other than the Villa and its attached garage, no tent, shack, barn, utility shed or building of any kind shall, at any time, be erected and used on any Lot temporarily or permanently, whether as a residence or for any other purpose. No recreation vehicle may be used as a residence or for any other purpose on any of the Lots in the Properties.

Section 5. Commercial Uses and Nuisances. No trade, business, profession or other type of commercial activity shall be carried on upon any Lot, except as hereinafter provided for Declarant and except that real estate brokers, Owners and their agents may show Villas for sale or lease; nor shall anything be done on any Lot which may become a nuisance, or an unreasonable annoyance to the neighborhood. The Board may, by Rule, adopt specific restrictions designed or intended to further protect the owners and guests from potential nuisances. Such restrictions may include, but are not limited to, such things as Rules applicable to use of drones; Rules for size, type and handling of garbage and waste materials; rental/leasing terms and restrictions.

Section 6. Animals and Pets. No Owner or resident shall not keep, raise or breed any pet or other animal, livestock or poultry upon any portion of the Property. Permitted pets are limited to a maximum of two (2) and shall only be kept subject to and in accordance with such

rules and regulations as shall be promulgated from time to time by the Association. However, under no circumstances will any dog whose breed is noted for its viciousness or ill-temper, in particular, the "Pit Bull" (as hereinafter defined), Presa Canario, or any crossbreeds of such breeds, be permitted on any portion of the Property. A "Pit Bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying a majority of the physical traits of any one (1) or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. No exotic pet or any animal of any kind which has venom or poisonous defense or capture mechanisms, or if let loose would constitute vermin, shall be allowed on any portions of the Property. Trained seeing-eye dogs will be permitted for those persons holding certificates of blindness and necessity. Other animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. The guide or assistance animal will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the Property and the animal shall wear and be controlled by a harness or orange-colored leash and collar. Pets may not be kept, bred or maintained for any commercial purpose. Any pet must be temporarily caged, carried or kept on a leash when outside of a Home. No pet shall be kept outside a Home or on any lanai, unless someone is present in the Home. An Owner shall immediately pick up and remove any solid animal waste deposited by his or her pet. The Owner shall compensate any person hurt or bitten by his or her pet and shall indemnify the Association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal within the Property. If a dog or any other animal becomes obnoxious to other Owners by excessive barking, aggressive behavior or otherwise, the Owner thereof must cause the problem to be corrected; or, if it is not corrected, the Owner, upon written notice by the Association, will be required to permanently remove the animal from the Property. The Association will promulgate rules and regulations from time to time designating other rules as necessary to regulate pets.

Section 7. Fences, Walls, and Hedges. Except as to fences, walls or hedges originally constructed or planted by Declarant, if any, no fences, walls or hedges of any nature may be erected, constructed or maintained upon any Lot. Provided, further, that no perimeter fences, walls or hedges along property lines shall be allowed, and that no fence, wall or hedge shall be erected or permitted on a Lot in any location thereon where Declarant has erected a privacy fence or monument as provided in Subsection 4 (c) of Article III. Notwithstanding anything set forth herein, no fencing shall be permitted on a Lot.

Section 8. Vehicles. The parking or storage of automobiles except in designated areas of the Properties is prohibited without express prior written permission of the Association. Vehicles are to be parked in the garage. In the event all vehicles cannot be parked in the garage, then such vehicles(s) must be parked in the driveway of the Lot. The overnight parking of vehicles of any kind in the Common Area is prohibited except in areas designated as parking areas by the Association; provided, however the overnight parking of any of the following

vehicles is prohibited upon any areas of the Properties: trucks or vans used for commercial purposes or bearing commercial signs or markings, mobile homes, trailers, boats, boat trailers, truck campers and any trucks or vans weighing more than 3/4 ton unless parked fully within a closed garage.

No inoperable vehicle may be parked on the Common Area, or streets, or roads in the Neighborhood, or on the Property, including, without limitation, designated parking areas. The Board may appoint a committee of a minimum of two (2) Members to police the Common Area and the property. The committee shall make inquiries to attempt to determine the ownership of any inoperable vehicle, and present a written report to the Board. The Board, in its sole discretion, shall determine if a vehicle is inoperable in the event one of the following conditions occur: (i) the vehicle does not have a current license tag from the Florida Department of Motor Vehicles or the proper licensing authority of one of the other United States or a foreign country; or (ii) the vehicle has not been moved for a period of at least seven (7) days. In the event the Board determines a vehicle is inoperable, and it has been able to determine ownership of the vehicle, the Board shall deliver a notice to such owner giving the owner seven (7) days to register the vehicle with the proper licensing authority or to remove the vehicle from the Common Area and the Property. In the event the Board is unable to determine the ownership of the vehicle, it shall place such notice on the windshield of such vehicle. In the event the owner of the inoperable vehicle fails to correct the situation within such 7 day period, the Board may have such vehicle towed away. The cost of towing, storage, any impound fees, and all costs and expenses incurred by the Association in connection with such vehicle shall be the sole cost of the owner of the vehicle. All sums so incurred by the Association, together with interest and all costs and expenses of collection, shall be secured by a continuing lien on such Owner's Lot in favor of the Association.

Section 9. Storage. No Lot shall be used for the storage of rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers properly concealed from public view.

Section 10. Clothes Hanging and Drying. Clothes hanging and drying outside of any Unit is prohibited.

Section 11. Antennas and Roof Structures. No television, radio, or other electronic towers, aerials, antennas, satellite dishes or devices of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except those specifically permitted pursuant to Chapter 720, Florida Statutes. The Association shall be empowered to adopt rules governing the types of antennas that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennas. No structures are permitted to be added to a roof.

Antennas shall be installed in compliance with all state and local laws and regulations, including zoning, land use, and building regulations.

Section 12. Window Treatments. No newspaper, aluminum foil, reflective film, nor any other material, other than usual and customary window treatments which comply with Design Review Guidelines, shall be placed over the windows of any Villa.

Section 13. Signs. No sign, billboard or advertising of any kind shall be displayed to public view on any of the Properties without the prior written approval of the Design Review Board. Any such request submitted to the Design Review Board shall be made in writing, accompanied by a drawing or plan for one (1) discreet professionally prepared sign not to exceed twenty four (24) inches in width and eighteen (18) inches in height, to be attached to a 2 x 4 no higher than three (3) feet from the ground. Such sign shall contain no other wording than "For Sale" or "For Rent", the name, address and telephone number of one (1) registered real estate broker, or a telephone number of an Owner or his agent. In no event shall more than one (1) sign ever be placed on any Lot. A standard real estate broker sign substantially meeting these requirements may be placed on the Lot without Design Review Board approval. Except as herein above provided, no signs or advertising materials displaying the names or otherwise advertising the identity of contractors, subcontractors, real estate brokers or the like employed in connection with the construction, installation, alteration or other improvement upon or the sale or leasing of the Properties shall be permitted. Banners are considered signs.

Section 14. Prohibition of Certain Activities. No damage to, or waste of, the Common Area or any part thereof, shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive or offensive activity shall be permitted on or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, or place or erect any improvement or structure of any kind on the Common Area without the prior written approval of the Board of Directors.

Section 15. Rules and Regulations. No Owner or other permitted user shall violate the reasonable Rules and Regulations for the use of the Common Area and Lots, as the same are from time to time adopted by the Board.

Section 16. Flags and Flagpoles. Owners may display only one removable and portable United States flag, or other flag permitted by Florida Statutes, on the Owner's Lot, provided the flag is displayed in a respectful way and subject to reasonable standards for size, placement, and safety, as adopted by the Association, if consistent with Title 36 U.S.C. Chapter 10, Florida Statute 720.304 and any local ordinances.

Section 17. Above Ground Tanks. The placement or maintaining on a Lot of any and all kinds of above ground fuel tanks are strictly prohibited. This prohibition shall exclude small, portable attachable tanks for gas grills. In-ground tanks may be installed on a Lot provided the tank is permitted by local, state or federal regulations and is installed and maintained in accordance with such regulations. A permit for such in ground tank must be received from the Committee. The Design Review Committee may establish rules and regulations for the installation and maintenance of in-ground tanks.

ARTICLE XIII. ARCHITECTURAL CONTROL

Section 1. Members of Committee. The Design Review Board shall consist of three (3) members. Members of the Design Review Board shall be appointed by the Board of Directors and shall hold office until such person has resigned or has been removed or a successor has been appointed, as provided herein. Members of the Design Review Board may be removed at any time with or without cause. The Board of Directors shall have the right to appoint and remove all members of the Design Review Board.

Section 2. Purpose and Function of Design Review Board. The purpose and function of the Design Review Board shall be to (a) create, establish, develop, foster, maintain, preserve and protect within Solana at Herons Glen a unique, pleasant, attractive and harmonious physical environment grounded in and based upon a uniform plan of development and construction with consistent architectural and landscape standards, and (b) review, approve and control the design of any and all buildings, structures, signs and other improvements of any kind, nature or description, including landscaping, to be constructed or installed upon all Properties and all Common Area within Solana at Herons Glen. Neither the Association nor the Design Review Board, or any of its members, shall have any liability or obligation to any person or party whomsoever or whatsoever to check every detail of any plans and specifications or other materials submitted to and approved by it or to inspect any Improvements constructed upon Properties or Common Area or to assure compliance with any plans and specifications approved by it or to assure compliance with the provisions of the Design Review Manual, if any, for Solana at Herons Glen, governmental permits or codes, or this Declaration.

Section 3. All Improvements Subject to Approval. No buildings, structures, walls, fences, pools, patios, paving, driveways, sidewalks, signs, landscaping, planting, irrigation, landscape device, banners, decorations, yard art or object, or other improvements of any kind, nature or description, whether purely decorative, functional or otherwise, shall be commenced, constructed, erected, made, placed, installed or maintained upon any of the Properties or Common Area, nor shall any change or addition to or alteration or remodeling of the exterior of any previously approved buildings, structures, or other Improvements of any kind, including, without limitation, the painting of the same (other than painting, with the same color and type of paint which previously existed) shall be made or undertaken upon any Properties or Common Area except in compliance and conformance with and pursuant to plans and specifications therefore which shall first have been submitted to and reviewed and approved in writing by the Design Review Board.

Section 4. Standards for Review and Approval. Any review and approval or disapproval of the Design Review Board shall take into account the objects and purposes of this Declaration and the purposes and function of the Design Review Board. Such review ~~by~~ and approval of the Design Review Board shall also take into account and include the type, kind, nature, design, style, shape, size, height, width, length, scale, color, quality, quantity, texture and materials of the proposed building, structure or other Improvement under review, both in its entirety and as to its individual or component parts, in relation to its compatibility and harmony

with other, contiguous, adjacent and nearby structures and other Improvements and in relation to the topography and other physical characteristics of its proposed location and in relation to the character of the Solana at Herons Glen community in general. The Design Review Board shall have the right to refuse approval of an application or design, placement, construction, erection or installation of any Improvement on Properties or Common Area which, in its sole and absolute discretion, based on aesthetic or any other grounds, it deems to be unsuitable, unacceptable or inappropriate for Solana at Herons Glen.

Section 5. Design Standards and Design Review Manual for Solana at Herons Glen. The Design Review Board may develop, adopt, and make available to all Owners and others who may be interested, at a reasonable charge, and may from time to time, modify and amend, a manual setting forth detailed architectural and landscape design standards, specifications and criteria to be used by the Design Review Board as a guide or standard for determining compliance with this Declaration and the acceptability of those components of development, construction and improvement of any Properties or Common Area requiring review and approval by the Design Review Board. Any such single Design Review Manual or separate Architectural Design Standards Manual and separate Landscape Design Standards Manual may include a detailed interpretation or explanation of acceptable standards, specifications and criteria for a number of typical design elements, including, without limitation, site planning, architectural design, building materials, building construction, landscaping, irrigation, and such other design elements as the Design Review Board shall, in its discretion, determine. Such Design Review Manual, if created shall be used by the Design Review Board and other affected persons only as a guide and shall not be binding upon the Design Review Board in connection with the exercise of its review and approval functions.

Section 6. Procedure for Design Review. The Design Review Board may develop and shall make available to all Owners, reasonable and practical rules and regulations governing the submission of plans and specifications to the Design Review Board for its review and approval. Unless such rules and regulations are complied with in connection with the submission of plans and specifications requiring review and approval by the Design Review Board, plans and specifications shall not be deemed to have been submitted to the Design Review Board. Additionally, the Association Board shall be entitled, in its discretion, to charge and assess a reasonable fee in connection with these reviews, and the approval of plans and specifications pursuant to this Article, taking into consideration actual costs and expenses incurred during the review process, including the fees of professional consultants, as well as taking into account the costs and expenses associated with the development, formulation and publication of any Design Review Manual adopted by the Design Review Board pursuant to this Declaration. The initial Design Review Fee shall be Fifty Dollars (\$50.00). However, such Design Review Fee may be increased or decreased by the Association Board from time to time.

Section 7. Time Limitation on Review. The Design Review Board shall either approve or disapprove any plans, specifications or other materials submitted to it within thirty (30) days after the same have been duly submitted in full accordance with any rules and regulations regarding such submission. The failure of the Design Review Board to either approve

or disapprove the same within such period shall be deemed to constitute an approval of such plans, specifications and other materials; subject, however, at all times to the covenants, conditions, restrictions and other requirements contained in this Declaration and also subject to the provisions of the Design Review Manual.

Section 8. Duration of Approval. Any approval of plans, specifications and other materials, whether by the Design Review Board or the Board of Directors of the Association following appeal, shall be effective for a period of one (1) year from the effective date of such approval. If construction or installation of the building, structure or other Improvement for which plans, specifications and other materials have been approved, has not commenced within said one (1) year period, such approval shall expire, and no construction shall thereafter commence without a resubmission and approval of the plans, specifications and other materials previously approved. The prior approval shall not be binding upon the Design Review Board on resubmission in any respect.

Section 9. Inspection of Construction. Any member of the Design Review Board or any officer, director, employee or agent of the Association may, but shall not be obligated to, at any reasonable time, enter upon, without being deemed guilty of trespass, any Properties or Common Area and any building, structure or other Improvement located thereon, in order to inspect any building, structure or other Improvement constructed, erected or installed or then being constructed, erected or installed thereon in order to determine whether any such building, structure or other Improvement has been or is being constructed, erected, made, placed or installed in compliance with this Declaration and the plans, specifications and other materials approved by the Design Review Board.

Section 10. Evidence of Compliance. Upon a request from, and at the expense of, any Owner upon whose Lot the construction, erection, placement or installation of any building, structure or other Improvement has been completed or is in the process, the Design Review Board shall cause an inspection of such Lot and the Improvements then located thereon to be undertaken within thirty (30) days, and if such inspection reveals that the buildings, structures or other Improvements located on such Lot are in compliance with plans, specifications and other materials approved by the Design Review Board, the Design Review Board shall advise the Association, as to the compliance or non-compliance of the subject work. Then, upon the payment by the requesting Owner of a reasonable fee approximating the actual costs associated with such inspection and the preparation of such notice, the Association shall provide to such Owner a written statement of such compliance in recordable form. Such written statement of compliance shall be conclusive evidence of compliance of the inspected Improvements with the provisions of this Article as of the date of such inspection.

Section 11. Interior Alterations Exempt. Nothing contained in this Article shall be construed so as to require the submission to or approval of the Design Review Board of any plans, specifications or other materials for the reconstruction or alteration of the interior of any building, structure or other Improvement constructed on Properties or Common Area after having been previously approved by the Design Review Board, unless any proposed interior

construction or alteration will have the effect of changing or altering the exterior appearance of such building, structure or other Improvement.

Section 12. Exculpation for Approval or Disapproval of Plans. The Association, any and all members of the Design Review Board and any and all officers, directors, employees, agents and members of the Association, shall not, either jointly or severally, be liable or accountable in damages or otherwise to any Owner or other person or party whomsoever or whatsoever by reason or on account of any decision, approval or disapproval of any plans, specifications or other materials required to be submitted for review and approval pursuant to the provisions of this Article, or for any mistake in judgment, negligence, misfeasance or nonfeasance related to or in connection with any such decision, approval or disapproval. Each person who shall submit plans, specifications or other materials to the Design Review Board for consent or approval pursuant to the provisions of this Article, by the submission thereof, and each Owner by acquiring title to any Lot or any interest therein, shall be deemed to have agreed that he or it shall not be entitled to and shall not bring any action, proceeding or suit against the Design Review Board, the Association nor any individual member, officer, director, employee or agent of any of them for the purpose of recovering any such damages or other relief on account of any such decision, approval or disapproval. Additionally, plans, specifications and other materials submitted to and approved by the Design Review Board, or by Declarant or Board of Directors of the Association on appeal, shall be reviewed and approved only as to their compliance with the provisions of this Declaration and their acceptability of design, style, materials, appearance and location in light of the standards for review and approval specified in this Declaration and the Design Review Manual, and shall not be reviewed or approved for their compliance with any applicable Governmental Regulations, including, without limitation, any applicable building or zoning laws, ordinances, rules or regulations. By the approval of any such plans, specifications or materials, neither the Design Review Board, the Association, nor any individual member, officer, director, employee or agent of any of them, shall assume or incur any liability or responsibility whatsoever for any violation of Governmental Regulations or any defect in the design or construction of any building, structure or other Improvement, constructed, erected, placed or installed pursuant to or in accordance with any such plans, specifications or other materials approved pursuant to this Article.

ARTICLE XIV. GENERAL

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded in the public records of Lee County, Florida, after which time the covenants, conditions and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such twenty five (25) year period, or each successive ten (10) year period, an instrument signed by the then owners of eighty percent (80%) of the Lots agreeing to terminate the covenants, conditions and restrictions

at the end of such twenty-five (25) year or ten (10) year period has been recorded in the Public Records of Lee County, Florida. Provided, however, that no such agreement to terminate the covenants, conditions and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This Section may not be amended.

Section 2. Enforcement. The Association and any Owner, shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or as may be expressly authorized by deed restrictions as described in Section 2 of this Article. Failure of the Association, or any Owner to enforce any covenant or restriction herein or therein contained shall in no event be deemed a waiver of the right to do so thereafter. The non-prevailing party in any such litigation shall bear all expenses of the litigation, including court costs and reasonable attorney's fees, including those on appeal, incurred by the party enforcing them. Association shall not be obligated to enforce this Declaration or such deed restrictions and shall not in any way or manner be held liable or responsible for any violation of this Declaration or such deed restrictions by any person other than itself.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by law, judgment or court order shall in no way effect any other provisions of this Declaration, and such other provisions shall remain in full force and effect.

Section 4. Amendment. This Declaration may be amended from time to time by

- (a) A majority vote of the Voting Members, at a meeting called for such purpose; or
- (b) An instrument signed by a majority of the Voting Members approving such amendment.

Section 5. Notice. Any notice required to be sent to any Owner under the provisions of this instrument shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of said Owner, or electronically transmitted (fax, text, email, or similar) to each Owner, provided the Owner has consented in writing to such electronic delivery of notice.

Section 6. Warranties. Each owner of a Lot, by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to acknowledge and agree that there are no warranties of merchantability, fitness or otherwise, either express or implied, made or given, with respect to the improvements in, on or under the Common Area, all such warranties being specifically excluded.

Section 7. Expansion or Modification of Common Areas. Additions or modifications to the Common Area may be made if not inconsistent with the General Plan and any amendments thereto.

Section 8. Master Association. In addition to the terms of this Declaration, and the Articles and Bylaws of the Association, all Lots are also subject to the terms and provisions of the Master Declaration. All Owners automatically become members of the Master Association

and are subject to the Master Declaration, Articles of Incorporation, Bylaws and rules and regulations thereof in effect from time to time.

ARTICLE XV. WAIVER OF JURY TRIAL

In the event there is a dispute concerning the rights, obligations or remedies of an Owner under this Declaration, such matter will be submitted to a court of competent jurisdiction.

ALL OWNERS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE CONCERNING THE RIGHTS, OBLIGATIONS OR REMEDIES OF DECLARANT OR ANY OWNER UNDER THE DECLARATION OR ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY COUNTERCLAIMS, CROSS-CLAIMS OR THIRD-PARTY CLAIMS) BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DECLARATION, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

ARTICLE XVI. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION

The Association has the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within Solana Homes at Herons Glen and is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas.

ARTICLE XVII. DISPUTE RESOLUTION

The covenants and restrictions contained in the Governing Documents may be enforced by the Association or any Owner and any Institutional Mortgagee holding a first mortgage on a Dwelling Unit in any judicial proceeding seeking any remedy recognizable at law or in or easement herein contained and failure to do so shall in no event be deemed a waiver of such covenant, restriction or equity, including of the availability of damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant or restriction hereunder. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees and all court costs including those for any appeals taken.