THIS INSTRUMENT PREPARED BY:
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THE

DECLARATION OF COVENANTS

OF

McGregor Reserve

DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

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EXHIBITS

217.50ALC

RECORD AND RETURN TO:
COURTHOUSE BOX 58

THIS INSTRUMENT PREPARED BY:
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OR 2639 PG 1228

DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this 29th day of September, 1995 by McGregor Oaks, Ltd., a Florida Limited Partnership, as Owner of the real property hereinafter described, and developer of the improvements thereon (hereafter referred to as "Declarant") for itself, its successors, grantees, assignees and/or their transferees.

WHEREAS, the Declarant as fee simple Owner, makes the following declaration:

1. **Introduction and Submission.**

1.1. The Declarant owns fee simple title to certain real property located in Fort Myers, Lee County, Florida, as more particularly described in Exhibit "1" attached hereto.

1.2. The real property submitted hereby and subject initially to this Declaration is described in Exhibit "2" and is now, and shall hereafter, unless withdrawn in accordance with this Declaration, be held, transferred, sold, conveyed and occupied subject to the conditions, covenants, restrictions, limitations, easements, reservations, charges and liens set forth in this Declaration of Covenants and Restrictions, for the benefit of the Owners of the real property described in Exhibit "2".

1.3. The name by which this development is to be identified is McGregor Reserve.

1.4. All provisions of this Declaration of Covenants and Restrictions, including the exhibits attached hereto shall be construed to be perpetual covenants running with the land and with every part thereof and interest therein, and every subsequent Owner and claimant of the land or any part thereof or interest therein, and his heirs, executors and administrators, successors and assigns, shall be bound by all of the provisions of this Declaration of Covenants and Restrictions, including the exhibits attached hereto, unless this Declaration of Covenants and Restrictions shall be terminated pursuant to the provisions provided for herein or the property or a part or parts of the property are withdrawn pursuant to the provisions provided for herein. Both the burdens imposed and the benefits shall run with the land. The acceptance of a deed of conveyance, or entering into a lease, or entering into occupancy of the real property set forth in Exhibit "1" shall constitute an adoption and ratification of the provisions of this Declaration of Covenants and Restrictions and Exhibits attached hereto.

1.5. THIS DECLARATION OF COVENANTS AND RESTRICTIONS DOES NOT, AND IS NOT INTENDED, TO CREATE A CONDOMINIUM. THIS DECLARATION OF COVENANTS AND RESTRICTIONS, THE HOMEOWNER'S ASSOCIATION AND RIGHTS AND DUTIES THEREUNDER SHALL NOT BE GOVERNED BY CHAPTER 718 FLORIDA STATUTES, AS IT EXISTS NOW OR IN THE FUTURE, OR ANY ADMINISTRATIVE RULES PROMULGATED THEREUNDER.

2. **Property Initially Subject to this Declaration; Additions Thereto and Withdrawals Therefrom.**

2.1. Legal Description. The real property initially submitted hereunder which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Lee County and is described in Exhibit "2" attached hereto and made a part hereof, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as "The Properties". Exhibit "2" may not necessarily describe all Common Areas to the extent any are Maintenance Common Areas as defined in Article 3.

2.2. Addition By Supplement. In accordance with Declarant's current intention (but not obligation) to increase the real property constituting The Properties from time to time by adding additional Lots and/or Common Areas, Declarant may from time to time submit and subject other real property to McGregor Reserve and to the provisions hereof by one or more recorded Supplemental Declaration (which shall not require the consent of then existing Owners, the Association or any mortgagee other than that, if any, of the real property intended to be added to The Properties) and thereby add to The Properties. To the extent that additional real property shall be made a part of The Properties, reference herein to The Properties shall be deemed to include reference to all additional property where reference is intended to include real property in addition to that legally described in Exhibit 2. Nothing herein, however, shall obligate Declarant to add to the initial real property, to develop any additional real property under this Declaration, or to prohibit Declarant (or the applicable Declarant-affiliated Owner) from rezoning and changing plans with respect to additional property. Declarant shall also have the right to add real property pursuant hereto which Declarant previously withdrew pursuant to Section 2.3 below.

2.3. Withdrawal by Amendment. Declarant reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties then owned by Declarant or its affiliates or the Association from the provisions of this Declaration: (1) to the extent included originally in error; or, (2) as a result of any changes whatsoever in the Declarant's plans for The Properties desired to be effected by Declarant; provided, however, that withdrawal is not unequivocally contrary to the overall uniform plan of development of The Properties. Any withdrawal of real property not owned by Declarant shall require the written consent or joinder of the then-Owner(s) and mortgagee(s) of the real property, and of the Declarant prior to turnover, but not of any other persons or entities. Notwithstanding the foregoing, no withdrawal which effects the operation and maintenance of the Surface Water Management System shall be made without the consent of the South Florida Water Management District.

2.4. Consent to Additions and Withdrawals. Each Owner, by acceptance of a deed to or other conveyance of his Lot, shall be deemed to have automatically consented to rezoning, change, addition or withdrawal thereafter made by Declarant (or the applicable Declarant-affiliated Owner) and shall evidence that consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give written consent shall not obviate the general and automatic effect of this provision).

2.5. Variance from Declaration. In furtherance of the Declarant's plan of development of The Properties as a community of distinct Neighborhoods, a Supplemental Declaration may vary the terms of this Declaration by addition, deletion or modification to reflect any unique characteristics of the Neighborhood and Common Areas identified therein; provided, however, that no variance shall be directly contrary to the Declarant's overall uniform plan of development of The Properties.

3. **Definitions and Interpretation.**

3.1. Definitions. The following words and terms when used in this Declaration, any amendments thereto and any Supplemental Declarations (unless the context shall prohibit or unless defined by applicable law on the date of recording this Declaration) shall have the following meanings:

3.1.1. "Architectural Review Committee" or "ARC" means and refers to the committee appointed by the Board of Directors pursuant to Article 8, Section 10 hereof to exercise the powers and duties set forth therein and other duties, if any, as may be delegated to it by the Board of Directors from time to time.

3.1.2. "Architectural Review" means and refers to the requirements of this Declaration that Owner's plans including but not limited to Home plans, site plans and remodeling plans for improvements on, alterations to, and landscaping of Lots and Homes thereon, as well as repair or restoration thereof, be reviewed and approved. Where the context indicates, Architectural Review means the administrative process of Article 8, Section 10.

3.1.3. "Articles" or "Articles of Incorporation" means and refers to the Articles of Incorporation of the Association, as amended from time to time, a copy of the original Articles of Incorporation shall be made a part hereof in a future amendment hereto.

3.1.4. "Assessment" means and refers to a charge against a particular Owner and his Lot made by the Association in accordance with this Declaration as further defined in Article 6, Section 2.

3.1.5. "Association" means and refers to McGregor Reserve Community Association, Inc., a Florida corporation not for profit.

3.1.6. "Board" or "Board of Directors" means and refers to the Board of Directors of the Association.

3.1.7. "By-Laws" means and refers to the By-Laws of the Association, as amended from time to time, the original By-Laws being attached hereto and made a part hereof as Exhibit "5".

3.1.8. The "City" means and refers to the City of Fort Myers, Florida, either as a geographical area or as a political subdivision and government of the State of Florida as the context requires.

3.1.9. "Common Areas" means and refers to the real and personal property maintained by the Association, whether or not owned by or dedicated to it, for the general benefit of the Members and The Properties. The Common Areas, including the Recreation Area, will be conveyed to the Association as provided in Article 5, Section 11 of this Declaration. The initial Common Areas shall be depicted on an exhibit to a future amendment hereto which shall be described as the "Plot Plan". The Common Areas consist of the portions of The Properties within the following categories:

3.1.9.1. "Exclusive Common Areas" - being those Common Areas which are for the exclusive use and/or benefit of one or more, but not all, Members and Owners.

3.1.9.2. "General Common Areas" - being those Common Areas which are for the general use and/or benefit of all of the Members and Owners.

3.1.9.3. "Maintenance Common Areas" - being property within or without The Properties which is not owned by the Association but is nevertheless to be maintained or administered by it

pursuant to an easement, license or agreement with a Neighborhood Association, the County, the City or any other person or entity, which maintenance/administration affords benefits to the Members and Owners.

3.1.9.4. "Neighborhood Common Areas" - being property primarily for the use and/or benefit of Members and Owners within a particular Neighborhood(s) or as to which those Owners have priority (but not necessarily exclusive) rights and/or responsibilities.

A specific property may be classified as more than one type of Common Area. For example, a Maintenance Common Area may also be a Neighborhood Common Area if it is not owned by the Association but is to be maintained by it pursuant to a separate agreement and it primarily serves or benefits a Neighborhood(s) to the exclusion of others. As used herein, the term "Common Areas" shall include all of the foregoing types thereof unless specifically provided to the contrary or if the context clearly indicates otherwise. The following specific portions of The Properties are hereby declared to be the following types of "Common Areas"

3.1.9.5. The "Recreation Area" - being the area and structures located or to be located thereon as to be depicted on an exhibit to a future amendment hereto which shall be a General Common Area.

3.1.10. "Common Expenses" means and refers to the actual and estimated cost of:

3.1.10.1. administration and management of the Association;

3.1.10.2. maintenance, ownership and operation of the Common Areas;

3.1.10.3. any item designated as a Common Expense; and

3.1.10.4. any material, service, tax, premium, assessment or charge reasonably or necessarily incurred by the Association arising from its ownership, operation, maintenance, management, administrative or other obligations set forth herein, in the Articles, By-Laws, or Rules and Regulations, or which are in furtherance of the purposes of the Association or that are incurred in discharge of any obligation expressly or impliedly imposed on the Association hereby.

3.1.11. "Community Service System" means and refers to a system of facilities, installations, ownerships, rights, licenses, uses, improvements, equipment or fixtures devoted to and intended for the common use, benefit and enjoyment of the Members, Owners and occupants of McGregor Reserve, and their guests, whether in whole or in part deemed Common Area, or located within and being a part of a Lot, or Neighborhood, or otherwise. By way of explanation, and not limitation, a Community Service System may include the stormwater management system, bike paths, sidewalks, Recreational Area facilities, private roads, facilities to provide utilities, street lighting, administrative support programs, and where reasonably required for implementation of those systems, appropriate ownerships, interests, easements, servitudes, licenses and other use rights. "Community Service System" also means and refers to any and all cable television, telecommunication, alarm/monitoring or other lines, conduits, wires, amplifiers, towers, antennae equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now in general use) installed by Declarant or pursuant to any grant of easement or authority by Declarant within The Properties and serving more than one Lot.

3.1.12. "County" means and refers to Lee County, Florida, either as a geographical area or as a political subdivision and government of the State of Florida, as the context requires.

3.1.13. "Declarant" means and refers to McGregor Oaks, Ltd., a Florida Limited Partnership, its successors and those of its assigns to which the rights of Declarant hereunder are expressly assigned by a written instrument recorded in the Public Records of the County. Declarant may assign all or a portion of

its rights hereunder, or all or a portion of its rights in connection with appropriate portions of The Properties. In the event of a partial assignment, the assignee shall not be deemed the Declarant, but may exercise those rights of Declarant expressly assigned to it. Any assignment may be made on a nonexclusive basis. "Original Declarant" means and refers to only McGregor Oaks, Ltd.

3.1.14. "Declaration" means and refers to this Declaration and all exhibits thereto, including any amendments and Supplemental Declaration.

3.1.15. "Development Documents" means and refers to any declarations of covenants, and restrictions; [declarations of condominium], homeowners' or property owners' declarations; association articles and by-laws; and deed restrictions or covenants affecting the use and occupancy of parts of McGregor Reserve that may be imposed upon parts of McGregor Reserve by Declarant or sub-developers, and any subdivision, [condominium] or other plats, surveys, plot plans or graphic descriptions filed among the public records in accordance with the Development Plan, specific governmental approvals or other Development Documents. Neighborhood Documents if any are Development Documents.

3.1.16. "Development Plan" means and refers to the Declarant's general development plan for McGregor Reserve as it now exists, and as it may from time to time hereafter be amended. Development Plan includes the terms of the governmental approvals.

3.1.17. "Governmental Approvals" means and refers to development orders, site plan approvals, governmental stipulations, conditions, permits and requirements, as they may be amended from time to time, authorizing the development of McGregor Reserve.

3.1.18. "Home" means and refers to the individual residential structure constructed on a Lot; provided however, that no portion of any Community System, even if installed in a Home, shall be deemed to be a part of a Home unless and until it is made so pursuant to Article 5, Section 15 hereof, if at all.

3.1.19. "Lot" means and refers to:

3.1.19.1. any Lot on any plat of all or a portion of The Properties, which plat is designated by Declarant hereby or by any other recorded instrument to be subject to this Declaration;

3.1.19.2. any Lot shown upon any resubdivision of any plat;

3.1.19.3. any individual unit in a condominium or cooperative; and

3.1.19.4. any other property hereafter declared as a Lot by Declarant and thereby made subject to this Declaration;

provided, however, that no portion of any Community Service System shall be deemed to be part of a Lot unless and until it is so made pursuant to Article 5, Section 15 hereof, if at all. Portions of the common elements of a condominium or cooperative which are outside of its building(s) shall be deemed a Lot for purposes of maintenance duties. When a Home has been constructed on a Lot any reference to a Lot shall include the Home and other improvements constructed thereon even though the Home is not referred to.

3.1.20. "McGregor Reserve" means and refers to all of the real property now or hereafter subject to this Declaration.

3.1.21. "Member" means and refers to all those Owners who are Members of the Association as provided in Article 4.

3.1.22. "Member's Permittee" means and refers to a person described in Article 9, Section 3 hereof.

3.1.23. "Neighborhood" means and refers to a portion of The Properties designated as a Neighborhood herein or in a Supplemental Declaration (as hereinafter defined), the purpose of the designation being to address separately that portion for voting, Assessment, regulation, level of service and other purposes as provided herein, in a Supplemental Declaration, or in the Association's Articles, By-Laws or Rules and Regulations. The first designation of Neighborhood shall be depicted in an exhibit to a future amendment hereto.

3.1.24. "Neighborhood Committee" means and refers to a committee of Members/Owners in a specific Neighborhood elected by all of the participating Owners in that Neighborhood in accordance with the provisions of the Association's Articles of Incorporation and By-Laws. Except as otherwise provided herein or in the Articles or By-Laws, the Committee shall be advisory in nature and shall not exercise any corporate authority on behalf of the Association.

3.1.25. "Owner" means and refers to an owner or owners if applicable of a Lot within McGregor Reserve.

3.1.26. "Parcel" means and refers to any part of the property now or hereafter subject to this Declaration other than Lots, Common Areas, streets, roads or other lands owned by or dedicated to a governmental unit or agency or public utility company. To the extent any Parcel is converted to a Lot or Lots it shall cease to be a Parcel. A Parcel is typically a vacant tract, subject to this Declaration, planned for future development in accordance with the Development Plan, as a subdivision or Common Area.

3.1.27. "The Properties" means and refers to all real property, and additions thereto, as are now or hereafter made subject to this Declaration, except those which are withdrawn from the provisions hereof in accordance with the procedures set forth in Article 2. All persons are advised that during the development of The Properties various portions thereof may be platted as large tracts, or may not be platted at all, without individual Lots or Common Areas being specifically designated thereon, subject to portions thereof later being replatted with specific designations. Accordingly, prior to specific designations being made on a plat or replat, any real property described in the foregoing sentence shall not be deemed to contain Lots or Common Areas unless otherwise specifically stated herein, in a Supplemental Declaration or other instrument executed by Declarant and recorded in the Public Records of the County.

3.1.28. "Supplemental Declaration" means and refers to an instrument recorded in the Public Records of the County for the purposes to be used pursuant to Article 2 or any other provision of this Declaration.

3.1.29. "Surface Water Management System" means and refers to the natural and artificial conditions and improvements (including lakes, canals, grading and drainage structures) for the management of surface water within The Properties as described in and regulated pursuant to permit number 36-0022-5 issued by the South Florida Water Management District, as amended from time to time.

3.1.30. "Voting Member" means and refers to a member present, in person or by proxy, at a meeting of the Association.

3.2. Interpretation. The provisions of this Declaration, an amendment thereto or a Supplemental Declaration, as well as those of the Articles, By-Laws and any Rules and Regulations of the Association shall be interpreted by the Board of Directors. The Board's interpretation rendered in good faith shall be final, binding and conclusive if the Board receives a written opinion of the Association's legal counsel, or the legal counsel who drafted this Declaration or other Development Documents, that the interpretation is not

unreasonable, which opinion may be rendered before or after the interpretation is adopted by the Board. Notwithstanding any rule of law to the contrary, the provisions of this Declaration, an amendment thereto or a Supplemental Declaration, the Articles, By-Laws and the Rules of Regulations of the Association shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Association and The Properties, the preservation of the value of the Lots and Homes and the protection of Declarant's rights, benefits and privileges herein contemplated.

4. **Membership in the Association.**

4.1. Membership. Only Owners of Lots and Parcels, and Declarant prior to turnover date, shall be Members of the Association. Each Owner accepts membership and agrees to be bound by the Declaration, the Articles, By-Laws and the Rules and Regulations adopted pursuant thereto. Membership may not be transferred separate and apart from a transfer of ownership of a Lot or Parcel. Membership commences upon acquisition and terminates upon sale or transfer of an Owner's interest in a Lot or Parcel whether voluntary or involuntary.

4.2. Voting Rights. For purposes of voting rights only, the Association has two categories of membership: Regular Membership and Declarant Membership.

4.2.1. Regular Membership. Regular Members are entitled to one vote for each Lot; provided, however, that multiple Owners of a Lot have a total of only one vote for that Lot. Regular Members who own Parcels are entitled to one vote for each index point assigned to that Parcel at the time the vote is taken. The voting rights of Regular Members are delegated as provided by this Declaration and the By-Laws.

4.2.2. Declarant Membership. The Declarant Member(s) shall at all times have that number of votes equal to three times the total number of votes then held by Regular Members, plus one. Declarant Membership shall terminate and be converted to Regular Membership on the turnover date. If there is more than one Declarant Member, they shall cast their votes as they may among themselves determine, and in the absence of agreement, the Original Declarant or its designees, shall cast all votes of the Declarant Members.

4.2.3. Election of Board of Directors. Directors of the Association shall be elected and removed and vacancies on the Board shall be filled as provided in the Articles and By-Laws.

4.2.4. Control of Board During Development. During the time that Declarant has more votes than the Regular Members, Declarant shall have the right to designate, elect and remove the members of the Board, and the Directors so designated by Declarant need not be Members.

4.2.5. Successor by Foreclosure. In the event that a Mortgagee or other party acquires title to a Lot through foreclosure or deed in lieu of foreclosure, that party shall have the category of membership last held by the Owner of Lot from whom title was acquired.

4.2.6. General Matters. When reference is made herein, or in the Articles, By-Laws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, that reference shall be deemed to be reference to a majority or specific percentage of the votes of Members represented at a duly constituted meeting (i.e., one for which proper notice has been given and at which a quorum exists) and not of all the Members themselves.

4.2.7. Effect of Dissolution. In the event of the termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water Management System shall be transferred to and accepted by an entity which is approved by the South Florida Water Management District, the County and City prior to termination, dissolution or liquidation.

5. **Common Areas; Recreation Areas; Certain Easements; Community Service Systems; Certain Maintenance Duties.**

5.1. Members' Easement. Except for Exclusive Common Areas and Maintenance Common Areas as herein specified, each Member, and each Member's Permittee, shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other Members, Member's Permittees, their agents and invitees, but only in the manner as may be reasonably regulated by the Association.

5.2. Without limiting the generality of the foregoing, rights of use and enjoyment of the Common Areas are hereby made subject to the following:

5.2.1. The right and duty of the Association to levy Assessments against each Lot and Owner for the purpose of, among other things, maintaining the Common Areas and any facilities located thereon in compliance with the provisions of this Declaration and with the restrictions on the plats of portions of The Properties from time to time recorded.

5.2.2. The right of the Association to suspend the Member's (and his Member's Permittees) right to use the Common Areas (including Recreation Area and facilities if any) for any period during which any Assessment against his Lot remains unpaid for more than thirty (30) days; and for a period not to exceed sixty (60) days for any infraction of this Declaration or the Association's lawfully adopted Rules and Regulations. However, suspension of Common Area use rights shall not impair the right of an Owner or his tenant to have vehicular and pedestrian ingress to and egress from the parcel, including but not limited to, the right to park.

5.2.3. The right of the Association to adopt at any time, and from time to time, and enforce Rules and Regulations governing the use of the Common Areas (including Recreation Areas and facilities) at any time situated thereon, including the right to fine Members as hereinafter provided. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified as if originally set forth at length in this Declaration.

5.2.4. The non-exclusive right to the use and enjoyment of the Common Areas (including Recreation Areas and facilities thereon) shall extend to all Members' Permittees, subject to regulation from time to time by the Association as set forth in its lawfully adopted and published Rules and Regulations including those relating to the gatehouse(s) and other entry and traffic control procedures, which may permit the installation of "speed bumps."

5.2.5. The right of Declarant to permit persons as Declarant designates to use the Common Areas (including Recreation Areas and facilities) located thereon.

5.2.6. The right of Declarant and the Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas, which right is hereby reserved to Declarant and granted to Association, the former to control over the latter in the event of conflict.

5.2.7. The right of the Association, by a two thirds (2/3rds) affirmative vote of the Voting Members, and with Declarant's written consent (prior to turnover), to dedicate or convey (subject to the Owner's easements as herein provided) portions of the Common Areas to any other association having similar functions, or any public or quasi-public agency or similar entity under terms as the Association deems appropriate.

5.2.8. Article 9, Section 2.1 of this Declaration (with respect to transfer of rights).

5.2.9. The right of the Association to limit the number of guests of Members and to limit the use of the Common Areas by Members not in possession of a Lot.

5.2.10. The right of the Association to borrow money for the purposes of improving, replacing, restoring or expanding the Common Areas, or adding new Common Areas, and in furtherance thereof to mortgage the Common Areas. In order to mortgage the Common Areas, the prior affirmative vote of not less than two-thirds (2/3rds) of the total votes of Regular Members and the written consent of Declarant (prior to turnover) shall be required. The rights of mortgagees shall be subordinate to the rights of the Members. In the event of a default upon any mortgage on the Common Areas, the lender's rights thereunder shall be limited to a right, after taking possession of the property, to charge admission and other fees as a condition to continued enjoyment of the Members, and if necessary, to open the enjoyment of the Common Areas to a wider public until the mortgage debt is satisfied, whereupon the possession of and title to the Property shall be returned to the Association and all rights of the Members hereunder shall be fully restored. The Association's authority to mortgage hereunder shall not extend to any part of the Exclusive Common Areas, or Maintenance Common Areas providing drainage or other essential services.

5.2.11. The right of the Declarant to grant additional non-exclusive easements forming a part of the Common Areas or over Common Areas to Owners of real property not part of McGregor Reserve, for the purposes of access, ingress, egress, utilities or drainage. The grant shall ordinarily be on the condition that non-members contribute in a fair and equitable manner to the maintenance of the portion of the Common Areas within which those rights are granted. The Declarant shall establish a method of determining the ratable contribution at the time the easements are granted.

5.3. WITH RESPECT TO THE USE OF THE COMMON AREAS AND THE PROPERTIES GENERALLY, ALL PERSONS ARE REFERRED TO ARTICLE 16, WHICH SHALL AT ALL TIMES APPLY THERETO.

5.4. Recreation Areas. Prior to the Recreation Areas becoming available for use, the Declarant shall adopt Rules and Regulations for the use, maintenance, repair and operation of the Recreation Areas. Subject to those Rules and Regulations, each Owner and his Member's Permittees shall have the right to use the Recreation Areas for its intended purposes.

5.5. Once the aforesaid Rules and Regulations are adopted, they may be amended from time to time by the Declarant, and after turnover by the Board of Directors.

5.6. Easements Appurtenant. The easements provided in Section 5.1 shall be appurtenant to and shall pass with the title to each Lot, as applicable, but shall not be deemed to grant or convey any ownership interest in the Common Area, subject thereto.

5.7. Maintenance. The Association shall at all times maintain in good repair, manage, operate insure, and replace as often as necessary, the Common Areas and, to the extent not otherwise provided for, the paving, drainage structures, landscaping, improvements and other structures (except public utilities and Community Service Systems, to the extent they have not been made Common Areas) situated on the Common Areas, if any, all work to be done as ordered by the Board of Directors of the Association. Without limiting the generality of the foregoing, the Association shall assume all of Declarant's and its affiliates' responsibilities to the City and County and their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Common Areas and shall indemnify and hold Declarant and its affiliates harmless with respect thereto in the event the Association fails to fulfill those responsibilities.

5.7.1. It is contemplated that the Association may enter into one or more agreements with the City and County whereby the Association performs some or all of the maintenance of landscaping or other features within property owned by or dedicated to the City or County. Accordingly, to the extent that an

agreement (which may be in the form of a contract, easement or other instrument) provides for maintenance, then the areas to be so maintained shall be deemed Maintenance Common Areas hereunder so as to authorize an agreement, the performance of maintenance duties pursuant thereto, and the imposition and expenditure of Assessments necessary to fund those activities.

5.7.2. All work performed pursuant to this Section 5.7, and all expenses incurred or allocated to the Association pursuant to this Declaration, shall be paid for by the Association through Assessments imposed in accordance herewith.

5.7.3. No Owner may waive or otherwise avoid liability for Assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of use or right to use the Common Areas.

5.8. Surface Water Management System; Conservation Easement. The Association shall be responsible for the operation and maintenance of the Surface Water Management System, which shall be deemed a Maintenance Common Area, in accordance with sound drainage management practices and the permit(s) issued by the South Florida Water Management District ("SFWMD") including, without limitation, all general and special conditions thereof and amendments thereto.

5.8.1. The Association is hereby notified of, and shall be responsible for compliance with, a Deed of Conservation Easement, if any, in favor of SFWMD recorded or to be recorded in the Public Records of Lee County, Florida. Without limiting the generality of the foregoing, the Association shall neither conduct nor permit any of the prohibited activities in or on the "Property" described in the Deed of Conservation Easement. For purposes hereof, the Association shall be deemed the successor-in-interest to the "Grantor" of the Deed of Conservation Easement.

5.8.2. The Association shall not abandon the Surface Water Management System or any duties with respect thereto or with respect to the Deed of Conservation Easement, except in accordance with all applicable SFWMD requirements and with the consent thereof including, without limitation, the requirement that those duties be transferred to a responsible entity meeting those requirements.

5.9. Utility and Community Service Systems Easements. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on relevant plats, shall be in accordance with the applicable provisions of this Declaration and the plats. Declarant, its affiliates and its and their designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Lots and Parcels for the installation, operation, maintenance, repair, replacement, alteration and expansion of Community Service Systems and other utilities.

5.10. Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas for the performance of their respective duties.

5.11. Ownership of Common Areas. The Common Areas are hereby dedicated non-exclusively to the joint and several use, in common, of Declarant and the other Owners of all Lots that may from time to time constitute part of The Properties, all Member's Permittees, Declarant and their tenants, guests and invitees, all as provided and regulated herein or otherwise by the Association, subject to Article 2, Section 3 hereof. The Common Areas other than Maintenance Common Areas shall, upon the later of completion of the improvements thereon or the date when the last Lot within The Properties has been conveyed to a purchaser (or at any time and from time to time sooner at the sole election of Declarant), be conveyed by quit claim deed to the Association, which shall be deemed to have automatically accepted the conveyance.

5.12. Commencement of Maintenance; Taxes. Beginning on the date this Declaration is recorded, the Association shall be responsible for the maintenance, insurance and administration of Common Areas

(whether or not then conveyed or to be conveyed to the Association), all of which shall be performed in a continuous and satisfactory manner without cost to the general taxpayers of the County. It is intended that any and all real estate taxes and assessments levied against the Common Areas shall be (or have been, because the purchase prices of the Lots have already taken into account their proportionate shares of the values of the Common Areas), proportionally assessed against and payable as part of the taxes of the applicable Lots within The Properties. However, in the event that, notwithstanding the foregoing, any taxes or assessments are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) thereof, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date this Declaration is recorded, and those taxes shall be prorated between Declarant and the Association as of the date of recordation.

5.13. Declarant's Rights as to Common Areas. Declarant and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of The Properties (including, without limitation, the portions of Lots not containing Homes) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere on The Properties that Declarant and its affiliates or designees elect to effect, and to use, without charge, the Common Areas and other portions of The Properties for sales, displays and signs or for any other purpose during the period of construction and sale of any portion thereof or of other portions of adjacent or nearby communities. Without limiting the generality of the foregoing, Declarant and its affiliates shall have the specific right to maintain upon any portion of The Properties sales, administrative, construction or other offices and appropriate exclusive and non-exclusive easements of access and use are expressly reserved unto Declarant and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose. Any obligation (which shall not be deemed to be created hereby) to complete portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly, Declarant shall not be liable for delays in completion to the extent resulting from the need to complete any of the above-referenced activities prior to completion.

5.14. Effect of Dissolution of Association. Notwithstanding anything in this Section, this Declaration or in the Articles of Incorporation and By-Laws to the contrary, no merger, consolidation or dissolution of the Association which affects Owners' easements in and to the Common Areas shall be effective without the approval of two-thirds (2/3rds) of the votes cast by the Regular Members and the written consent of Declarant prior to turnover. Upon dissolution of the Association, its assets shall be conveyed to a similar association or appropriate public agency having a purpose or purposes similar to those of the Association.

5.15. Community Service Systems. Declarant shall have the right, but not the obligation, to convey, transfer, sell or assign all or any portion of the Community Service Systems located within The Properties, or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other person or entity (including an Owner, as to any portion of a Community Service System located on/in his Lot/Home). Without limiting the generality of Article 3, Section 1.13 hereof, if and when any of the aforesaid entities receives a conveyance, sale, transfer or assignment, that entity shall automatically be deemed vested with those rights of Declarant with regard thereto as are assigned by Declarant in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Service System or portions thereof shall be deemed Common Areas hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Common Areas unless otherwise provided by Declarant. Any conveyance, transfer, sale or assignment made by Declarant pursuant to this Section 5.15: (i) may be made with or without consideration; (ii) shall not require the consent or approval of the Association or any Owner; and (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed).

5.16. In recognition of the intended increased effectiveness and potentially decreased installation and maintenance costs and user fees arising from the connection of all or a large number of Homes in The Properties to the applicable Community Service Systems, each Owner and occupant of a Home shall by virtue of the acceptance of the deed or other right of occupancy thereof, be deemed to have consented to and ratified any and all agreements to which the Association is a party which is based upon (in terms of pricing structure or otherwise) a requirement that all or a large number of Homes be so connected. The foregoing shall not, however, prohibit the Association or Community Service Systems provider from making exceptions to any bulk use requirement in its reasonable discretion.

WITH RESPECT TO COMMUNITY SERVICE SYSTEMS, ALL PERSONS ARE REFERRED TO ARTICLE 16 HEREOF, WHICH SHALL AT ALL TIMES APPLY TO THIS SECTION.

5.17. Common Irrigation System. Declarant may, but shall not be obligated to, install a common irrigation system to irrigate Common Areas. Upon the installation of any portion of a system, it will be deemed part of the Common Areas to be operated, maintained, repaired and replaced by the Association. To the extent that any portion of the irrigation system is located on a Lot, the Association is hereby granted an easement over and under Lots for the existence, operation, maintenance, repair and replacement of the system. Accordingly, no Owner shall alter, damage or abut any portion of the irrigation system or otherwise interfere with the use of the aforesaid easement. Expenses for the general operation of the common irrigation system shall be allocated as General Assessments hereunder. As is the case with other types of Assessments, the Association may base allocation upon a formula and need not separately account for each and every expense incurred for that purpose.

6. Covenant for Assessments

6.1. Creation of the Lien and Personal Obligation for Assessments. Except as provided elsewhere herein, Declarant (and each party joining in any Supplemental Declaration), for all Lots now or hereafter located within The Properties, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in the deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all Assessments as defined in Section 2 of this Article 6, including but not limited to charges for the operation of the Association, for the maintenance, management, operation and insurance of the Common Areas, any applicable Community Service Systems as provided elsewhere herein, and a common irrigation system, if any, including reasonable reserves as the Association may deem necessary, and all other charges and Assessments hereinafter referred to or lawfully imposed by or on the Association, all Assessments to be fixed, established and collected from time to time as herein provided. **All persons are hereby notified that the Association may be a party to a contract for cable television service serving The Properties and that, if so provided in a contract, the Assessments payable as to each Lot will include charges payable by the Association under that contract, regardless of whether or not the Owner or Member's Permittees of a Lot elect to receive cable television service.**

6.1.1. Assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge and continuing lien upon the Lot against which each Assessment is made. Each Assessment, together with interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person or entity, or the joint and several obligation of the persons or entities who own the Lot at the time when the Assessment became due, including all subsequent Owners, until paid, except as provided in Section 8 of this Article.

6.1.2. Reference herein to Assessments shall be understood to include reference to any and all charges whether or not specifically mentioned.

6.2. Types of Assessments. Each Assessment levied hereunder shall be one (1) of the following types (although two (2) or more types of Assessment may be payable by an Owner as a single sum):

6.2.1. Initial Assessment means and refers to an Assessment paid by an Owner at the closing of the purchase of his Lot to be applied as provided in the Purchase Contract with Declarant.

6.2.2. Individual Assessments shall be for those expenses directly related to providing a service or maintenance to one (1) or more Lots, whether at the request of the Owner or as an exercise of an Association remedy hereunder, and shall also include fines levied pursuant to Article 10, Section 3 hereof. If an Individual Assessment is levied upon more than one (1) Lot, then it shall be allocated between or among the applicable Lots as the Board directs, absent which they shall be prorated equally. The fact that Individual Assessments are authorized hereby shall not require the Association to provide any particular service (maintenance or otherwise) to a Lot or to Lots.

6.2.3. Neighborhood Assessments shall be for those expenses, if any, which are incurred primarily for the benefit of all Owners within a Neighborhood, as primary benefit is determined by the Board of Directors. By way of example only, Neighborhood Assessments shall be levied for expenses relating to Neighborhood Common Areas. Neighborhood Assessments, if levied, shall be levied upon all Lots within the applicable Neighborhood(s) at an equal rate.

6.2.4. Regular Assessments (or "Common Assessments") shall be for those expenses which are incurred primarily for payment of recurring periodic budgeted common expenses for the benefit of all Owners, as primary benefit is determined by the Board of Directors. By way of example only, Common Assessments shall be levied for expenses relating to General Common Areas. Common Assessments shall be levied upon all Lots at an equal rate.

6.2.5. Special Assessments shall be for those expenses which otherwise would be Common or Neighborhood Assessments but for the fact that they are of a nonrecurring and/or unforeseen nature (i.e., they cannot be paid by budgeting therefor as part of Common or Neighborhood expenses), including (without limitation) the costs of capital additions or uninsured casualty losses. Special Assessments shall be levied against all applicable Lots subject thereto at an equal rate.

6.3. Establishment of Budgets and Assessments. The Board of Directors shall, by appropriate resolution duly adopted, establish the first operating budget (and thereafter an annual budget) for the Association (including Regular and Neighborhood Assessments) and the rates of Assessments thereunder in accordance with this Article. The budget shall reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget shall set out separately all fees or charges for recreational amenities, whether owned by the Association, Declarant or other person. Each time a new Neighborhood is brought within The Properties by appropriate Supplemental Declaration, the Board of Directors shall, if necessary, adopt a budget and Assessment rate for that Neighborhood.

6.3.1. After adopting the initial budget (and thereafter an annual budget) and Regular Assessments as provided above, the Board of Directors shall fix the amount of the Regular Assessment against the Lots subject to the Association's jurisdiction for each Assessment period, to the extent practicable, at least sixty (60) days in advance of the date or period, and shall, at that time, prepare a roster of the Lots and Regular Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

6.3.2. Written notice of the Regular Assessment and the budget or notice that the budget is available upon request at no charge to a Member within ten (10) days of request, shall thereupon be sent to every Owner subject thereto thirty (30) days prior to the date payment of the first installment thereof is due, except as to Individual and Special Assessments. In the event no notice of the Regular Assessments for a new

Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

6.3.3. Except as provided in Section 3.5 of this Article 6, below, funds generated by one type of Assessment shall not be used for expenses for which another type of Assessment is levied.

6.3.4. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of Declarant) for management services, including the administration of budgets and Assessments as herein provided.

6.3.5. The Board may establish reserve accounts funded from Regular Assessments in reasonable amounts and in categories as are determined by the Board for deferred maintenance and repair, including maintenance of all Common Areas, emergency repairs as a result of casualty loss, recurring periodic maintenance or initial cost of any new service to be performed by the Association. Reserve accounts may be used by the Board on a temporary basis for cash flow management of the Association, even though expended on items other than those for which the reserve was established. The reserve amounts shall be restored from revenues subsequently received, it being the intent that the Board may "borrow" from reserve accounts, without diminishing the obligation to levy and collect Assessments that will, upon collection, permit the restoration of all reserve accounts.

6.3.6. All Assessments shall be payable in the amount specified and no setoffs shall be permitted for any reason, including without limitation, a claim that the Association is not properly exercising its responsibilities and authorities as provided in this Declaration.

6.4. Purpose of Assessments. The Assessments levied by the Association shall be used for the purposes expressed in this Article and for other purposes as the Association shall have within its powers and from time to time elect to undertake.

6.5. Date of Commencement of Assessments, Due Dates. The Regular and Neighborhood Assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of that year. Each subsequent annual Regular Assessment shall be imposed for the year beginning January 1 and ending December 3 1.

→6.5.1. The Regular and Neighborhood Assessments shall be payable in advance in monthly, annual, semi- or quarter-annual installments if so determined by the Board of Directors (absent which determination they shall be payable monthly).

6.5.2. The due date of any Individual or Special Assessment shall be fixed in the Board resolution authorizing the Assessment.

6.6. Effect of Non-Payment of Assessment; the Personal Obligation, the Lien; Remedies of the Association. If the Assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then those Assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind that property in the hands of the then owner, his heirs, personal representatives, successors and assigns. Except as provided in Section 6.7 to the contrary, the personal obligation of Owner to pay an Assessment shall pass to his successors in title and recourse may be had against either or both jointly and severally.

6.6.1. If any installment of an Assessment is not paid within fifteen (15) days after the due date, at the option of the Association the next twelve (12) months' installments may be accelerated and

become immediately due and payable in full. Further, all overdue sums (regardless of whether they are accelerated or not) shall bear interest from the dates when due until paid at the rate of eighteen percent (18%) per annum. The Association may pursue all or any of the following: (1) bring an action at law against the Owner(s) or, if applicable his successors in title, personally obligated to pay the Assessments; (2) record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Lot on which the Assessments and interest are unpaid; (3) foreclose the lien against the Lot on which the Assessments and interest are unpaid; and (4) pursue one or more remedy simultaneously or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting a lawsuit, shall be added to the amount of the Assessments and interest secured by the lien, and in the event a judgment is obtained, that judgment shall include all sums as herein described and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels.

6.6.2. In the case of an acceleration of the next twelve (12) months' installments, each installment so accelerated shall be initially deemed equal to the amount of the then most current delinquent installment, provided that if any installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of the increase and Individual Assessments against the Lot and Owner shall be levied by the Association for that purpose.

6.6.3. In addition to the rights of collection of Assessments stated in this Article 6, any and all persons acquiring title to or an interest in a Lot as to which the Assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the possession of a Lot or the use and enjoyment of the Common Areas until all unpaid and delinquent Assessments and other sums due and owing from the selling or conveying Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 6.7 of this Article.

6.6.4. All Assessments, interest, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association.

6.7. Subordination of the Lien. The lien of the Assessments provided for in this Article 6 shall be subordinate to real property tax and assessment liens and the lien of any first mortgage; provided, however, that any mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any mortgage lender or its affiliate acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under a purchaser or mortgage lender, shall hold title subject to the liability and lien of any Assessment coming due after foreclosure (or conveyance in lieu of foreclosure). Any unpaid Assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section 6.7 shall be deemed to be an Assessment divided equally among, payable by and a lien against all Lots subject to Assessment by the Association, including the Lot(s) as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

6.8. Declarant's Assessments. For any assessment year, notwithstanding anything herein to the contrary, Declarant shall have the option, in its sole discretion, to either:

6.8.1. pay Assessments on the Lots owned by it which have been initially submitted and are subject to this Declaration; however, Declarant shall under no circumstances have the duty to pay Assessments on any property whether Lots or not which have not been submitted by the Declarant by this Declaration or subsequently by a Supplemental Declaration; or

6.8.2. pay Assessments only on certain Lots designated by Declarant (e.g., those containing a Home for which a certificate of occupancy has been issued); or,

6.8.3. not pay Assessments on any Lots and in lieu thereof, for an assessment year, pay the Association's actual operating expenses incurred (either paid or payable) exclusive of capital improvement costs, reserves, depreciation, amortization and Special Assessments. The amount so determined shall then be reduced by revenues earned (either received or receivable) from all sources (including, without limitation, Assessments, interest, fines, working capital and similar contributions made by Lot purchasers, and incidental income) and any surplus carried forward from the preceding year(s). In computing the annual amount to be funded by the Declarant as aforesaid, revenues and expenses shall not be segregated or earmarked by type of Assessment or type of Common Area, or Neighborhood but, instead, shall be taken as a whole. Also, depreciation and capital asset acquisition shall not be deemed a cost or expense for purposes of this Section and Declarant shall not be deemed to have in any manner guaranteed or obligated itself as to the types or levels of any inventory or goods or equipment existing at any time.

6.8.4. For any assessment year, Declarant may from time to time change the option (or combination thereof) under which Declarant is making payments to the Association by written notice to the Association. When all Lots within The Properties are sold and conveyed to purchasers, neither Declarant nor its affiliates shall have further liability of any kind to the Association for the payment of Assessments, deficits or contributions. Without limiting the generality of Article 3, Section 1.13 hereof, the Declarant's rights under this Section may be assigned by it in whole or in part and on an exclusive or non-exclusive basis.

7. Maintenance.

7.1. Maintenance of Homes, Lots and Exclusive Common Areas by Owners.

7.1.1. Exteriors of Home. Unless otherwise provided in an appropriate Supplemental Declaration, the Owner of a Home shall have the responsibility to maintain at Owner's sole expense his Home and all exterior surfaces, roofs, facias and soffits of the Home and other improvements located on the Lot (including driveway and sidewalk surfaces and fences) in a neat, orderly and attractive manner. The aforesaid maintenance shall include maintaining screens (including screen enclosures), windows and doors (including the wood and hardware of garage doors and sliding glass doors). The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of the Home as initially constructed and otherwise improved (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness). The Owner shall clean, repaint or restain, as appropriate, the exterior portions of each Home (with the same colors as initially used on the Home), including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards. The Board of Directors may adopt rules as to specific frequencies of required cleaning, repainting/restaining and the like for each Neighborhood.

7.1.2. Lots and Exclusive Common Areas. Unless otherwise provided in an appropriate Supplemental Declaration, an Owner at his sole expense shall maintain and irrigate the trees, shrubbery, grass and other landscaping on his Lot and Exclusive Common Areas, in a neat, orderly and attractive manner and consistent with the general appearance of The Properties as a whole. The minimum (though not sole) standard for the foregoing shall be the general appearance of the Home and Lot as initially landscaped (this standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained).

7.1.3. Without limiting the generality of the foregoing, each Owner shall be responsible for the maintenance of any portion of his driveway located in his respective Exclusive Common Area as well as any sidewalk, trees, shrubs, grass or other plant material located therein; provided, however, that if the Board of Directors of the Association so elects, the Association may perform all or any portion of those maintenance obligations, on an ongoing or isolated basis for the purpose of achieving an economy of scale or providing for uniform appearance throughout the applicable Neighborhood. In that event, the costs of that maintenance

shall be borne only by the Owners within the affected Neighborhood through Neighborhood Assessments levied in accordance with Article 6 hereof.

7.2. Maintenance by Association. The Association shall be responsible for the maintenance, repair and replacement of the following, notwithstanding that title or other ownership interests may not have been transferred to the Association:

7.2.1. The General, Neighborhood and Maintenance Common Areas, including all improvements, facilities, equipment and supplies.

7.2.2. Landscape and aesthetic facilities and installations within those Common Areas as follows:

7.2.2.1. Entry walls, signs, lighting, landscaping and irrigation systems located on either side of the primary entry road to McGregor Reserve, and any facilities located in any median located within the roadway. The Association's obligation shall include installations and landscaping within the right of way for the primary entry road as well as any facilities located within any easement for those purposes adjacent to the right of way.

7.2.2.2. Other areas of landscaping within or adjacent to public streets within McGregor Reserve as may be designated by the Declarant as the responsibility of the Association. Declarant may specify those areas by instrument filed with the Association, by amendment hereto or by any other instrument filed among the Public Records of the County. Maintenance obligations under this Section 7.2 shall include but not be limited to, irrigation systems, landscaping, walls, fences, signs, electrical and utility installations and structures as may be located within rights of way or easements for aesthetic, artistic or decorative purposes, other than street improvements and public utilities. Nothing contained herein shall prohibit the Board from determining to maintain any landscaping within or adjacent to any public street within McGregor Reserve to the extent that it is not maintained by public authorities at an acceptable level, as determined by the Board. The Association shall have no responsibility for any landscape, buffer or similar easement, maintenance of which is the responsibility of an Owner.

7.2.3. Community Service Systems within McGregor Reserve, to the extent not the responsibility of a provider of service, a government having jurisdiction or an Owner.

7.2.4. The stormwater management system, including but not limited to, all lakes, ponds, canals, ditches, culverts, lines, structures and in-flow and out-flow facilities not dedicated to and maintained by public authorities, and to the extent so dedicated, to the extent not maintained by public authorities to a level acceptable to the Board. The stormwater management system shall be maintained to not less than the minimum standards and requirements imposed by the governmental approvals.

7.2.4.1. Any stormwater management system within McGregor Reserve, and any stormwater discharge facility within McGregor Reserve as exempted or permitted by the Florida Department of Environmental Protection. With respect thereto, the Board may establish appropriate rules and regulations, assess the Owners for the cost thereof and contract for services to provide for the operation and maintenance of the system and facility.

7.2.5. Any part of a public street within McGregor Reserve improved with paver brick as to which the Association has signed a maintenance or other agreement with the County. Provided, however, that if the Association signs any agreement and thereafter a Neighborhood committee shall assume the duties of the Association, then thereafter the Association shall have no responsibility for the maintenance.

7.2.6. The monitoring of water quality and quantity in accordance with and as required by the governmental approvals. The obligation of the Association hereunder may not be amended, modified or eliminated until five (5) years after completion of all parts of McGregor Reserve as provided by the Development Plan, except with the written consent of Declarant and the County. The Association's obligation to conduct monitoring shall terminate if monitoring responsibility is transferred to a governmental entity.

7.2.7. The Expense of Maintenance. The expense of the maintenance contemplated or implied by this Section 7.2 shall be a Common Expense except as otherwise expressly provided. If an item of maintenance, repair or replacement is the result of any intentional or negligent act of an Owner or Member, his family, agents, tenants, contractors, invitees or licensees, then the cost of such maintenance, repair or replacement, to the extent so caused, shall be the responsibility of the Owner and his Lot. Even though the cost thereof may be advanced as a Common expense, it shall be billed to the Owner and his Lot for reimbursement as an Individual Assessment. Likewise, should any item be the result of any intentional or negligent act of a Neighborhood, its contractors, agents or licensees, then the cost of maintenance, repair or replacement, to the extent so caused, shall be the responsibility of the Owners within the Neighborhood and shall be billed to and payable by those Owners on a pro-rata basis.

7.2.8. Repair and Maintenance by Owners and Neighborhoods. No Owner or Neighborhood shall have repair and maintenance responsibility with respect to the Common Areas (except Exclusive Common Areas) or other items to be maintained by the Association in this Section 7.2, except for obligations provided in Section 7.2.7 and any maintenance obligations specifically assigned to a Neighborhood or a particular Owner or group of Owners.

7.2.9. Right of Association to Repair or Maintain Upon Non-Compliance Herewith.

(1) The Association and its agents may enter any Lot upon reasonable notice and during reasonable hours to inspect the Lot and improvements and landscaping thereto, in accordance with this Declaration, the terms and conditions of Architectural approval, or both. After written notice and a reasonable opportunity to cure to the Owner (except in an emergency) the Board may cause that maintenance to be performed or repair or reconstruction to be carried out to the extent that the Owner has failed to do so. All costs of maintenance, repair or reconstruction shall be assessed to the particular Owner and Lot as an Individual Assessment.

(2) Provided, however, that nothing contained herein shall obligate the Board or the Association to carry out any maintenance, repair or reconstruction. Failure to carry out maintenance, repair or reconstruction shall not waive the right of the Board or the Association to do so subsequently, nor shall doing so in any one or more instance establish any obligation of the Board or the Association to continue to do so or to do so in any particular circumstance.

(3) The Board may, in its discretion, establish uniform levels of maintenance and upkeep for Lots, and may rely upon those standards in carrying out its responsibilities hereunder.

7.2.10. Transfer of Maintenance to Governmental Authority. The Association may transfer any maintenance responsibility for any part of the Common Areas, any Community Service System or any other item or items for which the Association has maintenance responsibilities, to any special tax district, taxing unit, other public agency, authority or entity organized or having jurisdiction of those matters without the necessity of Member approval provided that governmental authority accepts maintenance responsibility and transfer is not inconsistent with the governmental approvals. If transfer of responsibility is effected, the Association shall retain the authority to supplement maintenance to the extent public authority does not maintain those items to an acceptable level, as determined by the Board.

8. Certain Use Restrictions.

8.1. Applicability. The provisions of this Article 8 shall be applicable to all of The Properties but shall not be applicable to Declarant or any of its designees or Lots or other property owned by Declarant or its designees.

8.2. Land Use and Building Type. No Lot or Home shall be used except for residential purposes. No Home or other improvement shall be erected, altered, placed or permitted to remain on any Lot other than one Home. Temporary uses by Declarant and its affiliates for model homes, sales displays, parking lots, sales offices and other offices, or any one or combination thereof, shall be permitted until the permanent cessation of those uses takes place. No changes may be made in Homes or other improvements erected by Declarant or its affiliates (except if those changes are made by Declarant) without the consent of the Board of Directors.

The use of a Home which involves business activities shall not be deemed a violation hereof as long as that use conforms to applicable zoning requirements and does not involve customers, clients, patients, suppliers or others regularly visiting the Home, although express service and similar deliveries shall be allowed. Notwithstanding the foregoing, the privilege of conducting business activities within a Home shall not entitle the Owner or other persons conducting the activities to any exemption or variance from, or special treatment under, the other use restrictions set forth herein or in Rules and Regulations (including any manual adopted by the Architectural Review Committee) of the Association.

8.3. Easements. Easements for the installation and maintenance of utilities, Community Service Systems and the common irrigation systems are reserved as shown on the recorded plats covering The Properties and/or as provided herein. The area of each Lot covered by an easement and all improvements in that area shall be maintained continuously by the Association to the extent provided herein, except for installations for which a public authority or utility company is responsible.

8.3.1. Utility companies, telephone company, the Association, and Declarant and its designees, and their respective successors and assigns, shall have a perpetual easement for the installation and maintenance, all underground, of water lines, sanitary sewers, storm drains, and electric, gas, telephone and Community Service System lines, cables and conduits, under and through the utility easements as shown on the plats. These requirements are in addition to any set forth on the recorded plats of The Properties.

8.4. Nuisances: Nothing shall be done or maintained on any Lot which may be or become an unreasonable annoyance or nuisance to the occupants of other Lots. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. ALL PERSONS ARE REFERRED TO ARTICLE 16 HEREOF WITH RESPECT TO CERTAIN ACTIVITIES OF DECLARANT.

8.5. Temporary Structures; Gas Tanks; Other Outdoor Equipment. Except as may be approved or used by Declarant during construction and/or sales periods, no structure of a temporary character, or trailer, mobile home or recreational vehicle, shall be permitted on any Lots within The Properties at any time or used at any time as a residence, either temporarily or permanently. No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Home or on or about any ancillary building, except for gas tanks which are used for swimming pool heaters which are screened from view, one (1) gas cylinder connected to a barbecue grill and/or another tank as is designed and used for household purposes and approved by the Board of Directors. Any outdoor equipment such as, but not limited to, pool pumps and water softening devices shall be reasonably screened from the view of anyone not standing on the Lot by the use of landscaping or other means (in any event, as approved by the Board of Directors); provided, however,

that the use of screening shall not obviate the requirement that the installation of any equipment nevertheless be approved by the Board of Directors.

8.6. Signs. No sign or billboard of any kind shall be displayed to the public view from any Lot or Home except as follows:

8.6.1. Directional and informational signs associated with the Common Areas, development of McGregor Reserve in general, or as may be approved by the Board.

8.6.2. One professional sign inserted in a sign holder provided by the Association and rented from the Association by an Owner or an Owner's real estate agent advertising a Lot/Home for sale or lease. The sign shall be removed promptly after the sale or rental of the Lot/Home.

8.6.3. Signs used by Declarant and its successors or assigns or their sales agents, in connection with the development and sale of The Properties or Lots and parts thereof.

8.6.4. Small address and family nameplates as may be approved by the Board.

8.6.5. Signs of not more than twenty (20) square feet, but not wider than five (5) feet or higher than four (4) feet, identifying the builder or contractor and lender during the period of construction on a Lot or of other size or dimensions as may be approved by the Board.

8.6.6. Other signs, whether free standing, attached, lighted, moving, informational, directional, promotional or for other purposes as may be approved by the Board.

8.7. Oil and Mining, Operation; Water Wells. Oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall not be permitted upon or in The Properties, or on dedicated areas. Water wells, oil wells, tanks, tunnels, mineral excavations or shafts shall not be permitted upon or in The Properties, except for wells and other irrigation devices installed by or on behalf of Declarant, the Association, or an Owner for irrigation of his Lot. Derricks or other structures designed for use in boring for oil or natural gas shall not be erected, maintained or permitted upon any portion of the real property subject to these restrictions. ALL PERSONS ARE REFERRED TO ARTICLE 16 WITH RESPECT TO CERTAIN ACTIVITIES OF DECLARANT.

8.8. Pets, Livestock and Poultry. No animals, reptiles, wildlife, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except no more than two (2) household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any neighbor by reason of barking or otherwise. No dogs or other pets shall be permitted to have excretions on any Common Areas, except areas designated by the Association for that purpose, if any, and the pet's Owners shall be responsible to clean-up any excretions. For purposes hereof, "household pets" shall mean dogs, cats and other animals expressly permitted by the Association, if any. ALL PETS SHALL BE KEPT ON A LEASH WHEN NOT IN THE APPLICABLE HOME. Pets shall also be subject to all applicable Rules and Regulations. Nothing contained herein shall prohibit the keeping of fish or domestic (household-type) birds, as long as the latter are kept indoors and do not become an unreasonable source of annoyance to neighbors.

8.9. Visibility at Intersections. No obstruction to visibility at street intersections or Common Area intersections shall be permitted; provided that neither the Association nor the Declarant shall be liable in any manner to any person or entity, including Owners, their families, guests, agents, contractors and Members' Permittees, for any damages, injuries or deaths arising from any violation of this Section 8.9.

8.10. Architectural Review. Except as to Declarant's initial construction or later modifications, no Home or other structure or improvement or addition of any nature shall be erected, placed, altered or relocated on any Lot, or removed therefrom, until the construction plans and specifications and a plan showing the location of the structure and landscaping or of the materials as may be required by the Architectural Review Committee (which shall be a committee appointed by the Board of Directors of the Association, absent appointment the Board to serve in that capacity) have been approved, if at all, in writing by the Board of Directors and all necessary governmental permits are obtained. Conversions of garages to living space or other uses are hereby prohibited, even though not readily apparent from the exteriors of applicable Homes. Each building, wall, fence, or other structure or improvement of any nature, together with landscaping, shall be erected, placed, relocated, altered or removed only in accordance with the plans and specifications and plot plan so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and location plans, or any of them, may be based on any grounds, including purely aesthetic ones, which in the sole discretion of the Board of Directors are deemed sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of landscaping, shall be deemed an alteration requiring approval; provided, however, that lights, flags and other decorations customary for holidays shall not require approval hereunder (but may be regulated as to size, quantity, nature and length of time they may remain in place).

8.10.1. The structures, improvements and additions requiring approval (including as to the alteration or removal thereof) described above shall include, but are not limited to, fences, walls, swimming pools, screen enclosures, patios or patio extensions, hedges, exterior paint or finish, awnings, shutters, hurricane protection, basketball hoops, swing sets or play apparatus, decorative plaques or accessories, statues, benches and other site furniture, planters, birdhouses, other pet houses, mail and/or newspaper boxes, exterior lighting, swales, asphalting, sidewalk/driveway surfaces or treatments or other improvements or changes of any kind, even if not permanently affixed to the real property or to other improvements.

8.10.2. The Board of Directors shall have the power to promulgate Rules and Regulations (which may be in the form of a manual) as it deems necessary to carry out the provisions and intent of this Section 8.10.

8.10.3. The Board of Directors shall have the power to appoint an Architectural Review Committee to vest in it those powers under this Section 8.10 (and similar powers under other provisions of this Declaration) as the Board of Directors may elect. However, absent an express assignment of the power to approve plans submitted pursuant to this Section, the Architectural Review Committee shall only render advice and recommendations to the Board of Directors but, in doing so, may establish procedures for the review of plans and other information accompanying requests for Board of Directors approval. A majority of the Committee may make any recommendation or take any action the Committee is empowered to take, may designate a representative to act for the Committee and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Committee, the Board of Directors shall have full authority to designate a successor. The members of the Committee and the Board shall not be entitled to any compensation for services performed pursuant to this covenant, unless engaged by the Association in a professional capacity. The Board of Directors shall act on submissions to it within forty-five (45) days after receipt of the plans and all further documentation required by it, or else the request shall be deemed approved.

8.10.4. No request for approval shall be valid or require any action unless and until all Assessments on the applicable Lot (and any interest thereon) have been paid in full or if any other violation of this Declaration or the Association's Rules and Regulations remains uncured.

8.10.5. In light of the fact that the types, styles and locations of Homes may differ among the Neighborhoods, in approving or disapproving requests submitted to it hereunder the Architectural Review Committee may vary its standards among the Neighborhoods to reflect differing characteristics. Accordingly,

the fact that the Board of Directors may approve or disapprove a request pertaining to a Lot in one Neighborhood shall not serve as precedent for a similar request from an Owner in another Neighborhood where one Neighborhood has relevant characteristics differing from the other. In determining standards for architectural approval in specific Neighborhoods, the Board of Directors may, but shall not be required to, consult with the applicable Neighborhood Committee, provided that the Board of Directors shall be the final authority in determining and enforcing standards.

8.10.6. In the event that any new improvement or landscaping is added to a Home/Lot, or any existing improvement on a Lot is altered, in violation of this Section 8.10, the Association shall have all rights and remedies lawfully available to it as well as the specific right (and an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the applicable violation after giving the Owner of the Lot at least ten (10) days' prior written notice of, and opportunity to cure, the violation in question. The costs of remedial work and a surcharge of a minimum of $25.00 (but in no event more than thirty-five percent (35%) of the aforesaid costs) shall be an Individual Assessment against the Lot (and Owner), which Individual Assessment shall be payable upon demand and secured by the lien for Assessments provided for in this Declaration.

8.10.7. The approval of any proposed improvements or alterations by the Board of Directors shall not constitute a warranty or approval as to, and neither the Association nor any member or representative of the Architectural Review Committee or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any improvement or alteration or as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Association and its officers and directors generally, from and for any loss, claim or damages connected with the aforesaid aspects of the improvements or alterations.

8.10.8. The Board of Directors may, but shall not be obligated to, require that any request for its approval be accompanied by the written consent of the Owners of the Lots [up to five (5)] adjoining or nearby the Lot proposed to be altered or further improved as described in the request.

8.10.9. Without limiting the generality of Section 1 of this Article 8, the foregoing provisions of Article 8 shall not be applicable to Declarant or its affiliates or designees.

8.11. Commercial Vehicles, Trucks, Trailers, Campers and Boats. No trucks (other than those of a type, if any, expressly permitted by the Association) or commercial or public service vehicles, or campers, mobile homes, motorhomes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or horse vans, shall be permitted to be parked or to be stored at any place on The Properties, or in dedicated areas, except in: (i) enclosed garages; or (ii) spaces for some or all of the above specifically designated by Declarant or the Association, if any. For purposes of this Section 8.11, "commercial vehicles" and "public service vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial or public service vehicle.

8.11.1. The prohibitions on parking contained in this Section shall not apply to temporary parking of any vehicles for construction use or providing pick-up and delivery and other commercial services, nor to passenger-type vans with windows for personal use which are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time), or to any vehicles of Declarant or its affiliates. Also, the Board of Directors may adopt Rules and Regulations permitting temporary parking of recreational and other otherwise prohibited vehicles for purposes such as loading and washings.

8.11.2. All Owners and other occupants of Homes are advised to consult with the Association prior to purchasing, or bringing onto The Properties, any type of vehicle other than a passenger car inasmuch as other types of vehicle may not be permitted to be kept within The Properties.

8.11.3. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the Rules and Regulations now or hereafter adopted may be towed by the Association at the sole expense of the vehicle's Owner if the vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the vehicle's Owner for trespass, conversion or otherwise, or be guilty of any criminal act, by reason of towing and once the notice is posted, neither its removal, nor failure of the Owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

8.12. Parking, on Common Areas and Lots/Garages. No vehicles of any type shall be parked on any portion of the Common Areas (including swales and roadways) except to the extent, if at all, a portion(s) of the Common Areas is specifically designated for that purpose or parking is for a temporary social or similar event.

8.12.1. All Owners and Members' Permittees shall use at least one (1) space in their garages for parking a vehicle. In the event that a party keeps a boat on a trailer (or some other vehicle or trailer) in the party's garage, the other space shall still be used for vehicular parking. Garage doors shall be kept closed at all times except when in actual use and during reasonably limited periods when the garage is being cleaned or other activities are being conducted therefrom which reasonably require the doors to be left open.

8.12.2. No parking shall be permitted on any portion of a Lot except its driveway and garage. Further, no "stacking" of vehicles shall occur on a regular basis where prohibited by any applicable code or land use condition.

8.13. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish (including materials for recycling) shall be placed outside of a Home except as permitted by the Association. The requirements from time to time of the applicable governmental authority or other company or association for disposal or collection of waste shall be followed. All equipment for the storage or disposal of material shall be kept in a clean and sanitary condition. Except for "dumpsters" used by Neighborhood Associations or the Association, which shall be kept in appropriate enclosures, containers must be rigid plastic, no less than 20 gallons or more than 32 gallons in capacity, and shall be well sealed. Containers may not be placed out for collection sooner than 24 hours prior to scheduled collection and must be removed within 12 hours of collection. In the event that an Owner or occupant of a Lot keeps containers for recyclable materials thereon, those shall be deemed to be refuse containers for the purposes of this Section 8.13.

8.14. No Drying. No clothing, laundry or wash shall be aired or dried on any portion of The Properties except on a portion of a Lot which is completely screened from the view of all persons other than those on the Lot itself.

8.15. Waterfront Property. As to all portions of The Properties which have a boundary contiguous to a lake or other body of water, the following additional restrictions and requirements shall be applicable:

8.15.1. No boathouse, dock, wharf or other structure of any kind shall be erected, placed, altered or maintained on the shores of the lake unless erected by Declarant or its affiliates.

system or not. Any Owner that causes or permits alteration of the contours of land or drainage or otherwise interferes with the stormwater management system shall be responsible for any damage caused thereby to other parts of The Properties. The Declarant shall have no liability to any person or entity for inadequate drainage or water retention so long as the Developer complies with its applicable permits.

THE FOREGOING IS SUBJECT AT ALL TIMES TO THE DISCLAIMER OF DUTIES AND LIABILITIES AS SET FORTH IN ARTICLE 16 OF THIS DECLARATION.

8.26. Restriction on Right to Withdraw Water. No Owner shall have the right to withdraw or use water from any lake, pond, retention facility or drainage ditch forming a part of the stormwater management system without the prior written approval of the Board and Declarant. The necessity for Declarant consent shall terminate five (5) years after the turnover date. The right if granted, shall exist exclusively for irrigation purposes. Any approval may be given unconditionally or conditioned upon terms and limitations as the Board may deem appropriate, in its sole discretion, including but not necessarily limited to the imposition of a charge to take and use water. Any approval once given may be revoked or suspended by the Board if the Board, in its sole discretion, determines that the right has been abused or that circumstances have changed so that it is in the best interest of the Association that authorization be withdrawn. Likewise, the Board may impose additional conditions or alter those already imposed. Nothing contained herein shall be deemed to impose any obligation upon the Board or the Declarant to permit the withdrawal and use of water by any Owner and the Board and Declarant may be arbitrary in reaching any determination hereunder. Provided, however, that those in substantially similar situations shall be treated in a uniform, fair and reasonable manner. If, however, the Board has determined that there are a limited number of Owners who may withdraw water from any given source, the Board and Declarant may limit the number who may so withdraw and use the water, and establish priorities as they deem appropriate.

8.27. Additional Rules and Regulations. In addition to the Rules and Regulations which may be adopted and amended from time to time by the Board, the Board may adopt Rules and Regulations governing the maintenance and use of The Properties (including Lots and Common Areas). The Board shall make reasonable efforts to publicize the Rules and Regulations, including any amendments thereto which may be made by the Board from time to time, but shall not be required to record them in the public records of the County. Any Rules and Regulations shall be either: (i) in furtherance of specific provisions of this Declaration; or (ii) reasonably calculated to enhance the orderly and peaceful appearance, use and operation of The Properties but, in either case, shall not conflict with any provision of this Declaration, the Articles or By-Laws. Subject to the foregoing standard, the Rules and Regulations may prohibit (as opposed to simply regulate) certain uses or installations notwithstanding that prohibition of those uses or installations set forth herein. Further, the Rules and Regulations may vary from Neighborhood to Neighborhood in order to reflect any different characteristics thereof or wishes of the Owners therein. In addition to this Declaration and Amendments and Supplements hereto, Declarant may record Development Documents for future property added to McGregor Reserve. Those Development Documents may vary as to those additions in accordance with the Declarant's Development Plan and the location, topography and intended use of the additions. Nothing contained in this Section 8.27 shall require the Declarant to impose uniform restrictions, or to impose restrictions of any kind on all or any part of additions to McGregor Reserve except as expressly provided herein.

9. Resale, Lease and Occupancy Restrictions.

9.1. Estoppel Certificate; Documents. No Owner, other than Declarant, may sell or convey his interest in a Lot unless all sums due the Association are paid in full and an estoppel certificate in recordable form confirming payment in full (the "Certificate") shall have been received by the Owner. If all those sums are paid, the Association shall deliver the Certificate to the Owner within five (5) days of a written request

therefor. The Owner requesting the Certificate may be required by the Association to pay to the Association a reasonable sum to cover the costs of examining records and preparing the Certificate.

9.1.2. Owners shall be obligated to deliver the documents originally received from Declarant, containing this and other declarations and documents, to any grantee of that Owner.

9.2. Leases. No portion of a Lot or Home (other than an entire Lot and Home) may be leased or rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and its applicable Rules and Regulations or other applicable provisions of any agreement, document or instrument governing The Properties or administered by the Association. Leasing of Lots and Homes shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (I 5) days of its receipt of a request for approval together with a copy of the proposed lease and all supporting information reasonably requested by the Association. No approval of a lease shall be denied on the basis of its duration if the duration is not for at least one year.

9.2.1. No Owner leasing his Lot/Home shall be entitled to transfer any use rights in and to Common Areas (other than access rights over Common Area for ingress and egress) unless Owner first delivers to the Association: (i) a transfer fee in an amount established by the Board; and (ii) a completed transfer application in the form prescribed by the Board. Any transfer of rights may be made for a term of no less than one (1) year. Further, no transfer shall be valid for a period of more than twelve (12) months. A transfer of rights hereunder shall vest in the tenant non-exclusive use rights in and to the Common Areas as are appurtenant to the Lot/Home being transferred and shall divest the Owner of those rights for the period for which the transfer is effective. Accordingly, any and all rights afforded Owners and Members' Permittees under this Declaration with respect to the Common Areas (again, other than access) shall be subject to the requirements of this Section 9.2.

9.2.2. The Owner shall be jointly and severally liable with the tenant to the Association for any amount required by the Association to effect repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant, or of its family, guests, invitees and agents.

9.3. Members' Permittees. No Lot or Home shall be occupied by any person other than the Owner(s) thereof and his family or the applicable Members' Permittees and in no event other than as a residence. For purposes of this Declaration, a Member's Permittees shall be the following persons and his family, provided that the Owner or other permitted occupant must reside with his/her family: (i) an individual Owner(s), (ii) an officer, director, stockholder or employee of a corporate Owner, (iii) a partner in or employee of a partnership Owner, (iv) a fiduciary or beneficiary of an ownership in trust, or (v) occupants named or described in a lease or sublease, but only if approved in accordance with this Declaration. Under no circumstances may more than one family reside in a Home at one time. The provisions of this Section 9.3 shall not be applicable to Homes used by Declarant for models homes, sales offices, management services or otherwise.

9.3.1. As used herein, "family" or words of similar import shall be deemed to include spouses, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Home as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those persons who have a principal residence other than the Home. Unless otherwise determined by the Board, a person occupying a Home for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to leases and lessees.

The purpose of this Section 9.3 is to prohibit the circumvention of the provisions and intent of this Article 9 and the Board shall enforce, and the Owners comply with, this Section 9.3 with due regard for this purpose.

10. **Enforcement; Arbitration; Litigation.**

10.1. Compliance by Owners. Every Owner and Member's Permittee shall comply with the restrictions and covenants set forth in this Declaration and any and all Rules and Regulations which from time to time may be adopted by the Board.

10.2. Violations. Failure of an Owner or his Member's Permittee to comply with this Declaration or Rules and Regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, all to the extent of the Owner's liability under this Declaration and applicable law. The Association shall have the right to suspend the rights of use of Common Recreation Areas and facilities of defaulting Owners. The defaulting Owner shall be responsible for all costs of enforcement including attorneys' fees actually incurred and court costs.

10.3. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board, a fine, fines or suspension may be imposed upon an Owner for failure of an Owner or his Member's Permittees to comply with this Declaration or the Rules and Regulations.

10.3.1. Notice: The Association shall notify the Owner in writing of the alleged infraction or infractions. Included in the notice shall be the place, date and time of a hearing before a committee of at least three Members appointed by the Board who are not officers, directors or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee of the Association, at which time the Owner shall present reasons why a fine(s), suspension or both should not be imposed. At least fourteen (14) days' notice of the hearing shall be given to Owner.

10.3.2. Hearing: The alleged infraction(s) shall be presented to the committee described in Section 10.3.1 above. If the committee, by majority vote, does not approve a proposed fine or suspension, they may not be imposed. A written decision of the committee shall be submitted by the Board to the Owner no later than twenty-one (21) days after the hearing. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

10.3.3. Amounts of Fine and Length of Suspension: The Board (if the committee's findings are made against the Owner) may impose a suspension of an Owner and Individual Assessments against the Owner and the Lot owned by the Owner, except as limited by law, as follows: a fine not in excess of Fifty Dollars ($50.00) per infraction and suspension for a reasonable length of time of the Member's rights (excluding voting rights) and those of his family, tenants, guests, invitees, and Members' Permittees to use the Common Areas.

10.3.4. Payment of Fines: Fines shall be paid not later than five (5) days after notice of the imposition of the fine.

10.3.5. Collection of Fines: Fines shall be treated as an Individual Assessment subject to the provisions of this Declaration for the collection of Assessments, and the lien securing them, as set forth herein.

10.3.6. Application of Proceeds: All money received from fines shall be allocated as directed by the Board.

10.3.7. Non-exclusive Remedy: Fines and suspension shall not be construed to be mutually exclusive or the exclusive remedies, and shall exist in addition to all other rights and remedies to which the

Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from the Owner.

10.3.8. Hearing Panel: The requirements of this Section 10.3 shall not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay Assessments when due.

10.3.9. Suspension of Common Area use rights shall not impair the right of an Owner or Member's Permittee to have vehicular and pedestrian ingress to and egress from his Lot.

10.3.10. The Association may not suspend the voting rights of a Member.

10.4. Arbitration of Claims. In the event that there are any warranty, negligence or other claims against the Declarant or any party having a right of contribution from, or being jointly and severally liable with, the Declarant (collectively the "Claims") relating to the design, construction, furnishing or equipping of The Properties, those shall be adjudicated pursuant to binding arbitration, rather than civil litigation, as permitted by the Florida Arbitration Code (the "Code"), Chapter 682, Florida Statutes, only in the following manner:

10.4.1. The party making the Claims, which shall include the Association as well as any Owner (the "Claimant"), shall notify the Declarant in writing of the Claims, specifying with particularity the nature of each component thereof and providing a true and complete copy of each and every report, study, survey or other document supporting or forming the basis of the Claims.

10.4.2. Within thirty (30) days of Declarant's receipt of the notice of the Claims, the Declarant will engage, at its own expense, a duly licensed engineer or architect, as appropriate (the "Arbitrator") to serve as the arbitrator of the Claims pursuant to the Code. The engineer or architect shall be independent of the Declarant and the Claimant, not having any then-current business relationship with the Declarant or Claimant, other than by virtue of being the Arbitrator. Upon selecting the Arbitrator, the Declarant shall notify the Claimant of the name and address of the Arbitrator.

10.4.3. Within thirty (30) days after the Declarant notifies the Claimant of the name and address of the Arbitrator, the Claimant and the Declarant shall be permitted to provide the Arbitrator with any pertinent materials to assist the Arbitrator in rendering his findings.

10.4.4. At the request of the Claimant or Declarant that a conference be held to discuss the Claims, the conference shall be held, and the Arbitrator shall establish procedures, guidelines and ground rules for the holding of the conference. The Claimant and the Declarant shall be entitled to representation by its attorney and any other expert at the conference. In the event a conference is held, the sixty (60) day time period referenced in this Section 10.4.5. shall be extended as the Arbitrator deems warranted. At the conference, the Arbitrator shall notify the Declarant and Claimant as to when the Final Report shall be issued.

10.4.5. Within sixty (60) days from the date of his appointment, the Arbitrator shall review the Claims and supporting materials, the relevant portions of The Properties and all appropriate plans, specifications and other documents relating thereto, and render a report (the "Final Report") to the Declarant and the Claimant setting forth, on an item by item basis, his findings with respect to the Claims and the suggested method of correction of those he finds to be valid. If the Declarant so requests, by written notice to the Arbitrator, the Arbitrator will specify the estimated cost of the correction of each of those Claims he finds to be valid and shall offset therefrom costs reasonably attributable to any Association, or Owner as the case may be, failure to maintain or mitigate or to any contributory negligence, in all cases whether chargeable to the Claimant or others.

10.4.6. The Declarant shall have one hundred eighty (180) days after receipt of the Final Report in which to (i) correct the Claims found to be valid or (ii) pay to the Claimant the amount estimated by the Arbitrator to be the cost of correction after the offset referred to in section 10.4.5. above.

10.4.7. As to those matters the Declarant elects to correct, upon completion of all corrective work the Declarant will so notify the Arbitrator (with a copy of the notice to the Claimant) and the Arbitrator shall then inspect the corrected items and render a report (the "Remedial Report") to the Declarant and the Claimant concerning whether those items have been corrected. The procedure shall be repeated as often as necessary until all items have been corrected.

10.4.8. For all purposes, the Final Report and the Remedial Report of the Arbitrator will constitute binding and enforceable arbitration awards as defined in Section 682.09 of the Code and any party affected by those reports shall have the right to seek the enforcement of the Report in a court of competent jurisdiction. Moreover, no party shall have the right to seek separate judicial relief with respect to warranty disputes as defined above, or to seek to vacate the aforementioned arbitration awards, except in accordance with the Code, and then only upon the specific grounds and in the specified manner for the vacation of awards as established by Section 682.13 of the Code.

10.4.9. The Arbitrator shall not be liable to the Association, the Claimant or the Declarant by virtue of the performance of his services hereunder, except for fraud and corruption.

10.4.10. The procedures set forth above shall also be the sole means by which disputes as to Association finances (including, without limitation, the Declarant's payment of assessments, deficit funding obligations, if any, the handling of reserves and the keeping of accounting records), except that the Arbitrator shall be a Certified Public Accountant who: (i) is a member of Community Associations Institute; and (ii) meets the independence test set forth above.

10.4.11. In the event of any dispute as to the legal effect or validity of any of the Claims (e.g., as to standing, privity of contract, statute of limitations or laches, failure to maintain or mitigate, existence of duty, foreseeability, comparative negligence, the effect of disclaimers or the interpretation of this Declaration as it applies to the Claims), those disputes shall be submitted to Arbitration, as herein provided, by a member in good standing of The Florida Bar chosen by the Declarant, which Arbitrator shall be independent of the Declarant and the Claimant as set forth above. In that event, all time deadlines which cannot be met without the resolution of disputed matters shall be suspended for that time as the Arbitration provided for in this Section 10.4.11 continues until final resolution.

10.5. Litigation. While it is the intention of Declarant that Section 10.4 above be given full effect in every possible case, in the event that it does not apply to a particular circumstance then this Section 10.5 shall control. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of all of the Members, inclusive of the Declarant. Notwithstanding anything in this Declaration, the Articles of Incorporation or the By-Laws to the contrary, the aforesaid votes shall be cast by the Members themselves at a special meeting thereof and not by their Voting Members and the aforesaid percentage shall be of all of the Members rather than just those attending the meeting or voting. This Section shall not apply, however, to: (a) actions brought by the Association against parties other than the Declarant to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens and the imposition of fines and suspension); (b) the imposition and collection of Assessments as provided herein in Article 6; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it except those brought by Declarant. This Section shall not be amended unless the amendment is made by the Declarant or is approved by the percentage votes referred to above, and pursuant to the same procedures, necessary to institute proceedings as provided herein.

10.6. Waiver of Jury Trial. By the acceptance of the covenants and obligations herein, all Owners, the Association and the Declarant and all of their successors and assigns knowingly, voluntarily, and intentionally waive the right to a trial by jury with respect to any litigation arising out of this Declaration, or out of any course of conduct, course of dealing, statements (either verbal or written), or actions of any affected party.

11. **Damage or Destruction to Common Areas**. Damage to or destruction of all or any portion of the Common Areas shall be addressed in the following manner, notwithstanding any provision in this Declaration to the contrary:

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

11.2. If available insurance proceeds are within One Hundred Thousand Dollars ($100,000.00) or less of being sufficient to effect total restoration, then the Association shall cause those portions of the Common Areas to be repaired and reconstructed substantially as they previously existed and the difference between the available insurance proceeds and the estimated cost of the restoration work shall be levied as a Special Assessment against each of the Owners in equal shares, on a Neighborhood or overall basis as appropriate, in accordance with the provisions of Article 6 of this Declaration.

11.3. If available insurance proceeds are insufficient by more than One Hundred Thousand Dollars ($100,000.00) to effect total restoration, then by written consent or vote of a majority of each category of the Members, they shall determine, subject to Article 13 hereof, whether: (1) to rebuild and restore the Common Areas in substantially the same manner as they existed prior to damage and to raise the necessary funds in excess of the insurance proceeds by levying Special Assessments against all Members (or those in the affected Neighborhood, if appropriate); (2) to rebuild and restore in a manner which is less expensive than restoring the Common Areas in substantially the same manner as they existed prior to being damaged; or (3) subject to the approval of the Board, to not restore and to retain the available insurance proceeds.

11.4. Each Member shall be liable to the Association for any damage to the Common Areas which may be sustained by reason of the negligence or willful misconduct of any Member (including the Member's family, guests, invitees, agents, tenants and contractors) or his Member's Permittees. Notwithstanding the foregoing, the Association reserves the right to charge that Member an Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by that Member. In the case of joint ownership of a Lot or Home, the liability of the Members shall be joint and several. The cost of correcting the damage shall be an Individual Assessment against the Member (or Members) and may be collected as provided herein in Article 6 for the collection of Assessments.

12. **Insurance.**

12.1. Common Areas. The Association shall keep all improvements (other than foundations, landscaping and other components not usually insured), facilities and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters), and may obtain insurance against other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned or maintained by the Association, against loss or damage by fire and other hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of insurance for and on behalf of itself and all Members. The insurance coverage with respect to the Common Areas shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair

or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the Assessments made by the Association.

12.1.1. To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association shall contain provisions, or be accompanied by endorsements, for: agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction.

12.1.2. All insurance policies shall contain standard mortgagee clauses, if applicable.

12.1.3. The Association shall also maintain flood insurance on the insurable improvements on the Common Areas in an amount equal to the lesser of 100% of the replacement costs of all customarily insurable improvements (if any) within the Common Areas or the maximum amount of coverage available under the National Flood Insurance Program, in either case if the insured improvements are located within a flood zone as to which mortgage lenders customarily require flood insurance.

12.2. Replacement or Repair of Property. Subject to the provisions of Article 11 of this Declaration, the Association shall repair or replace damage to or destruction of any portion of the Common Areas using the insurance proceeds available.

12.3. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Declarant and their agents and employees, with respect to any loss covered by insurance, whether or not caused by negligence of or breach of any agreement by those persons, but only to the extent that insurance proceeds are received in compensation for a loss.

12.4. Liability and Other Insurance. The Association shall have the power to and shall obtain and maintain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least $1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Member and the Association and its Board of Directors and officers, from liability in connection with the Common Areas. The Association may also obtain and maintain other insurance as the Board deems appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion. All premiums for insurance policies authorized or required herein shall be Common Expenses and included in the Assessments made against the Members.

12.5. The Board may also obtain errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board or any management company engaged by the Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding of anyone (compensated or not) who handles or is responsible for funds held or administered by the Association, with the Association to be an obligee thereunder. The bonding shall cover the maximum funds to be in the hands of the Association or management company during the time the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of three (3) months' of regular Assessments, plus all reserve funds.

12.6. "Blanket" Insurance. The requirements of this Article may be met by way of the Association being an insured party under any coverage carried by the Declarant or under coverage obtained by the

Association together with any other association(s) as long as coverage is in accordance with the amounts and other standards stated in this Article 12.

12.7. Owners' Duties. Each Owner shall be responsible for obtaining and maintaining in effect all casualty, liability and other insurance with respect to Owner's Lot and Home as the Owner may from time to time reasonably determine. The Association shall not obtain any insurance on behalf of an Owner, nor shall the Association insure the Lots or Homes in any manner.

12.7.1. Destruction of Improvements. The following provisions shall apply to the damage or destruction to improvements located on a Lot.

(1) If any structure upon a Lot shall be substantially damaged or destroyed, it shall be the obligation of the Owner to repair, rebuild or reconstruct the improvements as soon after the casualty as may be practical. All repair, replacement and reconstruction shall require Architectural Review as provided herein.

(2) Notwithstanding damage to or destruction of the improvements to a Lot, the Owner shall remain liable to the Association for all Assessments in connection with his Lot. Liability shall continue unabated, even though the Lot is not fit for occupancy or habitation, and even though improvements are not reconstructed. In addition to liability for Regular Assessment, the Lot and its Owner may be liable for Special and Individual Assessments in connection with the Lot, including those in accordance with this Section 12.7.

(3) As soon as practical after damage or destruction, the Owner shall cause to be removed all debris and portions of the improvements that cannot be preserved for incorporation into the replacement structure. All dangerous conditions shall be removed immediately. All debris shall be removed from the Lot no later than thirty (30) days after the date upon which the casualty occurs.

(4) The Owner shall, within thirty (30) days of the date of the casualty, notify the Board in writing of his intention to rebuild or reconstruct. Failure to so notify shall be deemed evidence of Owner's intention not to rebuild. Owner shall initiate Architectural Review within ninety (90) days of notification, and shall commence rebuilding or reconstruction (the "work") within sixty (60) days after final Architectural Committee approval and prosecute the work diligently to completion. If for any reason the Owner does not notify, initiate Architectural Review, commence or diligently pursue the work within the time limits established herein, then he shall be deemed to have elected not to rebuild and the Association shall have the rights and duties hereinafter specified. An Owner may at any time notify the Association in writing of an election not to rebuild.

(5) If an Owner elects not to rebuild the improvements, or is deemed to have so elected under the provisions of this Section 12.7, then the Owner shall be obligated at his expense to remove all portions of the improvements remaining, except underground utility lines, which shall be secured. The Owner shall cause to be removed all parts of the improvements then remaining, including the slab and foundation. The Owner shall provide fill and install sod so that the property shall thereupon give the appearance of a landscaped open space. Clearing and the restoration shall be completed not later than thirty (30) days after the date upon which the Owner elects or is deemed to have elected not to rebuild.

(6) If an Owner fails to comply with any of the provisions of this Section, then the Association may perform these acts as are the responsibility of the Owner and the cost shall be treated initially as a Common Expense, but charged against and be payable by the Owner and his Lot as an Individual Assessment in accordance with Article 6.

(7) Upon written application of an Owner, any of the time periods set forth in this Section 12.7 may be extended by the Board for good cause.

(8) The duties of the Association hereunder shall be performed by the Board.

13. **Mortgagee Protection**. The following provisions are included herein for the purpose of complying with various requirements relating to mortgage loans for Lots/Homes and to the extent these provisions conflict with any other provisions of the Declaration, these provisions shall control:

13.1. The Association shall be required to make available for inspection to all Owners and mortgagees, and to insurers and guarantors of any first mortgage, upon request, during normal business hours or under other reasonable circumstances, current copies of: (1) this Declaration (with all supplements and amendments); (2) the Articles; (3) the By-Laws; (4) the Rules and Regulations; and (5) the books and records of the Association. Furthermore, those persons shall be entitled, upon written request, to: (i) receive a copy of the Association's financial statement for the immediately preceding fiscal year; (ii) receive notices of and attend the Association meetings; (iii) receive notice from the Association of an alleged default by an Owner in the performance of the Owner's obligations under this Declaration, the Articles of Incorporation, the By-Laws of the Association, or Rules and Regulations, which default is not cured within thirty (30) days after the default is discovered by the Association; and (iv) receive notice of any substantial damage or loss to the Common Areas.

13.2. Any holder, insurer or guarantor of a Mortgage on a Lot or Home shall have, if first requested in writing, the right to timely written notice of: (1) any condemnation or casualty loss affecting a material portion of the Common Areas; (2) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Lot or Home; (3) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (4) any proposed action which requires the consent of a specified number of mortgage holders.

13.3. Unless at least two-thirds (2/3rds) of first mortgagees (based upon one vote for each mortgage owned), and the Members holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the Association nor the Owners shall:

13.3.1. by act or omission seek to sell or transfer the Common Areas and any improvements thereon which are owned by the Association except for: (1) granting easements for utilities or for other purposes consistent with the intended use of property by the Association or the Declarant; (2) the transfer of the Common Areas to another similar association including the Owners in accordance with the Articles of Incorporation of the Association; or (3) the dedication of such property to the public;

13.3.2. change the basic methods of determining the obligations, Assessments, dues or other charges which may be levied against a Lot or Home, except as provided herein with respect to future Lots;

13.3.3. by act or omission, waive or abandon any regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of The Properties;

13.3.4. fail to maintain fire and extended insurance on insurable portions of the Common Areas as provided herein; or

13.3.5. use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of those improvements.

14. Special Covenants

14.1. Preamble. In recognition of the fact that certain special types of platting and/or construction require special types of covenants to accurately reflect the maintenance and use of the affected Lots and Homes, the following provisions of this Article 15 shall apply in those cases where the below-described types of improvements are constructed within The Properties, subject to adjustment pursuant to Article 2, Section 2 of this Declaration. However, nothing herein shall suggest or imply that Declarant will or will not, in fact, construct the following types of improvements, nor shall anything herein contained be deemed Declarant's obligation to do so.

14.2. Zero Lot Line Maintenance Easement. When any Lot (the "Servient Lot") abuts another Lot (the "Dominant Lot") on which the exterior wall of a Unit has been or can be constructed against or immediately contiguous to the interior property (perimeter) line shared by the Dominant Lot and the Servient Lot, then the Owner of the Dominant Lot shall have an easement over the Servient Lot, which easement shall be of a width contiguous to the interior property line running from the front of the rear property line of the Servient Lot reasonably necessary for the following purposes:

14.2.1. For installation, maintenance, repair, replacement and the provision of utility services, equipment and fixtures to serve the Dominant Lot, including but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage and Community Service Systems.

14.2.2. Of support in and to all structural members, footings and foundations of the Unit or other improvements which are necessary for support of the Unit or other improvements on the Dominant Lot. Nothing in this Declaration shall be construed to require the Owner of the Servient Lot to erect, or permit the erection of, additional columns, bearing walls or other structures on its Lot for the support of the Dominant Lot.

14.2.3. For entry upon, and for ingress and egress through the Servient Lot, with persons, materials and equipment, to the extent reasonably necessary in the performance of the maintenance, repair, replacement of the Unit or any improvements on the Dominant Lot.

14.2.4. For overhanging troughs or gutters, down-spouts and the discharge therefrom of rainwater and the subsequent flow thereof over the easement area and the Common Areas.

An Owner of a Servient Lot shall do nothing on his Lot which unreasonably interferes with or impairs the use of this easement.

14.3. Party Walls. Each wall and fence, if any, built as part of the original construction of the Units or Lots within The Properties and placed on the dividing line between the Lots or Units and acting as a commonly shared wall or fence shall constitute a party wall, and each Owner shall own that portion of the wall and fence which stands on his own Lot, with a cross-easement of support in the other portion. If a wall or fence separating two (2) Units or Lots, and extensions of a wall or fence, shall lie entirely within the boundaries of one Unit or Lot, the wall or fence, together with its extensions, shall also be a party wall and the Owner of the adjacent Unit or Lot shall have perpetual easement to benefit from the party wall as if subject to the foregoing sentence.

14.3.1. Easements are reserved in favor in all Units or Lots over all other Units or Lots and the Common Areas for overhangs or other encroachments resulting from original construction and reconstruction as aforesaid.

14.3.2. Anything to the contrary herein notwithstanding, where adjacent Homes share only a portion of a wall (e.g., where a one-story Home abuts a two-story Home), only that portion of the wall actually shared by both Homes shall be deemed a party wall. That portion of the wall lying above the one-story Home and used exclusively as a wall for the second floor of the abutting two-story Home shall not be deemed a party wall, but shall be maintained and repaired exclusively by the Owner of the two-story Home even if lying in whole or in part on the abutting Lot on which the one-story Home is constructed, and over the roof and other portions of abutting one-story Home to permit the upper portion of the wall of the two-story Home to be maintained and repaired by the Owners of the Lot on which such two-story Home is constructed.

14.3.3. The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

14.3.4. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, but shall not construct or extend it to any greater dimension than that existing prior to the fire or other casualty, without the prior written consent of the adjacent Lot Owner. The extension of a party wall used by only a two-story Home abutting a one-story Home shall be promptly and diligently repaired and/or replaced by the Owner of the two-story Home at his sole cost and expense, even if lying in whole or in part on the abutting Lot. No part of any addition to the dimensions of a party wall or of any extension thereof already built that may be made by any Owner, or by those claiming under any Owner, respectively, shall be placed upon the Lot of the other Owner, without the written consent of the latter first obtained, except in the case of the aforesaid wall of a two-story Unit. If the other Owner thereafter makes use of the party wall, he shall contribute to the cost of restoration thereof in proportion to his use, without prejudice, however, to the right of any Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

14.3.5. Notwithstanding any other provision of this Section, if any Owner, by his negligent or willful act, causes that part of the party wall not previously exposed to be exposed to the elements, that Owner shall bear the entire cost of furnishing the necessary protection against such elements.

14.3.6. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to that Owner's successors in title. Upon a conveyance or other transfer of title, the liability hereunder of the prior Owner shall cease.

14.3.7. In the event of any dispute arising concerning a party wall, or otherwise under the provisions of this Article, the dispute shall be resolved pursuant the dispute resolution process set forth in the By-Laws.

15. General Provisions.

15.1. Duration. The covenants and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Association, the Board of Directors, and the Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% of all the Lots subject hereto and of 100% of the mortgagees thereof has been recorded, agreeing to revoke the covenants and restrictions; provided, however, that no agreement to revoke shall be effective unless made and recorded in advance of the effective date of revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained.

15.2. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of mailing.

15.3. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word, (hereinafter "provision") or the application thereof in specific circumstances, by judgment or court order shall not affect any other provision or application in other circumstances, all of which shall remain in full force and effect.

15.4. Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, deleted or added to at any time and from time to time: upon the execution and recordation of an instrument executed by Declarant alone, for so long as it or its affiliates holds title to any Lot affected by this Declaration, provided that any amendment: shall be consistent with the general plan of the development of The Properties or be required by a governmental agency, FNMA/FHLMC, VA or FHA or the like; or alternatively by approval of not less than 66 2/3% votes of the entire membership of the Association cast by their Voting Members, provided, that so long as Declarant or its affiliates is the Owner of any Lot affected by this Declaration, Declarant's written consent must be obtained if the amendment, in the sole opinion of the Declarant, affects its interest. No amendment hereto which effects the Surface Water Management System or the Deed of Conservation Easement if any described in Article 5, Section 8 shall be made without the approval of the South Florida Water Management District.

15.5. Effective Date. This Declaration shall become effective and the Community of McGregor Reserve shall be deemed created upon the date of the recording of this Declaration in the Public Records of the County.

15.6. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation, By-Laws or Rules and Regulations of the Association; and the Articles shall take precedence over the By-Laws and Rules and Regulations; and the By-Laws shall take precedence over the Rules and Regulations.

15.7. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in existence having the capacity to take and hold the easement or no separate ownership of the dominant and servient estates, then the grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for the intended grantees, or to be a "springing easement" for the purpose of allowing the original party or parties to whom, or the original party to which, the easements were originally intended to have been granted the benefit of the easement, and the Owners designate hereby the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on those Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating the easement as it was intended to have been created herein. Formal language of grant or reservation with respect to those easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all provisions.

15.8. Certain Reserved Rights of Declarant with Respect to Community Service Systems. Without limiting the generality of any other applicable provisions of this Declaration, and without those provisions limiting the generality hereof, Declarant hereby reserves and retains to itself:

15.8.1. the title to any Community Service Systems and a perpetual easement for the placement and location thereof;

15.8.2. the right to connect, from time to time, the Community Service Systems to receiving or intermediary transmission source(s) as Declarant may in its sole discretion deem appropriate including, without limitation, companies licensed to provide CATV service in the County for which service Declarant shall have the right to charge any users a reasonable fee (which shall not exceed any maximum allowable charge provided for in the Ordinances of the County); and

15.8.3. the right to offer from time to time monitoring/alarm services through the Community Service Systems.

Neither the Association nor any officer, director, employee, committee member or agent (including any management company) thereof shall be liable for any damage to property, personal injury or death arising from or connected with any act or omission of any of the foregoing during the course of performing any duty or exercising any right or privilege (including, without limitation, performing maintenance work which is the duty of the Association or exercising any remedial maintenance or alteration rights under this Declaration) required or authorized to be performed by the Association, or any of the other aforesaid parties, under this Declaration or otherwise as required or permitted by law.

15.9. Covenants Running With The Land.. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 1 of this Article 15, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the land and with title to The Properties. If any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid, that provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of that provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if that provision and/or application cannot be so modified, that provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the land as aforesaid) be achieved.

15.10. Use of Name. All persons are hereby notified that the name "McGregor Reserve" and any other names used by Declarant in connection with The Properties (as expanded from time to time) are the sole property of Declarant or the applicable affiliate thereof. Accordingly, no person acquiring title to or any interest in any portion of The Properties shall, by virtue thereof, acquire any right to use any of those or similar names in any manner. Declarant may, however, license or otherwise grant permission to use any of those or similar names, but the fact the Declarant may do so, or does so, shall not change the foregoing and shall be effective only to the extent permitted by such license or other grant of permission.

15.11. Obligation to Accept Deed. The Association shall be obligated to accept deeds from the Declarant or others upon the direction of Declarant conveying any property within McGregor Reserve. The Association shall also be obligated to maintain any areas within McGregor Reserve assigned to it for maintenance by Declarant.

16. DISCLAIMERS

16.1. NOTICES AND DISCLAIMERS CONCERNING COMMUNITY SERVICE SYSTEMS.

DECLARANT, THE ASSOCIATION, OR THEIR SUCCESSORS, ASSIGNS OR FRANCHISEES AND ANY APPLICABLE CABLE TELECOMMUNICATIONS SYSTEM OPERATOR (AN "OPERATOR"), MAY ENTER INTO CONTRACTS FOR

THE PROVISION OF SECURITY SERVICES THROUGH ANY COMMUNITY SERVICE SYSTEMS.

16.1.1. DECLARANT, THE ASSOCIATION, OPERATORS AND THEIR FRANCHISEES, AND ANY OPERATOR, DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY COMMUNITY SERVICE SYSTEM, SECURITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF THOSE OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF A LOT/HOME SERVICED BY THE COMMUNITY SERVICE SYSTEMS ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE OF THE DECLARANT OR ANY OF THE OTHER AFORESAID ENTITIES AND ANY OPERATOR, ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM THOSE OCCURRENCES.

16.1.2. IT IS EXTREMELY DIFFICULT AND IMPRACTICAL TO DETERMINE THE ACTUAL DAMAGES, IF ANY, WHICH MAY PROXIMATELY RESULT FROM A FAILURE ON THE PART OF A SECURITY SERVICE PROVIDER TO PERFORM ANY OF ITS OBLIGATIONS WITH RESPECT TO SECURITY SERVICES AND, THEREFORE, EVERY OWNER OR OCCUPANT OF A LOT/HOME RECEIVING SECURITY SERVICES THROUGH THE COMMUNITY SERVICE SYSTEMS AGREES THAT DECLARANT, THE ASSOCIATION OR ANY SUCCESSOR, ASSIGN OR FRANCHISEE THEREOF AND ANY OPERATOR ASSUMES NO LIABILITY FOR LOSS OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY OR DEATH TO PERSONS DUE TO ANY REASON, INCLUDING, WITHOUT LIMITATION, FAILURE IN TRANSMISSION OF AN ALARM, INTERRUPTION OF SECURITY SERVICE OR FAILURE TO RESPOND TO AN ALARM BECAUSE OF: (1) ANY FAILURE OF THE OWNER'S SECURITY SYSTEM; (2) ANY DEFECTIVE OR DAMAGED EQUIPMENT, DEVICE, LINE OR CIRCUIT; (3) NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE SECURITY SERVICE PROVIDER OR ITS OFFICERS, AGENTS OR EMPLOYEES; OR (4) FIRE, FLOOD, RIOT, WAR, ACT OF GOD OR OTHER SIMILAR CAUSES WHICH ARE BEYOND THE CONTROL OF THE SECURITY SERVICE PROVIDER. EVERY OWNER AND OCCUPANT OF A LOT/HOME OBTAINING SECURITY SERVICES THROUGH THE COMMUNITY SERVICE SYSTEMS FURTHER AGREES FOR HIMSELF, HIS GRANTEES,

TENANTS, GUESTS, INVITEES, LICENSEES, AND FAMILY MEMBERS THAT IF ANY LOSS OR DAMAGE SHOULD RESULT FROM A FAILURE OF PERFORMANCE OR OPERATION, OR FROM DEFECTIVE PERFORMANCE OR OPERATION, OR FROM IMPROPER INSTALLATION, MONITORING OR SERVICING OF THE SYSTEM, OR FROM NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE SECURITY SERVICE PROVIDER OR ITS OFFICERS, AGENTS, OR EMPLOYEES, THE LIABILITY, IF ANY, OF DECLARANT, THE ASSOCIATION, ANY FRANCHISEE OF THE FOREGOING AND THE OPERATOR OR THEIR SUCCESSORS OR ASSIGNS, FOR LOSS, DAMAGE, INJURY OR DEATH SUSTAINED SHALL HE LIMITED TO A SUM NOT EXCEEDING TWO HUNDRED FIFTY AND NO/100 ($250.00) U.S. DOLLARS, WHICH LIMITATION SHALL APPLY IRRESPECTIVE OF THE CAUSE OR ORIGIN OF THE LOSS OR DAMAGE AND NOTWITHSTANDING THAT THE LOSS OR DAMAGE RESULTS DIRECTLY OR INDIRECTLY FROM NEGLIGENT PERFORMANCE, ACTIVE OR OTHERWISE, OR NON-PERFORMANCE BY AN OFFICER, AGENT OR EMPLOYEE OF DECLARANT, THE ASSOCIATION OR ANY FRANCHISEE, SUCCESSOR OR DESIGN OF ANY OF SAME OR ANY OPERATOR. FURTHER, IN NO EVENT WILL DECLARANT, THE ASSOCIATION, ANY OPERATOR OR ANY OF THEIR FRANCHISEES, SUCCESSORS OR ASSIGNS, BE LIABLE FOR CONSEQUENTIAL DAMAGES, WRONGFUL DEATH, PERSONAL INJURY OR COMMERCIAL LOSS.

16.1.3. IN RECOGNITION OF THE FACT THAT INTERRUPTIONS IN CABLE TELEVISION AND OTHER COMMUNITY SERVICE SYSTEMS SERVICES WILL OCCUR FROM TIME TO TIME, NO PERSON OR ENTITY DESCRIBED ABOVE IN 15.8.2 SHALL IN ANY MANNER BE LIABLE, AND NO USER OF ANY COMMUNITY SERVICE SYSTEM SHALL BE ENTITLED TO ANY REFUND, REBATE, DISCOUNT OR OFFSET IN APPLICABLE FEES, FOR ANY INTERRUPTION IN COMMUNITY SERVICE SYSTEMS SERVICES, REGARDLESS OF WHETHER OR NOT CAUSED BY REASONS WITHIN THE CONTROL OF THE THEN-PROVIDER(S) OF THOSE SERVICES.

16.2. NOTICES AND DISCLAIMERS CONCERNING BLASTING AND OTHER CONSTRUCTION ACTIVITIES.

ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTIES ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO

THE PROPERTIES. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTIES, EACH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES: (1) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY; (2) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE PROPERTIES WHERE THE ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS); (3) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES; (4) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTIES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING; AND (5) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES.

16.3. NOTICES AND DISCLAIMERS CONCERNING WATER BODIES.

16.3.1. THE DECLARANT, THE ASSOCIATION AND THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL NOT BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN THE LAKE OR OTHER WATER BODY WITHIN THE PROPERTIES, EXCEPT AS THAT RESPONSIBILITY AS MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING THEM DOING SO AT THEIR OWN RISK.

16.3.2. ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, THAT PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN THOSE BODIES.

16.3.3. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY WILDLIFE.

16.4. NOTICES AND DISCLAIMERS CONCERNING DECLARANT: CONSTRUCTION, DEVELOPMENT AND SALE.

EXCEPT AS DECLARANT MAY OTHERWISE EXPRESSLY PROVIDE BY WRITTEN CONTRACT, THE CONSTRUCTION, DEVELOPMENT, AND SALE BY DECLARANT OF ANY LOT, COMMON AREAS OR OTHER PROPERTY OR IMPROVEMENTS IN THE PROPERTIES IS WITHOUT WARRANTY, AND NO WARRANTIES OF FITNESS, HABITABILITY, OR MERCHANTABILITY AS TO ANY PORTION OF THE PROPERTIES OR IMPROVEMENTS CONSTRUCTED BY DECLARANT THEREON OR IN CONNECTION THEREWITH SHALL BE IMPLIED. EXCEPT AS DECLARANT MAY OTHERWISE EXPRESSLY PROVIDE BY WRITTEN CONTRACT, DECLARANT HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY COMMON LAW IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, HABITABILITY AND CONFORMITY OF ANY IMPROVEMENTS WITH PLANS AND SPECIFICATIONS FILED WITH ANY GOVERNMENTAL AUTHORITY. DECLARANT MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE OR LEVELS OF LOW FREQUENCY ELECTROMAGNETIC FIELDS, RADON, RADON PROGENY, OR ANY OTHER POLLUTANT WITHIN THE PROPERTIES OR WITH RESPECT TO ANY PROPERTY OR IMPROVEMENTS CREATED FOR, CONVEYED TO, DEDICATED TO, OR MADE AVAILABLE FOR THE USE OF THE ASSOCIATION OR ANY OWNER PURSUANT TO THIS DECLARATION OR ANY OTHER INSTRUMENT.

16.5. DISCLAIMER CONCERNING ASSOCIATION.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING, BINDING ON OR ADMINISTERED BY THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY THOSE PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

16.5.1. IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

16.5.2. THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, THE CITY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

16.5.3. ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S) OR ENTITIES.

16.5.4. AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE 16 SHALL ALSO TO THE BENEFIT OF DECLARANT, WHICH SHALL BE FULLY PROTECTED HEREBY.

16.6. EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING THAT INTEREST OR LIEN OR MAKING USE THEREOF) SHALL BE BOUND BY THIS ARTICLE 16 AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

17. Declarant's Additional Rights. The Declarant and its successors or assigns will undertake the work of constructing Homes and related amenities on the Lots and improvements on the Common Areas. The completion of that work and the sale, rental and other disposal of Lots and Homes is essential to the establishment and welfare of The Properties as a community. As used in this Section and its subsections, the words "its successors or assigns" specifically do not include purchasers of completed Homes. In order that the work may be completed and The Properties established as a fully occupied community as rapidly as possible, neither the Owners nor the Association shall do anything which interferes with the Declarant's activities.

17.1. Without limiting the generality of the foregoing, nothing in this Declaration, the Articles, the By-Laws or the Rules and Regulations shall be understood or construed to:

(1) Prevent the Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from doing on any property owned by them or on any Common Areas whatever they determine to be necessary or advisable in connection with the completion of the work, including without limitation, the alteration of its construction plans and designs as the Declarant deems advisable in the course of development (all models or sketches showing plans for future development of The Properties may be modified by the Declarant at any time and from time to time, without notice); or

(2) Prevent the Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by the Declarant or its successors or assigns or on any Common Areas, structures as may be reasonably necessary for the conduct of its or their business of completing the work and establishing The Properties as a community and disposing of the Lots and Homes by sale, lease or otherwise; or

(3) Prevent the Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from conducting on any property owned or controlled by the Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements within The Properties and of disposing of Lots and Homes therein by sale, lease or otherwise; or

(4) Prevent the Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of Improvements to be constructed as part of The Properties.

17.2. Any or all of the special rights and obligations of the Declarant may be transferred to other parties, provided that the transfer shall not reduce an obligation or enlarge a right beyond that contained herein, and provided further, no transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the County. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any property in any manner whatsoever.

17.3. The Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as the Declarant owns any property in or adjacent to The Properties; provided, no easement shall structurally weaken or otherwise interfere with the use of the Common Area by the Owners.

17.4. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sales of Lots and Homes shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area and Lots owned by Declarant facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots and Homes, including, but not limited to, business offices, signs, model Homes, and sales offices and the Declarant shall have an easement for access to those facilities. The right to maintain and carry on those facilities and activities shall include specifically the right to use any Lot and Home owned by the Declarant, as models and sales offices, respectively and to utilize those facilities exclusively from time to time.

17.5. Each Owner on his, her or its own behalf and on behalf of the Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns acknowledges and agrees that the completion of the development of The Properties may occur over an extended period of time and that incident to that development and the construction associated therewith the quiet use and enjoyment of The Properties and each Lot and/or Home therein may be temporarily interfered with by the development and construction work occurring on those properties owned by the Declarant or its successors and assigns. Each Owner, on behalf of the Owner's family and their heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby waive all claims for interference with quiet enjoyment and use as a result of the development and construction of the balance of The Properties. Each Owner, on behalf of the Owner's family and their heirs, personal representatives, successors, mortgagees, lienors and assigns agrees that the development, construction and completion of the balance of The Properties may interfere with the Owner's original and existing views, light and air and diminish them and each Owner on that Owner's behalf and on behalf of that Owner's family and their heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby release the Declarant and its successors in interest and others involved from all claims that they may have in connection therewith.

18. Declarant's Reserved Rights.

Anything herein to the contrary notwithstanding, prior to the turnover date, Declarant reserves the right to amend this Declaration, the Articles, the By-Laws and the Rules and Regulations in any manner whatsoever; provided, however, that Declarant may not delete or convey to another party any Common Area designated, submitted or committed to common usage if deletion or conveyance would materially and adversely change the nature, size or quality of the Common Areas. So long as Declarant owns any Lot or other property covered hereby of record, it may establish licenses, reservations, easements and rights-of-way in favor of itself, the Association, suppliers of utility and similar services and public authorities as may from time to time be reasonably necessary to the Declarant's development and disposition of McGregor Reserve, and the Common Areas. Declarant's rights hereunder may be assigned to any successor to all or any part of Declarant's interest

in McGregor Reserve, by express assignment incorporated in a deed or by separate instrument, and those Declarant rights shall inure to any mortgagee of Declarant who acquires title to undeveloped portions of the property by foreclosure or deed in lieu of foreclosure or to a successor Declarant acquiring title through foreclosure or from a mortgagee or other person or entity acquiring title through foreclosure or deed in lieu thereof. Declarant further reserves the right to amend the Development Plan without the consent or any other person or entity.

EXECUTED as of the date first above written.

McGregor Oaks, Ltd., a Florida Limited Partnership,
By McGregor Oaks, Inc., a Florida Corporation,
Its General Partner

By: _____
David G. Malt, President of McGregor Oaks, Inc.

_____
Witness
DIANA M. CELIA
Witness Name Printed

_____
Witness
Anthony J. Gargano
Witness Name Printed

STATE OF FLORIDA }
}
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 29th day of September, 1995 by David G. Malt, who is personally known to me and who did not take an oath.

_____
Notary Public
DIANA M. CELIA
(Typed name)

My commission expires:

DIANA M. CELIA
MY COMMISSION # CC 385095
EXPIRES: July 26, 1998
Bonded Thru Notary Public Underwriters

C:\WPDOCS\RE\MALT\MCGREGOR.DEC

EXHIBIT 1

TO DECLARATION OF COVENANTS AND RESTRICTIONS
OF MCGREGOR RESERVE

A tract or parcel of land lying in the Southwest Quarter (S.W. ¼) of Section 35, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida and being more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter (S.W. ¼) of said Section 35; thence run N. 88°58'14"E. along the North line of said Southwest Quarter (S.W. ¼) for 176.96 feet to a point on the Easterly right-of-way line of McGregor Boulevard (State Road No. 867); thence continue N. 88°58'14"E. for 864.32 feet to the point of beginning. Thence continue N. 88°58'14"E. for 1602.72 feet to the Northeast corner of the Southwest Quarter (S.W. ¼) of said Section 35; thence run S. 00°37'36" E. for 1328.30 feet to a concrete monument at the Southeast corner of the North Half (N.1/2) of said Southwest Quarter (S.W. ¼); thence run S. 89°00'13"W. along the South line of the North Half (N.1/2) of said Southwest Quarter (S.W. ¼) for 1320.15 feet to the East right-of-way line of Somerset Boulevard; thence run N.01°04'47W. along said right-of way line for 189.00 feet to the North right-of-way line of Park Shore Circle; thence run S. 89°00'13"W. along said right-of-way line for 374.41 feet; thence run along said right-of-way line for 439.66 feet being a curve to the right with a radius of 280.00 feet, and a delta of 89°57'59" to a point of tangency on the East right-of-way line of Park Shore Circle; thence run N. 01°01'45"W. along said East right-of-way line for 412.56 feet; thence run N.88°58'12"E. for 158.54 feet; thence run S.01°01'48"E for 101.40 feet; thence run N.88°58'20"E. for 187.01 feet; thence run N. 16°01'46"W. for 75.70 feet to a point on a concrete privacy wall; thence run N. 74°32'31"E. along said wall for 22.30 feet; thence run N.01°18'15"W. along said wall for 37.34 feet; thence run N.88°36'23"E. along said wall for 30.20 feet; thence run N. 00°48'42"W along said wall for 50.24 feet; thence run S.89°10'02"W. along said wall for 30.09 feet; thence run N.01°01'33"W. along said wall for 176.12 feet; thence run N.74°07'26"E. along said wall for 69.86 feet; thence run N.16°04'11"W. along said wall for 130.57 feet; thence run N.00°59'49"W. for 60.41 feet to the point of beginning.

EXHIBIT 2

TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

DESCRIPTION: (Phase 1 McGregor Reserve)

A tract of land lying in the Southwest Quarter (S.W. 1/4) of Section 35, Township 44 South, Range 24 East, in the City of Fort Myers, Lee County, Florida and being more particularly described as follows:

Commencing at the Northeast corner of the Southwest Quarter (S.W. 1/4) of said Section 35; thence run S.00°37'36"E. for 658.70 feet to the point of beginning; thence continue S.00°37'36"E. for 669.60 feet; thence run S.89°00'13"W. for 1320.15 feet to the East right-of-way line of Somerset Boulevard; thence run N.01°04'47"W. for 187.00 feet; thence run S.89°00'08"E. for 7.32 feet; thence run N.01°04'47"W. for 113.00 feet; thence run 33.02 feet along the arc of a curve to the right having a radius of 21.00 feet and a delta of 90°04'55"; thence run N.89°00'08"E. for 17.12 feet; thence run 117.74 feet along the arc of a curve to the left having a radius of 149.75 feet and a delta of 45°03'01"; thence run N.43°57'07"E. for 122.83 feet; thence run 61.07 feet along the arc of a curve to the left having a radius of 190.00 feet with a delta of 18°24'25"; thence run S.46°02'53"E. for 245.41 feet; thence run 109.83 feet along the arc of a curve to the left having a radius of 140.00 feet and a delta of 44°56'59"; thence run N.89°00'08"E. for 270.90 feet; thence run 109.50 feet along the arc of a curve to the left having a radius of 140.00 feet and a delta of 44°48'52"; thence run N.44°11'16"E. for 126.31 feet; thence run 109.50 feet along the arc of a curve to the left having a radius of 140.00 feet and a delta of 44°48'52"; thence run N.00°37'36 "W. for 186.27 feet; thence run N.89°22'24"E. for 120.00 feet; thence run S.00°37'36"E. for 32.91 feet; thence run N.89°22'24"E. for 169.99 feet to the point of beginning.

28 52

(1)

Record and Return to:
Anthony J. Gargano, Esq.
Courthouse Box 58

This Instrument Prepared
Without Review of Title by:
Anthony J. Gargano, Esq.
Leasure, Gargano & Marchewka, P.A.
P.O. Box 61169
Fort Myers, FL 33906-1169
(941) 275-7515

4053228

OR2757 PG0692

• RECORD - CHARLIE GREEN, CLERK • KELLER, D.C. •

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Pages 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration");

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, wishes to amend the Declaration of Covenants and Restrictions of McGregor Reserve;

NOW, THEREFORE, McGregor Oaks, Ltd. hereby amends the Declaration of Covenants and Restrictions of McGregor Reserve as follows:

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE: (Note: deletions are indicated by lining through and additions are indicated by underlining.)

Article 2: "Property Initially Subject to this Declaration; Additions Thereto and Withdrawals Therefrom.

Article 2.3. on Page 2, entitled "Withdrawal by Amendment" and Article 2.4 on Page 2 entitled "Consent to Additions and Withdrawals" are hereby amended as follows:

2.3. Withdrawal by Amendment. Declarant reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Properties then owned by Declarant or its affiliates or the Association from the provisions of this Declaration: (1) to the extent included originally in error; or, (2) as a result of any changes whatsoever in the Declarant's plans for The Properties desired to be effected by Declarant; provided, however, that withdrawal is not unequivocally contrary to the

overall uniform plan of development of The Properties. Any withdrawal of real property not owned by Declarant shall require the written consent or joinder of the then-Owner(s) and mortgagee(s) of the real property, and of the Declarant prior to turnover, but not of any other persons or entities. Notwithstanding the foregoing, no withdrawal which effects the operation and maintenance of the Surface Water Management System shall be made without the consent of the South Florida Water Management District. ~~2.4. Consent to Additions and Withdrawals.~~ Each Owner, by acceptance of a deed to or other conveyance of his Lot, shall be deemed to have automatically consented to actions taken by Declarant pursuant to this provision ~~rezoning, change, addition or withdrawal thereafter made by Declarant (or the applicable Declarant-affiliated Owner)~~ and shall evidence that consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give written consent shall not obviate the general and automatic effect of this provision).

Article 2.5 is renumbered to 2.4.

~~2.5.~~2.4. Variance from Declaration. In furtherance of the Declarant's plan of development of The Properties as a community of distinct Neighborhoods, a Supplemental Declaration may vary the terms of this Declaration by addition, deletion or modification to reflect any unique characteristics of the Neighborhood and Common Areas identified therein; provided, however, that no variance shall be directly contrary to the Declarant's overall uniform plan of development of The Properties.

Article 5: "Common Areas; Recreation Areas; Certain Easements; Community Service Systems; Certain Maintenance Duties"

Article 5.2.4 on Page 8 is hereby amended as follows:

5.2.4. The non-exclusive right to the use and enjoyment of the Common Areas (including Recreation Areas and facilities thereon) shall extend to all Members' Permittees, subject to regulation from time to time by the Association as set forth in its lawfully adopted and published Rules and Regulations including those relating to the gatehouse(s) and other entry and traffic control procedures.~~, which may permit the installation of "speed bumps."~~

Article 5.2.5 on Page 8 is hereby amended as follows:

5.2.5. The right of Declarant to permit persons as Declarant designates to use the Common Areas (including Recreation Areas and facilities) located thereon when reasonably related to marketing Lots.

Article 5.5 on Page 9 is hereby amended as follows:

5.5. Once the aforesaid Rules and Regulations are adopted, they may be amended from time to time by the Declarant~~, and after turnover~~ or by the Board of Directors.

Article 5.9 on Page 10 is hereby amended as follows:

5.9. Utility and Community Service Systems Easements. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on relevant plats, shall be in accordance with the applicable provisions of this Declaration and the plats. In addition, Declarant, its affiliates and its and their designees shall have a perpetual easement over, upon and under the Common Areas ~~and the unimproved portions of the Lots and Parcels~~ for the installation, operation, maintenance, repair, replacement, alteration and expansion of Community Service Systems and other utilities.

Article 6 "Covenant for Assessments"

Article 6.3.5 on Page 14 is hereby amended as follows:

6.3.5. The Board may establish reserve accounts funded from Regular Assessments in reasonable amounts and in categories as are determined by the Board for deferred maintenance and repair, including maintenance of all Common Areas, emergency repairs as a result of casualty loss, recurring periodic maintenance or initial cost of any new service to be performed by the Association. ~~Reserve accounts may be used by the Board on a temporary basis for cash flow management of the Association, even though expended on items other than those for which the reserve was established. The reserve amounts shall be restored from revenues subsequently received, it being the intent that the Board may "borrow" from reserve accounts, without diminishing the obligation to levy and collect Assessments that will, upon collection, permit the restoration of all reserve accounts.~~

Article 6.5 on Page 14 is hereby amended as follows:

6.5. Date of Commencement of Assessments, Due Dates. The Regular and Neighborhood Assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of that year. However, unless provided otherwise in a written contract, assessments shall not be due from a Lot Owner, until the date the certificate of occupancy is issued for the Home constructed on that Owner's Lot. Each subsequent annual Regular Assessment shall be imposed for the year beginning January 1 and ending December 31.

Article 6.8.2 on Page 15 is hereby amended as follows:

6.8.2. pay Assessments only on certain Lots upon which ~~designated by Declarant (e.g., those containing~~ a Home has been constructed and for which a certificate of occupancy has been issued~~)~~; or,

Article 9 "Resale, Lease and Occupancy Restrictions".

Article 9.2 on Page 27 is hereby amended as follows:

9.2. Leases. No portion of a Lot or Home (other than an entire Lot and Home) may be leased or rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and its applicable Rules and Regulations or other applicable provisions of any agreement, document or instrument governing The Properties or administered by the Association. Leasing of Lots and Homes shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (15) days of its receipt of a request for approval together with a copy of the proposed lease and all supporting information reasonably requested by the Association. No approval of a lease shall be denied on the basis of its duration if the duration is ~~not~~ for a term of at least one year.

Except as amended herein, all provisions of the Declaration of Covenants and Restrictions of McGregor Reserve are hereby ratified and confirmed.

EXECUTED as of this 26th day of September, 1996.

McGregor Oaks, Ltd., a Florida Limited Partnership, By McGregor Oaks, Inc., a Florida Corporation, Its General Partner

Ruth A. Brown
Witness

Ruth A. Brown
Witness Name Printed

Judith M. Palumbo
Witness

Judith M. Palumbo
Witness Name Printed

By: David G. Malt
David G. Malt, President of McGregor Oaks, Inc.

OR2757 PG0695

STATE OF FLORIDA }
}
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 26th day of September, 1996 by David G. Malt, who is personally known to me and who did not take an oath.

E. KELLY CAMPBELL
COMMISSION # CC 344089
EXPIRES JAN 25, 1998
Bonded Through
ALAN INSURANCE SERVICES

E. Kelly Campbell
Notary Public
E. Kelly Campbell
(Typed name)

My commission expires: 1-25-98

Witness
Witness Name Printed
Witness
Witness Name Printed

Marc C. Sullivan, Secretary

STATE OF FLORIDA }
}
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 25th day of September, 1996 by Marc C. Sullivan, who is personally known to me and who did not take an oath.

NOTARY PUBLIC STATE OF FLORIDA
OFFICIAL NOTARY SEAL
SHEILA R TURREGANO
COMMISSION NUMBER
CC271183
MY COMMISSION EX

Sheila R. Turregano
Notary Public
Sheila R. Turregano
(Typed name)

My commission expires: March 23, 1997

C:\WPDOCS\RE\MALT\DECLARAT.AMD

CHARLIE GREEN LEE CTY

96 OCT 25 AM 9:28

JOINDER OF MORTGAGEE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

SouthTrust Bank of Florida, N.A., the owner and holder of a mortgage recorded in O.R. Book 2706, Page 3968, Public Records of Lee County, Florida, encumbering the land described in Exhibit "2" of the Declaration of Covenants and Restrictions of McGregor Reserve, according to the Amendment to Declaration thereof to which this Joinder is attached, hereby consents to and joins in the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by SouthTrust Bank of Florida, N.A., or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of the Mortgagee to the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve hereinabove provided.

OR2757 PG0697

EXECUTED this 25th day of September, 1996.

WITNESSES:

Diane Ely

SOUTHTRUST BANK OF FLORIDA, N.A.

By: Frank W. Woodward

Its: Vice-President

[SEAL]

STATE OF FLORIDA }
}
COUNTY OF Collier }

The foregoing instrument was acknowledged before me this 25 day of September, 1996 by Frank W. Woodward, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Nancy A. Constantine
Notary Public
Nancy A. CONSTANTINE
(Typed name)

My commission expires:

C:\WPDOCS\RE\MALTJOINDER.AMD (9-20-96)

NANCY A. CONSTANTINE
MY COMMISSION # CC 329320
EXPIRES: December 11, 1997
Bonded Thru Notary Public Underwriters

Record and Return to:
Anthony J. Gargano, Esq.
Courthouse Box 58

This Instrument Prepared
Without Review of Title by:
Anthony J. Gargano, Esq.
Leasure, Gargano, Marchewka & Heidkamp
P.O. Box 61169
Fort Myers, FL 33906-1169
(941) 275-7515

4169907

OR2824 PG1089

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Pages 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration");

WHEREAS, an amendment of the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2757, Pages 0692 through 0697 on October 25, 1996 (hereinafter the "First Amendment");

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida limited partnership, wishes to amend the Declaration of Covenants and Restrictions of McGregor Reserve;

NOW, THEREFORE, McGregor Oaks, Ltd. hereby amends the Declaration and the First Amendment as follows:

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE:

(Note: deletions are indicated by lining through and additions are indicated by underlining).

Article 3, Section 3.1.9, "Common Areas" is hereby amended as follows:

3.1.9. "Common Areas" means and refers to the real and personal property maintained by the Association, whether or not owned by or dedicated to it, for the general benefit of the Members and The Properties. The Common Areas, including the Recreation Area, (but excluding the Maintenance Common Areas within recorded easements or those shown on the plat of McGregor Reserve, Phase I recorded in Plat Book 57, Pages 96

through 101 on April 3, 1996, which will not be conveyed to the Association), will be conveyed to the Association as provided in Article 5, Section 11 of this Declaration. The initial Common Areas shall be depicted on an exhibit to a future amendment hereto which shall be described as the "Plot Plan". The Common Areas consist of the portions of The Properties within the following categories:

Article 3, Section 3.1.9.3 entitled "Maintenance Common Areas" is hereby amended as follows:

3.1.9.3. "Maintenance Common Areas" - being property within or without The Properties which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license or agreement with a Neighborhood Association, the County, the City or any other person or entity, which maintenance/administration affords benefits to the Members and Owners. The Maintenance Common Areas shall include the landscape easement recorded in the Public Records of Lee County, Florida in O.R. Book 2744, Pages 0961 through 0968 on September 13, 1996 (the "landscape easement") which encumbers Lot 13 and Lots 15, 16 and 17 of McGregor Reserve, Phase I according to the plat thereof recorded in Plat Book 57, Pages 96 through 101 on April 3, 1996, which shall be maintained and insured by the Association.

Article 12, Section 12.4 entitled "Liability and Other Insurance" is hereby amended as follows:

12.4. Liability and Other Insurance. The Association shall have the power to and shall obtain and maintain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least $1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts. Concerning insurance for the landscape easement referenced in Article 3, Section 3.1.9.3: the Association shall provide a comprehensive general liability insurance policy naming the owners of lots encumbered by the landscape easement ("easement lot owners"), as additional insureds. In addition, the Association shall indemnify and hold the easement lot owners and their insurance carriers harmless from any and all damages, including attorneys' fees and costs ("claims"), incurred by the easement lot owners and their insurance carriers, except for those claims which result from the acts or omissions of one or more of the easement lot owners. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Member and the Association and its Board of Directors and officers, from liability in connection with the Common Areas. The Association may also obtain and maintain other insurance as the Board deems appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion. All premiums

for insurance policies authorized or required herein shall be Common Expenses and included in the Assessments made against the Members.

Except as amended herein, all provisions of the Declaration of Covenants and Restrictions of McGregor Reserve are hereby ratified and confirmed.

EXECUTED as of this 4 day of April, 1997.

McGregor Oaks, Ltd., a Florida Limited Partnership, By McGregor Oaks, Inc., a Florida Corporation, Its General Partner

E. Kelly Campbell
Witness

By: David G. Malt
David G. Malt, President of McGregor Oaks, Inc.

E. Kelly Campbell
Witness Name Printed

Ruth A. Brown
Witness

Ruth A. Brown
Witness Name Printed

STATE OF FLORIDA }
}
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 4 day of April, 1997 by David G. Malt, who is personally known to me and who did not take an oath.

E. KELLY CAMPBELL
COMMISSION # CC 344089
EXPIRES JAN 25, 1998
Bonded Through
ALAN INSURANCE SERVICES

E. Kelly Campbell
Notary Public

E. Kelly Campbell
(Typed name)

My commission expires: 1-25-98

E. Kelly Campbell
Witness

Marc C. Sullivan
Marc C. Sullivan, Secretary

E. Kelly Campbell
Witness Name Printed

Ruth A. Brown
Witness

Ruth A. Brown
Witness Name Printed

STATE OF FLORIDA }
}
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 4 day of April, 1997 by Marc C. Sullivan, who is personally known to me and who did not take an oath.

E. Kelly Campbell
Notary Public
E. Kelly Campbell
(Typed name)

My commission expires: 1-25-98

E. KELLY CAMPBELL
COMMISSION # CC 344089
EXPIRES JAN 25, 1998
Bonded Through
ALAN INSURANCE SERVICES

OR2824 PG4092

C:\WPDOCS\RE\MAL'I\DEC-2ND.AMD (3-25-97)

JOINDER OF MORTGAGEE OF SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

SouthTrust Bank of Florida, N.A., the owner and holder of a mortgage recorded in O.R. Book 2706, Page 3968, Public Records of Lee County, Florida, encumbering the land described in Exhibit "2" of the Declaration of Covenants and Restrictions of McGregor Reserve, according to the Amendment to Declaration thereof to which this Joinder is attached, hereby consents to and joins in the Second Amendment to Declaration of Covenants and Restrictions of McGregor Reserve.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by SouthTrust Bank of Florida, N.A., or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of the Mortgagee to the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve hereinabove provided.

EXECUTED this 30 day of April, 1997.

WITNESSES:

Mary C. Dougherty

Mary C. Dougherty

SOUTHTRUST BANK OF FLORIDA, N.A.

By: Frank Woodward

Its: Vice-President

[SEAL]

STATE OF FLORIDA }
}
COUNTY OF Collier }

The foregoing instrument was acknowledged before me this 30 day of April, 1997 by Frank Woodward, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Nancy A. Constantine

Notary Public

NANCY A. CONSTANTINE

(Typed name)

My commission expires:

NANCY A. CONSTANTINE
MY COMMISSION # CC 329320
EXPIRES: December 11, 1997
Bonded Thru Notary Public Underwriters

Record and Return to:
Anthony J. Gargano, Esq.
Courthouse Box 58

(3)

This Instrument Prepared
Without Review of Title by:
Anthony J. Gargano, Esq.
Leasure, Gargano & Marchewka, P.A.
P.O. Box 61169
Fort Myers, FL 33906-1169
(941) 275-7515

4266229

OR2882 Pg1175

•RECORD VERIFIED CHARLIE GREEN, CLERK•
• BY ELLER, D.C. •

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Page 1228 through Page 1275 on September 29, 1995 (hereinafter the "Declaration");

WHEREAS, an Amendment to the Declaration was recorded in the Public Records of Lee County, Florida, in O.R. Book 2757, Page 0692 through Page 0697 on October 25, 1996 (hereinafter the "First Amendment");

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership has the right, power and authority to amend the Declaration and First Amendment, and desires to do so;

NOW, THEREFORE, McGregor Oaks, Ltd., (hereinafter the "Declarant") hereby amends the Declaration and First Amendment as to the land described therein located in Lee County, Florida, to add the following:

AMENDMENT TO DECLARATION AND FIRST AMENDMENT :

(Note: for modification of provisions of the Declaration deletions are indicated by lining through the deleted words and additions are indicated by underlining the added words; however, although they are also additions, Articles 19, 20 and 21 are not underlined because they are added by this Second Amendment.)

3.3.1. is amended as follows:

3.3.1. "Architectural Review Committee" or "ARC" means and refers to ~~the~~ a committee appointed by the ~~Board of Directors~~ Declarant pursuant to ~~Article 8, Section 10 hereof~~ Article 20, Section 3.8 to exercise the powers and duties set forth therein and other duties, if any, as may be delegated to it ~~by the Board of Directors~~ from time to time.

3.1.2. is amended as follows:

3.1.2. "Architectural Review" means and refers to the requirements of Article 20, Section 3 of this Declaration that Owner's plans and specifications including but not limited to Home plans, site plans and remodeling plans for improvements on, alterations to, and landscaping of Lots and Homes thereon, as well as repair or restoration thereof, be reviewed and approved. Where the context indicates, Architectural Review means the administrative process of ~~Article 8, Section 10~~ Article 20, Section 3.

8.6.5. is deleted.

~~8.6.5. Signs of not more than twenty (20) square feet, but not wider than five (5) feet or higher than four (4) feet, identifying the builder or contractor and lender during the period of construction on a Lot or of other size or dimensions as may be approved by the Board.~~

8.6.6 is renumbered to 8.6.5. and is amended as follows:

8.6.~~6~~5. Other signs, whether free standing, attached, lighted, moving, informational, directional, promotional or for other purposes as may be approved by the Board, and by the Declarant as long as it owns at least one (1) Lot.

8.12.3 is added as follows:

8.12.3. No abandoned, inoperable or oversized vehicle of any kind shall be stored or parked on any portion of any Lot or on any of the Common Areas. "Abandoned or inoperable vehicle" means any vehicle which has not been driven under its own propulsion for a period of seventy-two (72) hours or longer; provided, however, this shall not include vehicles parked in an enclosed garage or an operable vehicle left on the Lot by its Owner while on vacation. "Oversized vehicle" means a vehicle which does not fit in the Home's garage. A written notice describing the "abandoned or inoperable vehicle," or the "oversized vehicle" as the case may be, and requesting removal thereof may be personally served upon the Owner or posted on the vehicle; and if the vehicle has not been removed within seventy-two (72) hours thereafter, McGregor Reserve Community Association, Inc. shall have the right to remove it without liability to it, and the expenses thereof shall be charged against the Owner as an Individual Assessment.

12.7 is amended as follows:

12.7. Owners' Duties. ~~Each Owner shall be responsible for obtaining and maintaining in effect all casualty, liability and other insurance with respect to Owner's Lot and Home as the Owner may from time to time reasonably determine~~. The Association shall not obtain any insurance on behalf of an Owner, nor shall the Association insure the Lots or Homes in any manner. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with McGregor Reserve Community Association, Inc. that each Owner shall carry public liability insurance even when the Lot is vacant and blanket all-risk casualty insurance on the Lot(s) and Homes constructed thereon. All policies of insurance required by the terms of this 12.7 shall name Declarant and McGregor Reserve Community Association, Inc. as additional insureds and shall require that the McGregor Reserve Community Association, Inc. and Declarant be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal. It shall be the responsibility of each Owner, at its expense, to obtain hazard insurance on the Improvements, personal property and furnishings on its Lot. In addition, each Owner may obtain other insurance coverage on and in relation to its Lot and Home as the Owner may determine.

15.12 and 15.13 are added as follows:

15.12. No Partition of a Lot. No Owner (except the Declarant) shall have the right to partition, split, or separate a Lot into more than one Lot.

15.13. Combination of Lots. An Owner of two (2) or more contiguous Lots may combine Lots to make one Lot, if approved in accordance with 20.3 and approved by any government authority necessary. However, the Lots shall thereafter remain identified on the Plat as previously identified and the duties and liabilities of the Owner shall not be modified, including but not limited to the duty to pay Assessments on the number of Lots prior to combination.

19 is added as follows:

19. COVENANT SETTING DEADLINE FOR LOT OWNER OBTAINING BUILDING PERMIT AND COMPLETING CONSTRUCTION OF HOME; LOT OWNER'S GRANT OF EXCLUSIVE AND IRREVOCABLE OPTION TO DECLARANT.

19.1. Grant of Option to Declarant. By acceptance of the deed conveying a Lot within McGregor Reserve, each purchaser automatically grants the Declarant an exclusive, irrevocable option to repurchase the Lot in accordance with the terms and conditions of this Article 19 (hereinafter the "Declarant's Option").

19.2. Conditions Precedent to Declarant Exercising Declarant's Option. The Declarant's right to exercise Declarant's Option is subject to the satisfaction of either of the following conditions precedent:

19.2.1. The Lot Owner's failure to obtain a building permit (as well as all other permits necessary) to construct a Home on the Lot, within twenty-four (24) months of the date of the Owner's initial purchase of the Lot; or

19.2.2. The Lot Owner's failure to complete the construction of a Home on the Lot, within thirty (30) months of the date of the Owner's initial purchase of the Lot, or within six (6) months of the date the Lot Owner obtains its building permit if the Lot Owner obtains a building permit (as well as all other permits necessary) to construct the Home on the Lot within twenty-four (24) months of the date of the Owner's initial purchase of the Lot.

19.2.3. For the purpose of this Article 19 the date of a Lot Owner's initial purchase of the Lot means the date of recording the initial deed conveying the Lot from the Declarant to the Lot Owner.

19.3. Purchase Price and Terms of Lot Repurchase Following Exercise of Declarant's Option. Following the satisfaction of either of the conditions precedent set forth in 19.2.1. or 19.2.2., the Declarant shall have the right (but not the duty) to exercise Declarant's Option by giving written notice of its election to exercise Declarant's Option to the Lot Owner at the address shown on the deed that conveyed the Lot to the Lot Owner. Notice shall be given by certified mail, return receipt requested. Notice shall be considered given on the date mailed by Declarant. Following Declarant's notice to the Lot Owner of Declarant's election to exercise Declarant's Option, the Lot Owner shall convey the Lot to the Declarant in accordance with the following covenants:

19.3.1. The sales price to be paid by Declarant and accepted by the Lot Owner shall be calculated and paid as follows:

1) the sales price to be paid by the Declarant shall be eighty percent (80%) of the purchase price of the Lot paid by the Lot Owner (the "purchase price");

2) the net proceeds paid to the Lot Owner shall be the purchase price less the total of the following:

a. the amount necessary to satisfy and release all mortgages, liens, judgments and claims encumbering the Lot; and to cure any title defects or irregularities that actually impair title or could reasonably be expected to expose the grantee to adverse claims or litigation;

b. the closing costs, including but not limited to, the actual cost of a title insurance commitment and policy, document preparation, title search, closing fee, recording fees, documentary tax on the deed, pro-ration of ad valorem tax and assessments (including assessments due to McGregor Reserve Homeowner's Association, Inc.) and all other costs incurred by Declarant in the enforcement of Article 19 including but not limited to attorneys' fees incurred prior to, during and after litigation and in all administrative and bankruptcy proceedings, mediations and appeals.

19.3.2. At closing the Lot Owner shall execute and deliver to Declarant a statutory warranty deed in recordable form with the required witness execution and notarization and all other affidavits, instruments and documents required by Declarant to fully comply with this Article 19 or required by the title insurer to issue an owner's title insurance commitment and policy with the deletion of all standard exceptions.

19.3.3. The closing shall be held within ninety (90) calendar days of the date Declarant gives notice of its election to exercise Declarant's Option.

19.4. Declarant's Remedies; Declarant's Reversionary Estate. In the event the Lot Owner fails to timely or fully comply with Article 19, the Declarant shall have the right to specific performance. In addition, the Declarant shall have the right to tender the net proceeds (determined as described in 19.3.1 above) to the Lot Owner and title to the Lot shall revert to the Declarant, upon Declarant recording an affidavit confirming the following: at least one of the conditions precedent set forth in 19.2.1 and 19.2.2 have been satisfied; the Declarant gave notice of its election to exercise Declarant's Option; the Declarant tendered to Lot Owner the net proceeds due Lot Owner; and the Lot Owner refused to convey the Lot to Declarant or to otherwise fully comply with Article 19. This remedy is intended to and does create and reserve a reversionary estate in Declarant and a reversionary clause is hereby incorporated by this reference into all deeds of conveyance from Declarant to a Lot purchaser unless otherwise expressly stated in the deed. The reversionary estate created herein is not of unlimited duration since the Declarant's Option shall automatically expire upon the issuance of the certificate of occupancy (or similar certificate of the governmental entity issuing the permit evidencing completion of construction of the Home on the Lot) or if Declarant does not notify the Lot Owner of its election to exercise Declarant's Option within thirty-six (36) months of the date of the Lot Owner's initial purchase of the Lot.

19.5. Declarant's Exceptions. Declarant reserves the right to grant exceptions to this Section 19. Upon the repurchase of any Lot by Declarant , the Declarant shall have no time deadline within which to construct a Home on the Lot.

8.10 is hereby deleted in its entirety and replaced with Article 20 set forth as follows:

20. CONSTRUCTION REQUIREMENTS AND RESTRICTIONS; ARCHITECTURAL CONTROL. This article twenty is substituted for Article 8.10 which is hereby deleted in its entirety and replaced as follows:

20.1. Purpose of Construction Restrictions and Requirements and Architectural Control Established. To establish and maintain consistent design and construction of Homes compatible with the McGregor Reserve themes, to preserve the value of Homes and Lots in McGregor Reserve, and to promote the general welfare of the residents of McGregor Reserve, the Declarant establishes the following conditions, procedures, requirements, restrictions, enforcement powers and remedies.

20.2. Construction Requirements and Restrictions.

20.2.1. Home Locations and Minimum Set Backs. All Homes and other approved structures shall be located in compliance with the requirements, restrictions, conditions and procedures of the subdivision plat, the Declaration and all amendments thereto, all architectural review standards, criteria and procedures; and in compliance with municipal, county, state and federal permits, laws and ordinances. Except as provided in 20.2.2 below for corner lots, the minimum set backs for all Lots shall be: twenty-five feet (25') front set back; ten feet (10') rear set back; and seven and one-half feet (7.5') side set back unless otherwise approved pursuant to architectural review in accordance with 20.3. These minimum set backs shall not limit the Declarant, or its assigns from increasing the set backs of a Lot or Lots in its discretion.

20.2.2. Comer Lots. Those Lots described on **Exhibit 1** attached hereto and those Lots hereafter identified by the Declarant as corner lots, shall be considered corner lots. Corner lots are deemed to have two (2) front yards with front yard set-backs observed adjacent to each street. Owners of corner lots shall also provide sidewalk ramps for wheelchair accessibility as required by any governmental authority, subject to approval in accordance with 20.3.

20.2.3. Lot Preparation. Each Lot Owner shall be solely responsible at its own expense to clear, fill and grade the Lot in full compliance with the clearing grading and drainage plan of McGregor Reserve as it may be amended from time to time. Prior to commencing clearing, filling or grading, each Lot Owner shall have prepared and shall submit to the Declarant a detailed clearing, grading and drainage plan showing proposed elevations, surface water flow and finished floor elevations of the living area of two feet two inches (2'2") above the crown of the street immediately adjacent to the Lot, consistent with the clearing, grading and drainage plan of McGregor Reserve, the requirements of this Declaration and all existing permits including the South Florida Water Management permit. The Lot Owner's clearing, grading and drainage plan is subject to Architectural Review in accordance with 20.3. Any modification of the elevation of the existing grade of a Lot may only be approved in a manner that assures that the modification does not increase the surface water run-off from the Lot.

20.2.4. Temporary and Permanent Driveway Entrances and Driveways. In order to avoid damage to subdivision streets, curbs, sidewalks, street shoulders and pavement edges, suitable temporary and permanent driveway entrances shall be constructed by or on behalf of a Lot Owner at its sole expense prior to any trucks or construction vehicles entering the Lot related to Lot clearing, filling, grading or construction on that Lot. The Lot Owner shall be fully responsible to the Declarant and the Association for any and all damage caused by a Lot Owner or its agents or contractors. In conjunction with the construction of its Home, each Lot Owner shall install a concrete driveway a minimum of sixteen (16) feet in width from the subdivision street edge to the garage. All driveways shall be constructed only of brick, brick paver, or stamped concrete, scored concrete, or other materials as may be approved pursuant to Architectural Review in accordance with 20.3. The Lot Owner shall also install a driveway apron of the same material used to construct the driveway. The driveway apron must comply with all requirements of the City of Fort Myers and be designed and constructed to assure proper drainage in accordance with the clearing, grading and drainage plan of McGregor Reserve as it may be amended from time to time.

20.2.5. Utilities Connections. Each Lot Owner shall be solely responsible at its expense to tie in and connect its Home to the appropriate utility source for underground electric, power, phone, TV, cable, sewer, water and other applicable utilities. Each Lot Owner shall be solely responsible at its expense to pay all applicable impact fees, hook-up fees, meter fees and other charges of the utilities providers.

20.2.6. Construction Completion Deadline. After a Lot Owner (including the Lot Owner's contractors and agents) begin the construction of a Home or other approved improvements on the Lot Owner's Lot, construction shall proceed at a reasonable rate of progress and must be completed within

six (6) consecutive calendar months of the date the building permit is issued, unless a written extension is granted by the Declarant in its sole discretion.

20.2.7. Minimum Square Footage of Homes. The Home to be constructed on a Lot must contain no fewer than that number of square feet of enclosed air-conditioned residential floor area described herein. The floor area of garages, porches, patios and similar areas shall not be included in calculating the floor area of a Home. The minimum number of square feet of enclosed air-conditioned floor area for a Home ("Minimum Square Footage") shall be as follows:

(1) For a Lot of 11,000 or fewer square feet, the Minimum Square Footage shall be 1,750 square feet.

(2) For a Lot of 11,001 or more square feet, the Minimum Square Footage shall be 2,000 square feet.

(3) For a Lot bordering on the lake described as Tract C in the Plat of McGregor Reserve, Phase 1, the Minimum Square Footage shall be 2,200 square feet regardless of the square foot area of the Lot.

(4) Declarant may reduce or increase the Minimum Square Footage requirement for any Lot, Lots, or all the Lots in its sole discretion.

20.2.8. Exterior and Roof Materials: The exterior surface of a Home may be of wood frame, stucco, brick, or other material approved in accordance with 20.3. Trim may be wood, stone, cedar, other natural materials, or other material approved in accordance with 20.3. Siding materials such as T-111, and aluminum are prohibited; however aluminum soffits and facia are allowed. Reflective glass is prohibited. The variety of a Home's exterior materials shall be kept to a minimum. Roof materials may be galvinized metal, cedar shake, tile or 240 pound (or greater) fiberglass, mildew resistant shingles, or other roof materials approved in accordance with 20.3. Exterior and roof materials may only be used in the manner commonly accepted for that particular material. Exterior and roof materials shall be subject to Architectural Review in accordance with 20.3.

20.2.9. Exterior Home Colors: The exterior colors of Homes shall be harmonious and compatible with colors of natural surroundings, other adjacent Homes and with the colors already established in McGregor Reserve. Natural materials should be protected but remain natural. Exterior Home colors shall be subject to Architectural Review in accordance with 20.3.

20.2.10. Similar Exteriors: One of the goals of Architectural Review is to develop and maintain a subdivision with sufficient contrast between adjacent Homes. Homes that have identical or similar elevations shall be separated by no fewer than three (3) Lots. Further, no Home shall be constructed with a substantially similar entry or front elevation as the Home on a contiguous Lot. Special exterior features such as, but not limited to, balconies, porches, awnings, canopies, shutters and window boxes are subject to Architectural Review in accordance with 20.3.

20.2.11. Garages: Each Home shall have a minimum two (2) car, fully enclosed garage which shall be attached to and made an integral part of the Home.

20.2.12. Roof Pitch and Home Height: Each Home shall have a minimum 6/12 pitched roof. Flat deck roofs shall not be permitted. The height of a Home more than one story shall be subject to Architectural Review in accordance with 20.3. The height of a Home shall be measured from the finished floor elevation (as defined in 20.2.19) to the ridge of the roof or any element of the Home including chimneys, flues and vents. The purpose of restricting the height of a Home shall be to preserve views and aesthetics for the benefit of McGregor Reserve.

20.2.13. Prohibited Structures: No prefabricated or modular type homes shall be constructed or located upon any Lot. No mobile home shall be permitted on any Lot. No trailer, shack, tent, garage or other outbuilding shall be used as a permanent or temporary residence on any Lot.

20.2.14. Fences, Walls and Hedges. No fence, wall or hedge more than four (4) feet in height shall be erected or maintained on a Lot; however, perimeter Lots (as hereafter defined) may have a fence, wall or hedge of not more than six (6) feet in height, along the rear lot line of the perimeter Lot. The term perimeter Lot means a Lot which abuts the exterior boundary line of McGregor Reserve. Fences, walls and hedges may only be located on side and back property Lot lines and shall not extend along the side Lot lines any further than the back of the Home on the Lot; but in no case shall the fence, wall or hedge be located within the front set-back. Except for vinyl coated chain link fences, no chain link fences shall be permitted. All air conditioning equipment, pool equipment, pumps, filters, and water conditioning equipment shall be screened from the view of adjoining Homes and streets by privacy walls, fences, or hedges. All fences, hedges, walls, or other boundary structure or improvement shall be subject to Architectural Review in accordance with 20.3.

20.2.15. Rubbish. No garbage, refuse, trash or rubbish, including materials for recycling (hereinafter collectively "rubbish"), shall be placed on a Lot except as permitted by the Association. Lot Owners shall follow the requirements of the applicable governmental authority or other company or association for disposal or collection of rubbish. Rubbish containers shall be hidden or screened from view and kept in a clean and sanitary condition. Rubbish containers may not be placed out for collection sooner than twelve (12) hours prior to scheduled collection and must be removed within twelve (12) hours of collection. In the event that a Lot Owner or occupant of a Lot keeps containers for recyclable materials thereon, those shall be deemed to be rubbish containers for the purposes of this 20.2.15.

20.2.16. Construction Activity and Construction Rules and Regulations. During any construction activity by or on behalf of a Lot Owner within McGregor Reserve, the construction area shall be maintained in a neat and orderly manner. All debris shall be contained on the Lot Owner's Lot. A container of adequate size and construction shall be placed on the Lot and all construction debris and rubbish shall be deposited in the container not less than each day. The construction debris and rubbish shall be collected on a regular basis. No temporary trailer shall be placed on any Lot without the prior written approval of Declarant. Construction vehicles shall be parked so as not to block or interfere with the use of streets within McGregor Reserve. All Owners and their contractors shall comply with the Construction Rules and Regulations, if any, as adopted and amended by the Declarant from time to time. Declarant shall have the power to promulgate, adopt and amend Construction Rules and Regulations (which may be in the form of a manual) as it deems necessary to govern construction of Homes and Improvements and activities related thereto. The Construction Rules and Regulations promulgated by Declarant may provide requirements and restrictions concerning construction activity including, but not limited to, rubbish and construction debris removal; temporary sanitary facilities; parking areas; permissible times of access and construction; outside storage; restoration of damaged property; conduct and behavior of contractors, their agents and employees, or any other person involved in the construction; conservation of landscape materials; and fire protection.

20.2.17. Landscaping Requirements. As part of the construction of a Home, the Lot shall be landscaped in accordance with: this provision; a "landscaping materials approved list" furnished to the Lot Owner by Declarant; and shall include an adequate sprinkler irrigation system (hereinafter collectively referred to as "Lot Landscaping"). Each Lot Owner is responsible for providing and maintaining Lot Landscaping to the street pavement. Lot Landscaping requirements are established to maintain landscaping compatibility throughout McGregor Reserve by preserving the natural character of the land and ensuring that new Lot Landscaping achieves the landscaping functions defined in 1.a, b, c and d below. Close attention shall be paid to the preservation and enhancement of the Lot's existing native vegetation, the preservation of the Lot's botanical and scenic features, the conservation of ground forms, and the development of a harmonious residence, pleasant paths of movement and attractive use areas. A Lot Owner, while preserving the landscape integrity of the community, may add an individual touch to Lot Landscaping as long as additions

are in conformity with the requirements of these Lot Landscaping requirements and are approved in accordance with 20.3.

1. Landscaping Functions. The functions of landscaping within McGregor Reserve include:

a. architectural: privacy control, screening objectionable views and developing paths of movement;

b. engineering: erosion control, drainage, glare reduction and noise control;

c. climate control: heat reduction (shade) and wind protection; and

d. aesthetic uses: maintaining visual continuity through the enhancement and complementing of architecture using background and accent Lot landscaping.

These functions are to be achieved by Lot Landscaping.

2. Plant Restrictions. No Brazilian Pepper, Melaleuca or other exotic plants and trees shall be permitted on any Lot or within the Common Area. No tree or shrub, the trunk of which exceeds four (4) inches in diameter, shall be cut down or otherwise destroyed without prior approval in accordance with 20.3. No artificial grass, plants, or other artificial vegetation shall be placed or maintained upon any Lot. No rock, shell or other minerals or non-plant material shall be placed or maintained upon any Lot.

3. Lot Landscaping Plan. A Lot Owner shall submit a Lot Landscaping Plan as part of the plans and specifications requirement for Architectural Review in 20.3. The Lot Landscaping Plan shall at a minimum include: (1) a list of the plants describing the size of the plants at the time of planting; (2) a site plan showing the location, diameter and species of all existing trees and a designation of all trees to be removed; the proposed planting areas, sodded areas, and all shrub and tree locations; and all existing and proposed improvements, including but not limited to driveways, sidewalks, patios, pool decks, decks, porches, gazebos, and other landscape features.

4. Vacant Lot Maintenance. Each vacant Lot must be kept mowed and clear of rubbish, weeds and high grass by the Lot Owner. If the Lot Owner cannot or does not provide regular and adequate maintenance of its vacant Lot, the Declarant, the Association, or their authorized agent, ten (10) days after written notice to the Owner at the Owner's address set forth in records of the Association, shall have the right (but not the duty) as it deems necessary to perform Lot maintenance. In the event, pursuant to this subparagraph, the Declarant or the Association provides Lot maintenance for the Lot Owner's Lot, it shall be repaid on demand by the Lot Owner the actual cost thereof plus thirty percent (30%) of the cost thereof. The Association and the Declarant shall have the right, power and authority to file and enforce a claim of lien against the Lot Owner and its Lot to recover the cost of maintenance (plus 30%) as set forth in this 20.2.17.4, including the right to recover additional costs, interest and attorneys' fees.

20.2.18. Finished Floor Elevation. The Finished Floor Elevation of each Home shall be two feet two inches (2'2") above the crown of the street immediately adjacent to the Home.

20.3. Architectural Review. No Home, improvement or structure, any modification thereof or addition thereto of any nature (hereinafter collectively an "Improvement") shall be constructed, built, erected, placed, altered or relocated on any Lot, or removed therefrom (hereinafter collectively "Construction"), until the construction plans and specifications (which shall at least include a plan showing the location of the improvement, a landscaping plan and a Lot clearing, grading and drainage plan), have been approved in writing by the Declarant, its successors or assigns while Declarant owns at least one Lot, and thereafter by the Board of Directors of the Association (hereafter "Board of Directors"), and Owner obtains

all necessary governmental permits. For the purpose of this 20.3 the term "Declarant" shall include the Board of Directors after the Declarant has sold all of its Lots in McGregor Reserve or after Declarant assigns its rights hereunder to the Association; the term "Declarant" shall also include Declarant's successors, assigns and appointees. Each Improvement, together with landscaping, shall be Constructed only in accordance with the plans and specifications approved by Declarant and applicable governmental permits and requirements. Declarant's disapproval of plans and specifications may be based on any grounds, including purely aesthetic ones, based solely on its subjective judgment. Any change in the appearance of any Improvement and any material change in the appearance of landscaping, shall be deemed an Improvement requiring Declarant's approval; provided, however, that lights, flags and other decorations customary for holidays shall not require Declarant's approval hereunder (but may be regulated by Declarant as to size, quantity, nature and length of time they may remain in place). Declarant may adopt a schedule of reasonable fees for Declarant's review of plans and specifications submitted to it for approval. The schedule may set different fees for different classifications of Improvements. For example, the fees applicable to the review of plans and specifications of a Home may differ from the fees applicable to the review of plans and specifications of a fence; the fees applicable to the review of plans and specifications of a 5,000 square foot Home may differ from those of a 1,750 square foot Home. The schedule may also provide for additional fees for the review of any resubmitted plans and specifications. The Lot Owner shall pay all fees to Declarant in cash at the time the plans and specifications are submitted or resubmitted.

20.3.1. Application for Architectural Review and Plan Submittal. Prior to the Construction of an Improvement on a Lot, the Owner shall submit to the Declarant two (2) sets of the plans and specifications described above.

20.3.2. Improvement Requiring Approval. In addition to Homes, other Improvements requiring Declarant approval under this 20.3 include, but are not limited to, fences, walls, hedges and other boundary structures, driveways, sidewalks, pools, pool decks, gazebos, jacuzzis, screen enclosures, decks, patios or extensions, exterior paint or finish, exterior or roof materials, awnings, shutters, hurricane protection, outside storage sheds, play apparatus and similar structures, swales, sidewalk/ driveway surfaces or treatments, antennas and satellite dishes or other Improvements of any kind, even if not permanently affixed to the Lot or to other Improvements.

20.3.3. Approval or Disapproval. The Declarant shall approve plans and specifications submitted for its approval only if it determines in its sole discretion that the Improvement meets the purpose of architectural control (20.1), complies with the construction requirements and restrictions (20.2) and the procedures of this 20.3. The Declarant may condition its approval of plans and specifications as it deems appropriate, and may require submission of additional detail in plans and specifications, other information, or additional plans and specifications, including without limitation, floor plans, plot plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Declarant's final written approval must be obtained prior to Lot Owner, its agent or contractor applying to the City of Fort Myers for a building permit. If, following Declarant's review of the plans and specifications, Declarant disapproves the plans and specifications, Declarant shall notify the Lot Owner of the items thereof which were objectionable. In the event the Lot Owner corrects the objectionable portions, the Lot Owner may resubmit the plans and specifications, as corrected, for approval. Upon Declarant's approval of a Lot Owner's plans and specifications either as originally submitted or resubmitted, Declarant shall indicate its approval in writing on the plans and specifications. After Declarant's approval, Declarant shall return one set of the plans and specifications to the Lot Owner and Declarant shall retain the other set.

20.3.4. Approval or Disapproval Deadline. Except as otherwise provided herein, the Declarant shall act on submissions to it within thirty (30) days after receipt of the plans and specifications, and all further documentation required by Declarant, or else the request shall be deemed approved. Until receipt of all required plans and specifications, and all further documentation required by Declarant, the Declarant may postpone review of any plans and specifications submitted or resubmitted for its approval. No request for approval shall be valid or require any review or response unless and until the Lot Owner has paid all Assessments on the Lot (and any interest, costs and attorneys' fees due thereon) or while any other violation of this Declaration or the Association's Rules and Regulations remains uncured.

20.3.5. Consent of Other Lot Owners. The Declarant may, but shall not be obligated to, require any request for its approval under 20.3 be accompanied by the written consent of the Owners of the Lots [up to five (5)] adjoining or nearby the Lot proposed to be improved.

20.3.6. No Liability for Approval or Disapproval. Declarant's approval of plans and specifications shall not constitute or be implied or construed to constitute Declarant's warranty as to plans and specifications. Neither the Declarant, its representatives, agents or any member, representative or agent of the Association, its Board of Directors, or an Architectural Review Committee, shall be liable for, the approval or disapproval of plans and specifications, for design of plans and specifications, or for the safety, soundness, materials or usefulness for any purpose of any Improvement, or as to compliance with governmental or industry codes or standards. By submitting a request for the approval of plans and specifications hereunder, the requesting Lot Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid persons and entities from and for any loss, claim or damages connected with the aforesaid aspects of the Improvements.

20.3.7. No Waiver of Future Disapprovals. Declarant's approval of plans and specifications, or of any other matter requiring Declarant's approval under 20.3, shall not constitute or be implied or construed to constitute a waiver of Declarant's right to disapprove any similar plans and specifications or matters, whatsoever subsequently or additionally submitted to Declarant for approval under 20.3.

20.3.8. Architectural Review Committee. Declarant shall have the right (but not the duty) to appoint an Architectural Review Committee and to vest in it all or any portion of Declarant's powers under this Article 20.3. If the Declarant appoints an Architectural Review Committee and assigns to it all or a portion of Declarant's powers under this 20.3, then the Association's Board of Directors shall establish reasonable procedures to govern that committee.

20.3.9. Variance. Declarant may authorize variances from compliance with any of the provisions of this Article 20 when Declarant in its sole discretion determines circumstances including, but not limited to, topography, natural obstructions, hardship, aesthetic, environmental or other considerations require. The variance shall be evidenced in writing and shall be signed by the Declarant in order to be valid. If Declarant grants a variance, no violation of this Declaration shall be deemed to have occurred with respect to the specific matter for which the variance is expressly granted. The Declarant's grant of a variance shall not, however, operate to waive any of the terms, provisions, restrictions, requirements, or conditions of this Declaration for any purpose, except as to the particular Lot, and particular matter expressly addressed in the variance, nor shall the variance affect in any way the Lot Owner's obligation to comply with all governmental laws, regulations and ordinances affecting the Lot Owner's use of its Lot, including but not limited to, zoning ordinances, set-backs or requirements imposed by any governmental or municipal authority.

20.4. Remedies. In the event of any Lot Owner violation of this Article 20, and after giving the Lot Owner fifteen (15) calendar days' prior written notice of the violation, the Declarant (its agents, assigns and designees) shall have all rights and remedies lawfully available to it as well as the specific right (including an easement and license) to enter upon the applicable Lot and remove or otherwise remedy the violation. The Declarant's cost of removal or remediation of the violation plus a surcharge of a minimum of $25.00 (but in no event more than twenty percent (20%) of the cost) shall be an Individual Assessment against the Lot (and Lot Owner), which Individual Assessment shall be payable upon demand and secured by the lien for Assessments provided for in this Declaration. In the event any Improvement for which approved plans and specifications is required under this Article 20 is not completed in substantial compliance with approved plans and specifications or within governing time deadlines for completion, the Declarant may proceed in accordance with the remedies set forth herein.

20.5. Article 20 Not Applicable to Declarant. Without limiting the generality of this Article 20, the foregoing provisions of Article 20 shall not be applicable to Lots and the Improvement of Lots owned by Declarant, or its designees. That is, the Declarant and its designees shall be exempt from the provisions of Article 20 with respect to construction of Improvements on Declarant-owned Lots and Declarant shall not be obligated to obtain approval for any construction of Improvements which Declarant may elect to make at any time on its Lots.

20.6. Independent Builders. McGregor Reserve is being developed by the Declarant. Homes constructed within McGregor Reserve may be constructed by the Declarant (or its designated contractor), or if approved by Declarant, by an independent contractor with which an Owner contracts. The Declarant reserves the right to approve or disapprove contractors in Declarant's sole discretion. If a Home is constructed by a contractor other than the Declarant (or its designated contractor), the Declarant shall have no liability whatsoever for the contractor's construction of the Home or construction activities.

21 is added as follows.

21. NO AMENDMENT WITHOUT DECLARANT'S APPROVAL. As long as Declarant owns any Lot within McGregor Reserve or any other land subject to this Declaration, Articles 19, 20 and 21 may not be amended without the Declarant's written consent which may be withheld by Declarant in its sole discretion.

McGREGOR OAKS, LTD., a Florida Limited Partnership
by McGregor Oaks, Inc., a Florida corporation, its
General Partner

Ruth A. Brown
Witness

Judith M. Palumbo
Witness

By: David G. Malt
David G. Malt, President

Ruth A. Brown
Witness

Judith M. Palumbo
Witness

By: Marc C. Sullivan
Marc C. Sullivan, Secretary

Corporate Seal

STATE OF FLORIDA }
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 24 day of October, 1997 by David G. Malt, president of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd. and who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

E. Kelly Campbell
Notary Public
E. Kelly Campbell
(Typed name)

My commission expires: 1-25-98

E. KELLY CAMPBELL
COMMISSION # CC 344089
EXPIRES JAN 25, 1998
Bonded Through
ALAN INSURANCE SERVICES

STATE OF FLORIDA }
COUNTY OF LEE }

The foregoing instrument was acknowledged before me this 24 day of October, 1997 by Marc C. Sullivan, secretary of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd. and who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

E. Kelly Campbell
Notary Public
E. Kelly Campbell
(Typed name)

My commission expires:

E. KELLY CAMPBELL
COMMISSION # CC 344089
EXPIRES JAN 25, 1998
Bonded Through
ALAN INSURANCE SERVICES

EXHIBIT 1
TO

SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

(Reference 20.2.2.)

CORNER LOTS:

Phase 1, Lots 13, 14, 20, 29, 34 and 78

(4)

INSTR # 5008930
OR BK 03330 PG 3409
RECORDED 11/22/00 03:25 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 15.00
DEPUTY CLERK K Cartwright

This Instrument Prepared
Without Review of Title (and
return to):
Christopher J. Shields, Esquire
Pavese, Haverfield, Dalton,
Harrison & Jensen, L.L.P.
P.O. Drawer 1507
Fort Myers, FL 33902
941-336-6245

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Page 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration");

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, has the right, power and authority to amend the Declaration and desires to do so;

NOW, THEREFORE, McGregor Oaks, Ltd., (hereinafter the "Declarant") hereby amends the Declaration as to the land described therein located in Lee County, Florida, to add the following:

AMENDMENT TO DECLARATION

(Note: For modification of provisions of the Declaration, deletions are indicated by lining through the deleted words and additions are indicated by underlining the added words.)

6.3.1. is amended as follows:

6.3.1. After adopting the initial budget (and thereafter an annual budget) and Regular Assessments as provided above, the Board of Directors shall fix the amount of the Regular Assessment against the Lots subject to the Association's jurisdiction for each Assessment period, to the extent practicable, at least ~~sixty (60)~~ ten (10) days in advance of the date or period, and shall, at that time, prepare a roster of the Lots and Regular Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

McGREGOR OAKS, LTD., a Florida Limited Partnership by McGregor Oaks, Inc. a Florida corporation, its General Partner

E. Kelly Campbell
Witness
Petra E. Parilla

By: David G. Malt
David G. Malt, President

JOINDER OF MORTGAGEE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

SouthTrust Bank of Florida, N.A., the owner and holder of a mortgage recorded in O.R. Book 2706, Page 3968, Public Records of Lee County, Florida, encumbering the land described in Exhibit "2" of the Declaration of Covenants and Restrictions of McGregor Reserve, according to the Amendment to Declaration thereof to which this Joinder is attached, hereby consents to and joins in this Amendment to Declaration of Covenants and Restrictions of McGregor Reserve.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by SouthTrust Bank of Florida, N.A., or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of the Mortgagee to the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve hereinabove provided.

EXECUTED this 16th day of November, 2000.

SOUTHTRUST BANK OF FLORIDA, N.A.

Witnesses:

Judith M. Palumbo

Tonya Hauser

By: _____

Name: Alan G. Jones

Title: Vice President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 16th day of November, 2000, by Alan G Jones, the Vice President of Southtrust Bank of Florida, N.A., who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

E. Kelly Campbell
Notary Public

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

My commission expires: 1-25-02

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREG1.AMN

Witness

Judith M. Palumbo

Witness

By: Marc C. Sullivan

Marc C. Sullivan, Secretary

Sonya Hauser

Witness

Corporate Seal

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 13 day of November, 2000, by David G. Malt, President of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd., and who is personally known to me and who did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell

Notary Public
My Commission expires: 1-25-02

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15th day of November, 2000, by Marc C. Sullivan, Secretary of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd., and who is personally known to me and who did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell

Notary Public
My Commission expires: 1-25-02

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREG1.AMN

OR BK 03330 PG 3411

This Instrument prepared by:
Christopher J. Shields, Esq.
PAVESE, HAVERFIELD, DALTON,
HARRISON & JENSEN, L.L.P.
1833 Hendry Street
Fort Myers, Florida 33901
(941) 334-2195

INSTR # 5015875
OR BK 03334 PG 3007
RECORDED 12/05/00 02:48 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 19.50
DEPUTY CLERK J Miller

CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Pages 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration"); and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, reserved the unilateral right to amend the Declaration; and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, wishes to amend the Declaration of Covenants and Restrictions of McGregor Reserve; and

NOW, THEREFORE, McGregor Oaks, Ltd., hereby amends the Declaration of Covenants and Restrictions of McGregor Reserve as follows:

(Note: Deletions are indicated by lining through and additions are indicated by underlining)

Article 6.5 on Page 14 is hereby amended as follows:

6.5 Date of Commencement of Assessments, Due Dates. The Regular and Neighborhood Assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of that year. ~~However, unless provided otherwise in a written contract, assessments shall not be due from a Lot Owner, until the date the certificate of occupancy is issued for the Home constructed on that Owner's Lot~~.

Article 6.8.2 on Page 15 is hereby amended as follows:

6.8.2 pay Assessments only on certain Lots ~~upon which,~~ designated by Declarant (e.g., those containing a Home ~~has been constructed and~~ for which a certificate of occupancy has been issued); or

Except as amended herein, all provisions of the Declaration of Covenants and Restrictions of McGregor Reserve are hereby ratified and confirmed.

Executed as of this 22 day of November, 2000.

McGregor Oaks, Ltd., a Florida Limited Partnership, BY McGregor Oaks, Inc., a Florida Corporation, Its General Partner

By: David G. Malt
David G. Malt, President of McGregor Oaks Inc.

Judith M. Palumbo
Witness #1 Signature
Judith M. Palumbo
Witness #1 Printed Name
Petrea E. Parrilla
Witness #2 Signature
Petrea E. Parrilla
Witness #2 Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 22 day of November, 2000, by David G. Malt, who is personally known to me and who did not take an oath.

E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell
Notary Public Signature
E. Kelly Campbell
(Printed Name)

My Commission Expires: 1-25-02

Kenleigh Buckingham
Witness #1 Signature
Kenleigh Buckingham
Witness #1 Printed Name
Sheila Turregano
Witness #2 Signature
Sheila Turregano
Witness #2 Printed Name

Marc C. Sullivan
Marc C. Sullivan, Secretary

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 22 day of November, 2000, by Marc C. Sullivan, who is personally known to me and who did not take an oath.

Shelia R. Turregano
Notary Public, State of Florida
Commission No. CC 641328
My Commission Exp. 04/24/2001
Bonded Through Fla. Notary Service & Bonding Co.

Sheila R. Turregano
Notary Public Signature

Sheila R. Turregano
(Printed Name)

My Commission Expires: 4-24-01

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREGOR.CER

JOINDER OF MORTGAGEE
OF
AMENDMENT
TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
McGREGOR RESERVE

SouthTrust Bank of Florida, N.A., the owner and holder of a mortgage recorded in O.R. Book 2706, Page 3968, Public Records of Lee County, Florida, encumbering the land described in Exhibit 2 of the Declaration of Covenants and Restrictions of McGregor Reserve, according to the Amendment to Declaration thereof to which this Joinder is attached, hereby consents to and joins in the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by SouthTrust Bank of Florida, N.A., or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of the Mortgagee to the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve hereinabove provided.

EXECUTED this 29th day of November, 2000.

WITNESSES:

Joyce Hauser

Judith M. Palumbo

SOUTHTRUST BANK OF FLORIDA, N.A.

BY: _____

Its: Vice President

STATE OF FLORIDA)
COUNTY OF)

The foregoing instrument was acknowledged before me this 29th day of November, 2000 by Alan Jones, who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell
Notary Public Signature

E. Kelly Campbell
(Printed Name)

My Commission Expires: 1-25-02

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREGOR.JOI

(4)

INSTR # 5008930
OR BK 03330 PG 3409
RECORDED 11/22/00 03:25 PM
CHARLIE GREEN CLERK OF COURT
LEE COUNTY
RECORDING FEE 15.00
DEPUTY CLERK K Cartwright

This Instrument Prepared
Without Review of Title (and
return to):
Christopher J. Shields, Esquire
Pavese, Haverfield, Dalton,
Harrison & Jensen, L.L.P.
P.O. Drawer 1507
Fort Myers, FL 33902
941-336-6245

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Page 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration");

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, has the right, power and authority to amend the Declaration and desires to do so;

NOW, THEREFORE, McGregor Oaks, Ltd., (hereinafter the "Declarant") hereby amends the Declaration as to the land described therein located in Lee County, Florida, to add the following:

AMENDMENT TO DECLARATION

(Note: For modification of provisions of the Declaration, deletions are indicated by lining through the deleted words and additions are indicated by underlining the added words.)

6.3.1. is amended as follows:

6.3.1. After adopting the initial budget (and thereafter an annual budget) and Regular Assessments as provided above, the Board of Directors shall fix the amount of the Regular Assessment against the Lots subject to the Association's jurisdiction for each Assessment period, to the extent practicable, at least ~~sixty (60)~~ ten (10) days in advance of the date or period, and shall, at that time, prepare a roster of the Lots and Regular Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

McGREGOR OAKS, LTD., a Florida Limited Partnership by McGregor Oaks, Inc. a Florida corporation, its General Partner

E. Kelly Campbell
Witness
Petra E. Padilla

By: David G. Malt
David G. Malt, President

JOINDER OF MORTGAGEE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

SouthTrust Bank of Florida, N.A., the owner and holder of a mortgage recorded in O.R. Book 2706, Page 3968, Public Records of Lee County, Florida, encumbering the land described in Exhibit "2" of the Declaration of Covenants and Restrictions of McGregor Reserve, according to the Amendment to Declaration thereof to which this Joinder is attached, hereby consents to and joins in this Amendment to Declaration of Covenants and Restrictions of McGregor Reserve.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by SouthTrust Bank of Florida, N.A., or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of the Mortgagee to the Amendment to Declaration of Covenants and Restrictions of McGregor Reserve hereinabove provided.

EXECUTED this 16th day of November, 2000.

SOUTHTRUST BANK OF FLORIDA, N.A.

Witnesses:

Judith M. Palumbo

Tonya Hauser

By: _____

Name: Alan G. Jones

Title: Vice President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 16th day of November, 2000, by Alan G Jones, the Vice President of Southtrust Bank of Florida, N.A., who is personally known to me or who has produced N/A as identification and who did (did not) take an oath.

E. Kelly Campbell
Notary Public

My commission expires: 1-25-02

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREG1.AMN

Witness

Judith M. Palumbo

Witness

Sonya Hauser

Witness

By: Marc C. Sullivan

Marc C. Sullivan, Secretary

Corporate Seal

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 13 day of November, 2000, by David G. Malt, President of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd., and who is personally known to me and who did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell

Notary Public
My Commission expires: 1-25-02

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15th day of November, 2000, by Marc C. Sullivan, Secretary of McGregor Oaks, Inc., general partner of McGregor Oaks, Ltd., and who is personally known to me and who did (did not) take an oath.

NOTARY PUBLIC STATE OF FLORIDA
E. KELLY CAMPBELL
COMMISSION # CC 704051
EXPIRES JAN 25, 2002
BONDED THRU
ATLANTIC BONDING CO., INC.

E. Kelly Campbell

Notary Public
My Commission expires: 1-25-02

F:\WPDATA\CJS\FORMS\CONDO\AMENDMEN\MCGREG1.AMN

OR BK 03330 PG 3411

INSTR # 6870539
OR BK 04777 Pgs 0857 - 859; (3pgs)
RECORDED 06/29/2005 03:10:26 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 27.00
DEPUTY CLERK L Ambrosio

This Instrument prepared by:
Christopher J. Shields, Esq.
PAVESE, HAVERFIELD, DALTON,
HARRISON & JENSEN, L.L.P.
1833 Hendry Street
Fort Myers, Florida 33901
(941) 334-2195

CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve was recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Pages 1228 through 1275 on September 29, 1995 (hereinafter the "Declaration"); and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, reserved the unilateral right to amend the Declaration; and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, wishes to amend the Declaration of Covenants and Restrictions of McGregor Reserve; and

NOW, THEREFORE, McGregor Oaks, Ltd., hereby amends the Declaration of Covenants and Restrictions of McGregor Reserve as follows:

(Note: Deletions are indicated by strikethrough and additions are indicated by underlining)

Article 19.2.1 is hereby amended as follows:

19.2.1. The Lot Owner's failure to obtain a building permit (as well as all other permits necessary) to construct a Home on the Lot, within ~~twenty four (24)~~ twelve (12) months of the date of the Owner's initial purchase of the Lot; or

Article 19.2.2. is hereby amended as follows:

19.2.2. The Lot Owner's failure to complete the construction of a Home on the Lot, within ~~thirty (30)~~ twenty four (24) months of the date of the Owner's initial purchase of the Lot, or within six (6) months of the date the Lot Owner obtains its building permit if the Lot Owner obtains a building permit (as well as all other permits necessary) to construct the Home on the Lot within twenty-four (24) months of the date of the Owner's initial purchase of the Lot.

Article 20.2.7. (3) is hereby amended as follows:

(3) For a Lot bordering on the lake described as Tract C in the Plat of McGregor Reserve, Phase 1, the Minimum Square Footage shall be ~~2,200~~ 2,700 square feet regardless of the square foot area of the Lot.

Except as amended herein, all provisions of the Declaration of Covenants and Restrictions of McGregor Reserve are hereby ratified and confirmed.

Executed as of this 27th day of June, 2005.

McGregor Oaks, Ltd., a Florida Limited Partnership, by McGregor Oaks, Inc., a Florida Corporation, Its General Partner

By: David G. Malt
David G. Malt, President of McGregor Oaks Inc.

Judith M. Palumbo
Witness #1 Signature
Judith M. Palumbo
Witness #1 Printed Name
Tami J Sullivan
Witness #2 Signature
Tami J. Sullivan
Witness #2 Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 27th day of June, 2005, by David G. Malt, who is personally known to me and who did not take an oath.

Sheila M Davis
Notary Public Signature
Sheila M. Davis
(Printed Name)
My Commission Expires:

Sheila M Davis
My Commission DD222117
Expires June 11 2007

Judith M. Palumbo
Witness #1 Signature
Judith M. Palumbo
Witness #1 Printed Name
Tami J. Sullivan
Witness #2 Signature
Tami J. Sullivan
Witness #2 Printed Name

Kelly Campbell
Kelly Campbell, Secretary

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 27th day of June, 2005, by Kelly Campbell, who is personally known to me and who did not take an oath.

Sheila M Davis
Notary Public Signature
Sheila M. Davis
(Printed Name)
My Commission Expires:

Sheila M Davis
My Commission DD222117
Expires June 11 2007

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INSTR # 2006000114078, Pages 4
Doc Type RES, Recorded 03/17/2006 at 03:24 PM,
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee $35.50
Deputy Clerk CBROUNSON
#1

This Instrument prepared by:
Christopher J. Shields, Esq.
PAVESE, HAVERFIELD, DALTON,
HARRISON & JENSEN, L.L.P.
1833 Hendry Street
Fort Myers, Florida 33901
(941) 334-2195

CERTIFICATE OF AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS OF McGREGOR RESERVE

WHEREAS, the Declaration of Covenants and Restrictions of McGregor Reserve is recorded in the Public Records of Lee County, Florida, in O.R. Book 2639, Pages 1228 through 1275, as subsequently amended, (hereinafter the "Declaration"); and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, reserved the unilateral right to amend the Declaration; and

WHEREAS, pursuant to Articles 15.4 and 18 of the Declaration, Declarant, McGregor Oaks, Ltd., a Florida Limited Partnership, wishes to amend the Declaration; and

NOW, THEREFORE, McGregor Oaks, Ltd., hereby amends the Declaration as follows:

(NOTE: Deletions are indicated by ~~strikethrough~~ and additions are indicated by underlining.)

1. Article 20.3 of the Declaration is hereby amended as follows:

20.3. Architectural Review. No Home, improvement or structure, any modification thereof or addition thereto of any nature (hereinafter collectively an "Improvement") shall be constructed, built, erected, placed, altered or relocated on any Lot, or removed therefrom (hereinafter collectively "Construction"), until the construction plans and specifications (which shall at least include a plan showing the location of the improvement, a landscaping plan and a Lot clearing, grading and drainage plan), have been approved in writing by the Declarant, its successors or assigns while Declarant owns at least one Lot, and thereafter by the Board of Directors of the Association (hereafter "Board of Directors"), and Owner obtains all necessary governmental permits. For the purpose of this 20.3 the term "Declarant" shall include the Board of Directors after the Declarant has sold all of its Lots in McGregor Reserve or after Declarant assigns its rights hereunder to the Association; the term "Declarant" shall also include Declarant's successors, assigns and appointees. Each Improvement, together with landscaping, shall be Constructed only in accordance with the plans and specifications approved by Declarant and applicable governmental permits and requirements. Declarant's disapproval of plans and specifications may be based on any grounds, including purely aesthetic ones, based solely on its

subjective judgment. Any change in appearance of any Improvement and any material change in the appearance of landscaping, shall be deemed an Improvement requiring Declarant's approval hereunder (buy may be regulated by Declarant as to size, quantity, nature and length of time they may remain in place). Declarant may adopt a schedule of reasonable fees of Declarant's review of plans and specifications submitted to it for approval, **which may also include the requirement for a compliance/damage bond in an amount determined by the Declarant in its sole discretion to secure the owner's compliance with this section 20 and the payment of damages**. The schedule may set different fees **and bond requirements** for different classifications of Improvements. For example, the fees applicable to the review of plans and specifications of a Home may differ from the fees applicable to the review of plans and specifications of a fence; the fees of a Home may differ from the fees applicable to the review of plans and specifications of a fence; the fees applicable to the review of plans and specifications of a 5,000 square foot Home may differ from those of a 1,750 square foot Home. The schedule may also provide for additional fees for the review of any resubmitted plans and specifications. The Lot Owner shall pay all fees to Declarant in cash at the time the plans and specifications are submitted or resubmitted.

2. Article 20.3.1 of the Declaration is hereby amended as follows:

20.3.1. Application for Architectural Review and Plan Submittal. Prior to the Construction of an Improvement on a Lot, the Owner shall submit to the Declarant two (2) sets of the plans and specifications described above, **along with requisite fee set forth under the schedule of fees for review of plans and specifications**. **Approval shall be conditioned upon the Lot Owner's evidence of compliance with the applicable compliance/damage bond requirement set forth in the adopted schedule of fees.**

3. Article 20.3.4 of the Declaration is hereby amended as follows:

20.3.4. Approval or Disapproval Deadline. Except as otherwise provided herein, the Declarant shall act on submissions to it within thirty (30) days after receipt of the plans and specifications, **applicable review fees** and all further documentation required by Declarant, or else the request shall be deemed approved. Until receipt of all required plans and specifications, **applicable review fees** and all further documentation required by Declarant, the Declarant may postpone review of any plans and specifications submitted or resubmitted for its approval. No request for approval shall be valid or require any review or response unless and until the Lot Owner has paid all Assessments on the Lot (and any interest, costs and attorneys' fees due thereon) or while any other violation of this Declaration or the Association's Rules and Regulations remains uncured. **Approval shall be conditioned upon the Lot Owner's evidence of compliance with the applicable compliance/damage bond requirement set forth in the adopted schedule of fees.**

Executed as of this 15th day of March, 2006.

McGregor Oaks, Ltd., a Florida Limited Partnership, by McGregor Oaks, Inc., a Florida Corporation, Its General Partner

By: _____
David G. Malt, President of McGregor Oaks Inc.

Tami J. Sullivan
Witness #1 Signature

Tami J.
Witness #1 Printed Name

E. Kelly Campbell
Witness #2 Signature

E. Kelly Campbell
Witness #2 Printed Name

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 15th day of March, 2006, by David G. Malt, who is personally known to me and who did not take an oath.

Tami J. Sullivan
Notary Public Signature

Tami J. Sullivan
(Printed Name)

My Commission Expires:

NOTARY PUBLIC-STATE OF FLORIDA
Tami J. Sullivan
Commission # DD463153
Expires: AUG. 17, 2009
Bonded Thru Atlantic Bonding Co., Inc.

Witness #1 Signature

Kimberly Coppinger
Witness #1 Printed Name

Judith M. Palumbo
Witness #2 Signature

Judith M. Palumbo
Witness #2 Printed Name

Kelly Campbell, Secretary

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 15th day of March, 2006, by Kelly Campbell, who is personally known to me and who did not take an oath.

Notary Public Signature

Tami J. Sullivan
(Printed Name)

My Commission Expires:

NOTARY PUBLIC-STATE OF FLORIDA
Tami J. Sullivan
Commission # DD463153
Expires: AUG. 17, 2009
Bonded Thru Atlantic Bonding Co., Inc.

EFFECTIVE DATE
9/29/95

95 OCT -3 PM 12:15
FILED
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION OF McGREGOR RESERVE COMMUNITY ASSOCIATION, INC.
(A NON-PROFIT FLORIDA CORPORATION)

ARTICLE I - NAME

The name of this Corporation is McGREGOR RESERVE COMMUNITY ASSOCIATION, INC.

ARTICLE II - PURPOSE

This Corporation is organized to act as the governing association of McGREGOR RESERVE located at 1391-4 Meadow Park Lane, Fort Myers, FL 33901.

ARTICLE III - MEMBERSHIP

This Corporation is organized on a non-stock basis and shall not issue shares of stock. Membership shall be evidenced by a Certificate of Membership. The qualification of members and the manner of their admission shall be as follows: Every owner of a lot within the McGREGOR RESERVE shall be a member. When any lot is owned by two or more persons, or other legal entity, all those 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, and it shall be automatically transferred by conveyance of that lot.

ARTICLE IV - EXISTENCE

This Corporation shall exist perpetually. However, in the event this Corporation is dissolved, the common area, including but not limited to, the storm water management system, and any other facility required by government development order or permit, including but not limited to, if required: private streets and adjacent drainage, utilities, public water and sewage system, open space, parks, recreation areas and buffers, in accordance with those government regulations or permits which are applicable thereto and the Declaration, will be conveyed and/or dedicated to a similar non-profit organization to assure continued maintenance in perpetuity.

ARTICLE V - SUBSCRIBER(S)

The name and residence of the subscriber to these Articles of Incorporation is as follows:

Anthony J. Gargano, Esq.
Leasure, Gargano & Marchewka, P.A.
1520 Royal Palm Square Boulevard, Suite 260
Fort Myers, Florida 33919

ARTICLE VI - MANAGEMENT

The affairs of the Corporation are to be managed initially by a Board of Administration with three (3) members.

ARTICLE VII - INITIAL BOARD OF ADMINISTRATION

The number of persons constituting the first Board of Administration shall be three (3) and their names and addresses are as follows:

David G. Malt
1391-4 Meadow Park Lane
Fort Myers, FL 33901.

Marc C. Sullivan
1391-4 Meadow Park Lane
Fort Myers, FL 33901.

Edgar A. Wilson, II
1391-4 Meadow Park Lane
Fort Myers, FL 33901.

ARTICLE VIII - INITIAL OFFICERS

The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are:

President:	David G. Malt
Vice President:	Marc C. Sullivan
Secretary/Treasurer:	David G. Malt

ARTICLE IX - BYLAWS

The Bylaws of the Corporation are to be made, altered or rescinded by the members of the Corporation as provided in the Bylaws.

ARTICLE X - AMENDMENTS

Amendments to these Articles of Incorporation may be proposed and adopted at any regular meeting or specially called meeting of the members of the Association by a majority vote of all the members. Due notice of the meeting must have been given as provided for in the Bylaws.

ARTICLE XI.- POWERS

This Corporation shall have all powers and authority granted to it by the Florida Not for Profit Corporation Act, Chapter 617, Florida Statutes, including, but not limited to:

1. This Corporation may own and convey property.

2. This Corporation shall establish Bylaws as well as Rules and Regulations.

3. This Corporation shall assess members of the Corporation and enforce those assessments according to the Bylaws.

4. This Corporation may sue and be sued.

5. This Corporation may contract for services necessary for operation and maintenance.

6. This Corporation shall operate, maintain, replace and operate the common area and common property, including but not limited to, the surface water management system as permitted by the South Florida Water Management District, including all lakes, retention areas, culverts, and related appurtenances, as well as the conservation areas which include, but are not limited to the reserved wetlands, upland buffers and upland construction areas.

7. This Corporation shall operate, maintain, replace and operate those facilities if required by governmental development order or permit: private streets and adjacent drainage, utilities, public water and sewage system, open space, parks, recreation areas and buffers, in accordance with those government regulations or permits which are applicable thereto and the Declaration.

8. This Corporation shall have all other powers necessary for the purposes for which the Association is organized and to carry out its duties as set forth in the declaration of Covenants and Restrictions for McGregor Reserve and amendments thereto.

ARTICLE XII - INITIAL REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of this Corporation is 1520 Royal Palm Square Boulevard, Suite 260, Ft. Myers, Florida 33919. The name of the initial registered agent of this Corporation is:

Anthony J. Gargano, Esq.

ARTICLE XIII - INDEMNIFICATION

The Association shall indemnify every member of the Board of Administration and every officer, his/her heirs, personal representatives and assigns against all loss, cost and expenses reasonably incurred by him/her in connection with any action, suit or proceeding which he/she may be a party by reason of his/her being or having been a Board of Administration member or officer of the Association, including reasonable attorneys' fees, except as to matters wherein he/she shall be finally adjudged in such action, suit or proceeding to be liable for, or guilty of, gross negligence of willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Board Member or officer may be entitled. The Board may, as and when available, obtain officers' and Board of Administration members' liability insurance and the cost shall be a common expense.

ARTICLE XIV: COMMENCEMENT OF CORPORATION EXISTENCE

In accordance with Section 607.0123(b), Florida Statutes, the date when corporate existence shall commence is the date of subscription and acknowledgement of these Articles Of Incorporation.

IN WITNESS WHEREOF, the undersigned subscriber has executed these Articles of Incorporation this 29th day of September, 1995.

By: Anthony J. Gargano
Anthony J. Gargano, Subscriber

ACCEPTANCE OF REGISTERED AGENT

Having been named as Registered Agent to accept service of process for McGregor Reserve Community Association, Inc., at the place designated in these Articles, I agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

By: Anthony J. Gargano
Anthony J. Gargano

FILED
95 OCT -6 PM 12:16
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29th day of September, 1995 by Anthony J. Gargano, who is personally known to me and who did not take an oath.

Diana M. Celia
Notary Public
DIANA M. CELIA
(Typed name)

My commission expires:

DIANA M. CELIA
MY COMMISSION # CC 385095
EXPIRES: July 26, 1998
Bonded Thru Notary Public Underwriters