

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR LA VIDA

THIS DECLARATION is made and entered into this 31st day of July, 1987 by The Kennedy Group, Ltd., a Florida limited partnership (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner and legal title holder of certain real estate in the County of Palm Beach, State of Florida, which real estate is legally described in Exhibit "A" attached hereto and by this reference made a part hereof ("Property"); and

WHEREAS, Declarant presently intends to construct a single family residential development together with certain common areas which will require uniformity and continuing care and maintenance for the privacy, benefit and enjoyment of all persons owning and residing in the Property ("Development"); and

WHEREAS, the Declarant has deemed it desirable for the efficient preservation of the values and amenities of the Development to create an agency to which shall be delegated and assigned the powers of maintaining and administering the Common Area, as hereinafter defined, and the administration and enforcement of the covenants and restrictions hereinafter contained and created; and

WHEREAS, there has been incorporated under the laws of the State of Florida, as a not-for-profit corporation, La Vida Homeowners Association, Inc. for the purpose of exercising the functions aforesaid; and

WHEREAS, the Declarant desires to establish for its own benefit and the mutual benefit of all future owners, tenants and occupants of the Development and real estate and any part thereof, certain easements or rights in, over, under, upon and along the Development and real estate and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof; and

WHEREAS, the Declarant may, from time to time for the purposes hereinafter enumerated, convey certain portions of the Property to the Association, as hereinafter defined, as well as to various owners;

NOW, THEREFORE, the Declarant hereby declares that the real estate described in Exhibit "A" is and shall be transferred, held, sold, conveyed and accepted subject to this Declaration of Covenants, Conditions, Restrictions and Easements. The Declarant does hereby further declare that the following easements, covenants, restrictions, conditions and burdens, uses, privileges, charges and liens shall: (1) exist at all times hereafter amongst all parties having or acquired right, title or interest in any portions of the real estate; (2) be binding upon and inure to the benefit of each Owner (as hereinafter defined); and (3) run with the land subjected to this Declaration, to be held, sold and conveyed subject thereto.

ARTICLE I

DEFINITIONS

Section 1.01. "Association" shall mean and refer to La Vida Homeowners Association, Inc., a Florida not-for-profit corporation.

Section 1.02. "Property" shall mean and refer to that certain real estate described in Exhibit "A" and any additional property as may hereafter be brought within the jurisdiction of the Association.

Section 1.03. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of all members of the Association (except for those portions reserved for the exclusive use of certain Owners as hereinafter set forth) and such uses granted by easement or other grant by the Declarant, the Association or others, to the Association for the common use and enjoyment of the Owners. The common area to be conveyed to and owned by the Association is hereinafter legally described in Exhibit "B" attached hereto and by this reference made a part hereof and such additions thereto as may hereafter be brought within the jurisdiction of, or conveyed to, the Association.

Section 1.04. "Dwelling" shall mean any building located on a lot and intended for the shelter and housing of a single Family, as hereinafter defined. Dwelling shall include any structure attached or adjacent to the dwelling utilized for storage of personal property, tools and equipment.

Section 1.05. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, as hereinafter defined, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the Declarant as to the Lots owned by Declarant.

Section 1.06. "Member" shall mean and refer to any person or entity who holds membership in the Association.

Section 1.07. "Declarant" shall mean and refer to The Kennedy Group, Ltd., a Florida limited partnership, its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 1.08. "Lot" shall mean and refer to a platted lot designated as such upon any recorded subdivision map of the Property and upon which lot a Dwelling is constructed or to be constructed.

Section 1.9. "Board" shall mean the Board of Directors of the Association as constituted at any time or from time to time, in accordance with the applicable provision of Article III.

Section 1.10. "Occupant" shall mean any person or persons other than the Owner in possession of a Dwelling.

Section 1.11. "Family" shall mean one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, together with his or their domestic servants, maintaining a common household in a Dwelling.

Section 1.12. "By-Laws" shall mean the By-Laws of La Vida Homeowners Association, Inc.

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Section 1.13. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements.

Section 1.14. "Transfer Date" shall mean the date which is the earlier of: (i) the date on which ninety percent (90%) of the Lots have been conveyed to Owners other than the Declarant or (ii) five (5) years after the first Lot is conveyed to an Owner other than the Declarant.

Section 1.15. "Material Amendment" shall mean any amendment to the Declaration, By-Laws or the Association's Articles of Incorporation that would change any of the following in a manner other than as expressly provided herein: voting rights in the Association; assessments, assessment liens, or subordination of assessment liens; reserves for maintenance, repair and replacement of the Common Area; responsibility for the maintenance and repair of the Common Area; allocation of interests in the Common Area, or rights to use the Common Area; boundaries of any Lot or Dwelling; convertibility of Lots into Common Area, or convertibility of Common Area into Lots; expansion or contraction of the Property, or the addition or annexation of the Property or withdrawal of Property from this Declaration; insurance or fidelity bonds; leasing of any Dwelling; imposition of any restrictions on an Owner's right to sell or transfer his or her Lot or Dwelling; a decision by the Association to establish self-management when professional management had previously been required by an Eligible Mortgage Holder; requirements for the restoration or repair of the Property; termination of the legal status of the Association or the Property following substantial destruction or condemnation; or any provisions that expressly benefit holders, insurers or guarantors of mortgages secured by portions of the Property.

Section 1.16. "Eligible Mortgage Holder" shall mean each holder of a first mortgage on a Lot or Dwelling that has requested in writing that the Association notify it of any proposed action that requires consent of a specified percentage of mortgage holders.

Section 1.17. "Boca Del Mar Declaration" shall mean the Declaration of Restrictions Relating To Parcel 75-C Boca Del Mar dated June 25, 1974, filed July 16, 1974 and recorded in Official Records Book 2328, at Page 1550, of the Public Records of Palm Beach County, Florida, as amended by Amended Declaration of Restrictions relating to Parcel 75C Boca Del Mar dated November 5, 1986 and so recorded in the Official Records Book 5110, at Page 0999.

ARTICLE II

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such fee interest in a Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Member are set forth in Article III hereof.

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ARTICLE III

VOTING RIGHTS AND BOARD OF DIRECTORS

Section 3.01. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Article II, however, the Declarant shall not be a Class A Member until the Transfer Date. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Member's determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article II, provided that the Class B membership shall cease and be converted to Class A membership on the Transfer Date.

Section 3.02. The provisions of Section 3.01 hereof shall be mandatory. No Owner of any interest in any Lot shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as a Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any Owner shall be of any force or effect.

Section 3.03. The Association shall have a Board of five (5) Directors who shall be elected by the Members of the Association at such intervals as the corporate charter and By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the corporate charter or By-Laws and that the first Board may be appointed by the Declarant and shall be three (3) in number. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the Association's Articles of Incorporation, this Declaration or the By-Laws, all power and authority to act on behalf of the Association, pursuant to this Declaration and otherwise, shall be vested in its Board, and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The corporation charter and By-Laws of the Association may include provisions for the protection and indemnification of its officers and directors as are permissible by law.

Section 3.04. The Association, being a not-for-profit corporation, shall not distribute to its Members any sums in the nature of dividends upon its shares. To the extent that funds shall not be required for current expenditures or for reserves, the next monthly assessments may, in the discretion of the Board, be eliminated or the amount thereof appropriately reduced. Such reduction shall not prevent reinstatement of or an increase in assessments when required, but such reinstatement or increase shall not be retroactive.

Section 3.05. The Association may perform its functions and carry out its duties by entering into agreements for the performance thereof with such persons and business entities regularly engaged in the performance of generally similar functions and duties, which agreements shall be for such length of time, at such rates of compensation and upon such other terms

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and provisions as the Board shall determine, provided however, that if the Association, Declarant or Board shall enter into an agreement or agreements for the professional management of the Property before the Transfer Date, such agreement or agreements shall be terminable by the Association without cause at any time after the Transfer Date and shall not require the payment of any penalty by the Association and shall not require advance notice of termination of more than ninety (90) days. Such persons or business entities may, but need not be, persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof.

Section 3.06. The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing the Lots and Common Area and the use thereof.

Section 3.07. A copy of this Declaration, the By-Laws and the Association's books, records and financial statements to be kept by the Board shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder, insurer or guarantor of a first mortgage lien on a Lot, at such reasonable time or times during normal business hours as may be requested by the Owner or by the holder of said first mortgage lien.

ARTICLE IV

PROVISIONS RELATING TO THE COMMON AREA

Section 4.01. Every Member shall have a right and easement in, over, upon and to the Common Area for purposes of vehicular and pedestrian ingress and egress, and for the use of the open spaces and other common facilities. The Common Area shall be held for the use and benefit of each Member, and such easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

(a) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast sixty-seven percent (67%) of the votes to the Class B membership, if any, has been recorded, agreeing to such dedication or transfer. In the event Class B membership has ceased, then sixty-seven percent (67%) of the votes to the Class A membership shall be required to make such dedication or transfer effective.

(b) As part of the overall program of development of the Property into a residential community and to encourage the marketing and construction thereof, the Declarant and its contractors, subcontractors, and their respective agents and employees shall, for sales and construction purposes only, have the right of use of certain Lots and the Common Area and facilities thereof without charge during the sales and construction period of the Property to aid in its construction and marketing.

(c) The right of the Association, as provided in its Articles and By-Laws, to suspend the rights of any Member for any period during which the Member's assessment remains unpaid and for any infraction of the Association's published rules and regulations.

Section 4.02. Each Owner and their tenants, guests and invitees shall have a right and easement in, over, upon and to the sidewalks located in the Common Area for the purposes of pedestrian ingress and egress.

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Section 4.03. There shall be upon the Common Area such driveways or portions thereof and walks as shall be necessary to provide ingress and egress to and from the Lots for the use and benefit of the Owners of the Lots and their guests and invitees, and such landscaping and walks, benches and spaces for the parking of motor vehicles as the Declarant shall from time to time determine and as shall be necessary to comply with governmental laws, ordinances and regulations that may be in effect during the development of the Property. There may also be upon the Common Area such facilities for the housing of tools, vehicles and equipment, shelters for guards and such other structures and facilities as shall be reasonably necessary for the carrying out of the duties imposed upon the Association hereunder, or as the Association may determine to erect from time to time.

Section 4.04. No fencing shall be placed on any Lot other than those constructed by the Declarant, if any, without the prior written approval of the Association.

Section 4.05. Any Member may delegate, in accordance with the By-Laws, his right of ingress and egress to the Common Area to the members of his family, Occupants, guests or invitees who reside on the Property.

Section 4.06. The Declarant hereby covenants for itself, its successors and assigns, that prior to the conveyance of the last Lot, Declarant will convey fee simple title to the Common Area to the Association free and clear of any mortgage liens of record subject, however, to the provisions of Section 4.01(a) hereof. Declarant shall reserve, upon conveyance to the Association of the Common Area, a perpetual and non-exclusive easement for egress and ingress in, to and from each Lot which it shall grant to each Lot upon the conveyance thereof.

Section 4.07. Declarant, its agents, employees, guests and invitees shall have the right and easement of ingress and egress in, over, upon, under and across the Common Area for sales and construction purposes until Declarant has conveyed all of the Lots to the purchasers thereof.

Section 4.08.

(a) The Association shall have the right and duty to build, repair and maintain the Common Area.

(b) The Association shall have the right of ingress and egress over and upon the Common Area for any and all purposes in connection with the use, maintenance, construction, operation, repair and reconstruction of the Common Area.

(c) The Association, through resolutions of the Board, shall have the right to adopt rules and regulations governing the use, maintenance and administration of the Common Area and for the health, comfort, safety and general welfare of persons using the Common Area.

Section 4.09. Notwithstanding any provisions herein to the contrary, the easements hereinafter created shall be subject to:

(a) The right of Declarant to execute all documents and do all other acts and things affecting the Property which, in the Declarant's sole opinion, are desirable in connection with Declarant's rights hereunder.

(b) Easements of record on the date hereof, including those easements granted on the Plat of Subdivision recorded in the Public Records of Palm Beach County, Florida in Plat Book 57, Page 83-84, and any easements which may hereafter be

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granted by Declarant to any public utilities or governmental bodies for the installation and maintenance of electrical and telephone conduits and lines, gas pipes, sewers or water mains and pipes, or any other utility services serving any Lot.

Section 4.10. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

Section 4.11. The Common Area will be subject to utility easements for sanitary and storm sewers, water, gas, electricity, telephone and any other necessary utilities and easements for the installation of cable television service. If any such utilities are not installed or any easements not created for same prior to conveyance of the Common Area to the Association, the Association shall grant such easement or easements upon request of the Declarant. Alternatively, Declarant may elect to convey title to the Common Area subject to a reservation in favor of Declarant that it shall have the right thereafter to create such non-exclusive easements.

ARTICLE V

LAWN AND LANDSCAPE MAINTENANCE

Section 5.01. The Association shall determine the need for and shall carry out or cause to be performed all landscape and lawn maintenance upon each Lot.

Section 5.02. The cost of exterior maintenance shall be assessed against the Lot upon which maintenance is done and shall be added to and become part of the annual assessment or charge to which each Lot is subject under Article VI hereof and, as a part of the annual assessment or charge, it shall be a lien against the Lot and a personal obligation of the Owner and shall become due and payable in all respects as provided in Article VI hereof.

Section 5.03. For the purposes solely of performing the landscape and lawn maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right to enter upon the Lots at reasonable hours on any day except Sunday.

Section 5.04. Notwithstanding anything contained in this Article V, the expense of any maintenance, repair or construction of any Lot necessitated solely by the negligent or willful acts of an Owner shall be borne solely by that Owner, and such Owner shall be subject to a special assessment for such expense.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.01. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments to be fixed, established and collected from time to time as hereinafter provided; and (2) special assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal

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obligation shall not pass to his successors in title unless expressly assumed by them.

Section 6.02. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the Dwellings situated upon the Property. Such uses shall include, but are not limited to, the cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area and of certain maintenance of the exterior of the Dwelling (except as otherwise provided herein) as may from time to time be authorized by the Board, and other facilities and activities including, but not limited to, caring for the grounds, landscaping, equipment, cable T.V., storm water management system, street lighting, if any, all sanitary and storm sewer and water lines, structures and appurtenances (other than those maintained by any governmental authority or utility company), and other charges required by this Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve fund for repair, maintenance, replacements, taxes, and other charges as specified herein. In addition, water, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners shall be paid for by the Association from the assessments levied hereunder. In the event any utilities which benefit the Common Area are directly charged to any Owner, the Association will reimburse such Owner for any such expense. The Board reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund. At the time of closing of the sale of each Lot by the Declarant, the Owner shall pay (in addition to the first monthly assessment) to the manager or managing agent, or as otherwise directed by the Board, an amount equal to two (2) times the first full monthly assessment for such Owner, which amount shall be used and applied as a working capital fund in the manner herein provided.

Section 6.03. The Board shall be authorized to fix the annual assessment in an amount sufficient to meet the costs and expenses as contained in Section 6.02 hereof.

Section 6.04. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, if any. However, no special assessment shall be valid unless the assent of at least sixty-seven percent (67%) of the Members is obtained at a meeting called for that purpose and attended after adequate notice by Owners or their proxies representing at least sixty percent (60%) of the Lots; provided, that if sixty percent (60%) do not attend, a second meeting may be called with the same notice and the quorum therefor shall be reduced to Owners or their proxies representing thirty percent (30%) of the Lots.

Section 6.05. Both annual and special assessments must be fixed at a uniform rate for all Lots, except for certain Lots as provided in Section 6.09 hereof, and shall be collected on a monthly basis.

Section 6.06. The annual assessments provided for herein shall commence for all Lots within the Property on the first day of the month following the conveyance of the first Lot, except as otherwise provided in Section 6.09 hereof. The Board shall fix

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the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed amount of annual assessment shall be due on the first day of the month immediately preceding the effective date of the changed assessment. An Owner shall first be liable for payment of the full monthly assessment on the first day of the month following conveyance of title to him. This payment shall be in addition to the prorated portion of the monthly assessment which Owner shall pay as of the date title to his Lot is conveyed. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid and, if not paid, the amount of any such deficiency. Such certificate shall be conclusive evidence of payment of any assessment therein.

Section 6.07. Any assessments which are not paid when due shall be delinquent and shall be a continuing lien upon the Lot against which each assessment was made. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the respective Lot and interest. Costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property.

Section 6.08. The lien of the assessments provided for in this Article VI shall be subordinate to the lien of any institutional first mortgage recorded prior to the recordation of a claim of lien for unpaid assessments. An institutional lender is defined as a state or federal bank or savings and loan association, an insurance company, trust company, savings bank, credit union, real estate or mortgage investment trust, mortgage broker, mortgage banker, private mortgage insurance company, the United States Veterans' Administration, United States Federal Housing Administration or a lender generally recognized in the community as an institutional lender. Any assignee of a mortgage originated by an institutional lender shall be deemed an institutional lender for the purposes of said mortgage. The Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, and any similar institutions created in the future shall be deemed institutional lenders, regardless of where any mortgage held by any of them originated. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser, or mortgagee shall hold title subject to the liability and lien of any assessment becoming due after such foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provision of this Section 6.08 shall be deemed to be an assessment divided equally among, payable by, and assessed against all Lots, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 6.09. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Developer is the owner of any Lot, the Developer shall not be liable for assessments against such Lot, provided that Developer funds any deficit in operating expenses of the Association. Developer may, at any time, commence paying such assessments as

to all Lots that it owns and thereby automatically terminate its obligation to funds deficits in the operating expenses of the Association.

ARTICLE VII

INSURANCE

Section 7.01. The Association shall be responsible for procuring and maintaining comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring the Association from liability in connection with the ownership and/or use of the Common Area. The Association shall be further responsible for maintaining policies of insurance for the Common Area against loss or damage by fire and other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable provided that the policies shall (i) provide that such policies may not be canceled or substantially modified without at least thirty (30) days written notice to the Association and all mortgagees of record of the Common Area; (ii) provide that all mortgagees of record of the Common Area shall have the right to pay overdue insurance premiums and to obtain new coverage in the event the existing insurance policy lapses; (iii) provide for coverage in the amount of one hundred (100%) percent of full replacement value; and (iv) contain standard mortgage clause endorsements in favor of the mortgagee(s) of the Common Area, as their respective interests may appear.

Section 7.02. The Association shall be responsible for procuring and maintaining a fidelity bond insuring the Association, the Board and the Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or its management agent or of any other person handling the funds of the Association, the Board or the Owners in such amounts as the Board shall deem necessary but not less than 150% of the annual operating expenses of the Association, including reserves. Such bond shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any premiums or otherwise substantially modified without thirty (30) days prior written notice to all holders of first mortgages of record.

Section 7.03. The Association may also obtain such other kinds of insurance as the Association shall from time to time deem prudent.

ARTICLE VIII

INTERIM PROCEDURE

Section 8.01. Until each of the various Lots shall have been conveyed by the Declarant to the first Owner thereof (or to such Owner's nominee), the Declarant shall, with respect to each such unsold Lot, have all the rights granted to the Owners.

Section 8.02. Until the initial meeting of the Members, the Declarant may appoint the Board which shall have the same powers and authority as given to the Board generally.

Section 8.03. Declarant shall be entitled at all times to conduct sales of Lots from the Property and shall have the right, for itself and its agents, employees, guests and invitees, to utilize roads, streets, Common Area and all other portions of the Property, excluding sold Lots, for such purposes until all Lots in the Property are sold. Developer may at all times utilize

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signage, lighting and establish sales offices and model homes as required to conduct its sales and marketing of the Development.

ARTICLE IX

RESTRICTIONS RELATING TO PROPERTY

Section 9.01.

(a) The Owners shall comply with all ordinances of the County in connection with the use of any Lot.

(b) All buildings or structures on the Property shall be of new construction.

Section 9.02. Each Lot conveyed shall be designated by a separate legal description and shall constitute a freehold estate subject to the terms, conditions and provisions hereof.

* Section 9.03. The Lots shall be used only for residential purposes, as a private residence, and no professional business or commercial use shall be made of the same, or any portion thereof; or resident's use of a Lot shall not endanger the health or disturb the reasonable enjoyment of any other Owner or resident, except as provided in Sections 4.01(b) and 9.07 herein.

Section 9.04. No buildings other than Dwellings originally constructed by the Declarant shall be constructed on each Lot.

Section 9.05. Except as hereinafter provided in Section 9.07 hereof, no structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used as a residence at any time, either temporarily or permanently.

Section 9.06. No sign of any nature whatsoever shall be erected or displayed upon any Lot or Dwelling except where prior written approval of the size, shape, content and location thereof has been obtained from the ACC, as hereinafter defined, which approval may be arbitrarily withheld, except that withholding of consent by the ACC for advertising and promotion of the Development shall not be arbitrary or unreasonable.

Section 9.07. The foregoing covenants of this Article IX shall not apply to the activities of the Declarant. The Declarant may maintain, while engaged in construction and sales activities, in or upon such portions of the Property as Declarant determines, such temporary facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units, signs and construction trailers. Such activity by the Declarant shall not be deemed to be in violation of any provisions of this Article IX.

Section 9.08. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except dogs, cats or other common household pets (not to exceed a total of two (2) pets) may be kept, provided, that they are not kept, bred, or maintained for any commercial purposes.

Section 9.09. All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Dwellings and streets, and shall be regularly removed from the Property, and shall not be allowed to accumulate thereon.

Section 9.10. No clothing, laundry or wash shall be aired or dried on any portion of any Lot in an area exposed to view from any other Lot or the Common Areas. Drying areas will be permitted only in locations approved by the ACC and only when protected from view by screening or fencing approved by the ACC. No prohibition of outside clotheslines or drying areas shall be permitted; provided that nothing herein shall prohibit the ACC from enacting reasonable regulations that do not have the

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effect or prohibiting such drying areas or clotheslines as to any unit.

Section 9.11. Without the prior written authorization of the ACC, no television or radio antennas of any sort shall be placed, allowed or maintained on the exterior of any Dwellings or any portion of the exterior of the improvements located on the Property, nor upon any structure situated upon the Property.

Section 9.12. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the Property.

Section 9.13. The parking and storage of automobiles and other motor vehicles shall be limited to the driveways of Lots and other paved surfaces designated by the Association and the individual garages of the respective Dwellings. No commercial or recreational vehicles of any variety shall be parked or stored overnight on the Property, unless approved by the ACC. By way of example, but not limitation, this provision shall apply to boats, campers, trailers and vans, except those types of vans used as every-day vehicles and other than for commercial purposes. The Board is specifically authorized to promulgate additional rules and regulations pertaining to parking, and the Board is specifically granted by this Declaration the right to enforce this Declaration and the rules and regulations of the Board pertaining to parking by the towing of the vehicles which are in violation of such rules and regulations. Any charges for such towing shall become a lien upon the Lot of the owner of the vehicle in the same manner as provided in Article VI hereof for nonpayment of maintenance assessments.

Section 9.14. There shall be no fences erected or maintained upon any Lot, other than those constructed by the Declarant, if any, without the prior written approval of the Declarant.

Section 9.15. No nuisance, noxious or offensive activity shall occur on the Property nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or Occupants.

* Section 9.16. Each Lot is hereby declared to be subject to an easement and right to and in favor of the Association and each and all of its employees, agents and instrumentalities to go upon such Lot for reasonable inspection thereof from time to time and for the purpose of carrying out any and all of the obligations and functions with respect to such Lot and the Dwelling located thereon as are herein imposed upon or permitted to the Association. Each Lot is further declared to be subject to an easement in favor of any adjoining Lot to the extent necessary to permit the maintenance, supply, repair, and servicing of utility services to the various Lots and Dwellings located thereon.

Section 9.17. The Owner of each Lot shall from time to time grant such additional easements and rights over, across, on, under and upon his Lot as may reasonably be necessary in connection with the supply of any of the utilities described in Section 4.11 hereof to any part of the Property.

* Section 9.18. The Board may adopt such other rules and regulations from time to time governing the use and enjoyment of the Common Area and the use of the Lots as the Board, in its sole discretion, deems appropriate or necessary.

Section 9.19. No window or wall air conditioning units shall be permitted to be placed in a Dwelling.

Section 9.20. No Lot shall be used or occupied for any purpose other than as a residential dwelling by a single family, its household servants and guests.

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Section 9.21. No Lot or Dwelling may be rented or leased to any person or entity unless the Owner and his tenant sign a lease agreement which incorporates by reference this Declaration and the articles of incorporation, By-Laws and rules and regulations of the Association and provides for attorneys' fees to the Association and the Owner for purposes of enforcing said Lease and the foregoing documents incorporated in the Lease, including attorneys' fees in the event that eviction proceedings must be instituted against a tenant. The Association is hereby deemed the agent of the Owner for purposes of bringing any eviction proceedings deemed necessary by the Association. Any lease executed pursuant to this Section 9.21 must be at least four (4) months in duration.

*Section
9.21
Leases
12 months
4 months*

Section 9.22. No structural changes, exterior color changes, or alterations shall be made or added to any Dwelling without approval of the ACC.

Section 9.23. In the event that any Dwelling is damaged or destroyed by casualty, any replacement must be with a Dwelling of a similar size and type. The plans and specifications for any new Dwelling must be approved, in writing, by the ACC, unless the proposed replacement is of the same type and design. In such case, the approval of the ACC shall not be required.

Section 9.24. The Association or the Declarant, prior to the Transfer Date, and the Association thereafter, after reasonable notice and opportunity to cure a violation given to an Owner, may enter upon a Lot for the purposes of curing the violation. The cost thereof shall be charged against the Owner as a special assessment.

Section 9.25. Every Owner of a Lot and the Association, and their respective agents, employees and independent contractors, shall have the right to enter upon any adjoining Lot to the extent necessary for the purpose of maintaining, repairing and replacing the improvements situated on, near or across the boundary of such Owner's Lot, and shall further have the right to enter upon any Lot, whether or not such Lot is adjoining, to the extent necessary for the purpose of maintaining, repairing and replacing any private street situated thereon which serves such Owner's Lot. In either case, the contractor shall not be guilty of any trespass. In the event the Owner of a Lot or the Association, or their respective agents, employees or independent contractors, enters upon any such Lot for the purpose of exercising the rights created by this Section 9.25, then such Owner or the Association, as the case may be, shall make all necessary repairs or replacements on such Lots to correct any damage inflicted upon the Lot by exercise of the right.

Section 9.26. Each Lot and the Common Area is hereby subjected to a permanent easement appurtenant to any adjoining Lot to permit the construction, existence, maintenance, repair and restoration of structures located on such adjoining Lot, including roof structures which overhang and encroach upon the servient Lot or Common Area, provided that the construction of such structure is permitted and approved as elsewhere herein provided. The owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to maintain, repair and restore any improvements located on the dominant tenement, provided, however, that such entry shall be allowed only during daylight hours and with the prior knowledge of the owner of the servient tenement. In case of emergency, such right of entry shall be immediate, not restricted as to time and not be conditioned upon prior knowledge of the owner of the servient tenement. The owner of the servient tenement shall not place any improvement, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this Section 9.26. Any such improve-

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ment, material or obstacle shall be promptly removed by the owner of the servient tenement at that owner's expense when requested by the owner of the dominant tenement or Declarant notwithstanding any lapse of time since such improvement, material or other obstacle was placed in or over the easement area.

ARTICLE X

ARCHITECTURAL CONTROL COMMITTEE

Section 10.01. There shall be appointed by the Board an Architectural Control Committee ("ACC") which shall consist of three (3) or more members selected yearly from the membership by the Board at the annual meeting of the Board. Prior to the Transfer Date, the ACC will consist of the members of the Board.

Section 10.02. The ACC shall provide for a systematic and uniform review of all proposed improvements and construction of any type or nature whatsoever within the Property. The construction contemplated hereunder shall include but not be limited to any building, fence, wall, swimming pool, screen enclosure and screening of any type, sewer drains, disposal system, decorative building, landscaping and any and all types of structures or improvements, whether or not the purpose thereof is purely decorative or otherwise, and any additions, modifications and/or alterations thereof. The ACC shall review all plans for said improvements, it being the intent of the Declarant to provide for the harmonious and aesthetically pleasing development of the Property. The ACC shall evaluate the proposed improvements with emphasis upon exterior design, materials and color; location of the improvements in relationship to surrounding structures and/or improvements; topography; and conformity to the restrictive covenants imposed hereunder.

Section 10.03. The plans and specifications for any and all improvements referred to hereinabove shall be reviewed by the ACC. No improvement of any type or nature whatsoever shall be commenced unless and until the approval thereof shall be obtained in writing from the ACC. The contemplated improvements must be constructed strictly in accordance with such approval.

Section 10.04. The ACC shall promulgate such rules and regulations as it deems necessary and proper, setting forth guidelines and procedures to be followed by an applicant seeking its approval as required, which, in any event, shall not be in conflict with the provisions of this Declaration and which shall afford to each applicant a reasonable and adequate opportunity to present his proposal. The rules and regulations shall include, but not necessarily be limited to, an adequate form together with such reasonable fees for processing applications as the ACC may deem necessary. Rules and regulations shall be subject to the approval of the Board, and upon such approval, a copy thereof shall be provided to all Members. Any revisions, additions, deletions and/or amendments to the rules and regulations shall likewise have the approval of the Board and copies shall be provided to each member. In addition, such rules and regulations may include the power to require an Owner to post a bond prior to his commencement of any major construction on his Lot or Dwelling. This bond, if required, shall be in an amount deemed reasonable by the ACC to protect the Association and Owner adjoining the Lot upon which construction occurs from damages which may arise from the construction and shall name the Association and said adjoining Owners as beneficiaries.

Section 10.05. An applicant may, at his discretion, initially request a meeting with a member of the ACC to discuss any proposed improvement or improvements that he may contemplate for the purpose of securing information regarding the covenants and restrictions set forth herein. Prior to the commencement of any work on the premises contemplated for improvement, an applicant

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must submit to the ACC, together with the fully executed application form and fees as may then be required by the ACC and such additional information as the ACC may reasonably require (which may include samples of exterior materials and exterior color selections to be used in the improvement), two (2) sets of plans and, where appropriate, specifications for the proposed improvement, in sufficient detail so that the ACC may be able to make the determination required of it pursuant to this Declaration. One set of such plans shall be retained in the permanent files of plans and specifications. The ACC shall respond to the application in writing by approving said application, disapproving said application or requiring additional information within thirty (30) days from the date all required materials are furnished (unless the applicant waives this time requirement in writing). In the event that the ACC fails to respond within said thirty (30) day period (or such additional time as may be allowed by the applicant pursuant to a waiver), the application shall be deemed approved as submitted. In the event of approval of said plans and specifications, the applicant shall provide the ACC with written notice of the following:

(a) Any and all alterations, deletions, additions and changes of any type or nature whatsoever in the plans and/or specifications as approved by the ACC, which shall be subject to the approval of the ACC in the same manner as is required for approval of original plans and specifications.

(b) Completion of construction, and, where applicable, the receipt of a Certificate of Occupancy from Palm Beach County. Said improvement shall not be used, or in the instance where a Certificate of Occupancy is applicable, it shall not be occupied, until such time as the ACC has inspected the premises and approved same for compliance with plans and specifications as previously approved by the ACC. In the event the ACC fails to respond within forty-eight (48) hours (excluding Saturdays, Sundays and legal holidays) after receipt of notice to inspect, the work shall be deemed approved and the ACC inspection requirement shall be deemed waived by the ACC.

(c) Upon the completion of the improvement or improvements and final approval by the ACC, the Board shall, upon request by an applicant, direct the appropriate officers of the Association to provide the applicant with a recordable certificate executed with the formalities of a deed, certifying the approval of the ACC and the Association of the improvement made upon the premises for which said application was made.

(d) Should the Owner construct improvements in a manner inconsistent with plans and specifications approved by the ACC, the Board shall, in its discretion, issue a certificate in recordable form, expressing the ACC's disapproval of the improvements and setting forth the reason therefore.

In the event of disapproval of plans and/or specifications as submitted, no work or construction shall be commenced in furtherance of the proposed improvement. The applicant, in such event, may request a formal meeting with the ACC to review plans and specifications as submitted, said meeting to take place no later than thirty (30) days after written request for such meeting is received by the ACC (unless applicant waives this time requirement in writing). The ACC shall issue a final written decision no later than fifteen (15) days after the meeting is held. In the event the ACC fails to provide such written decision, said plans and specifications shall be deemed approved.

Section 10.06. For all purposes necessary to enforce this Article, the Association shall be entitled to collect reasonable attorneys' fees, court costs and other expenses, whether or not litigation is instituted.

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Section 10.07. The provisions of this Article shall not require the Declarant to obtain the approval of the ACC for any construction, repairs or improvements of any nature whatsoever performed on the Property by the Declarant.

Section 10.08. Neither Declarant, nor its agents, employees, successors, or assigns shall be liable in damages to any Owner or to any other person submitting plans and specifications to any one or more of them for approval by reason of the withholding of consent or by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications to Declarant, for approval as herein provided, agrees by submission of such plans and specifications, and every Owner or person claiming by or through an Owner agrees by acquiring title to any part of the Property or any interest in the Property, that it will not bring action or suit against Declarant, or its agents, employees, successors or assigns to recover any such damages.

ARTICLE XI

ANNEXATION OF ADDITIONAL PROPERTIES

Section 11.01. The Declarant may, in the event the Declarant or its successors or assigns elects from time to time to annex to the Property additional property, the additional property shall be made expressly subject to all provisions of this Declaration and the Declarant shall record a Supplementary Declaration which shall contain but not be limited to the following:

(a) The legal description of the additional portion of property which is to become subject to this Declaration;

(b) A legal description indicating that portion of the property which is to be improved with Dwellings and that portion which is to become a part of the Common Area.

Section 11.02. Upon compliance with this Article XI, all Supplementary Declarations and the real estate covered therein shall be subject to the following terms and conditions:

(a) The rights, easements, covenants, restrictions, burdens, uses and privileges set forth and described in this Declaration shall run with and bind the additional property and inure to the benefit of and be the personal obligation of the owners of Lots thereon in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Property previously subjected hereto;

(b) Every person or entity who is or becomes an owner of any Lot on the additional property shall be a Member of the Association on the same terms and subject to the same qualifications and limitations as those members who are then Owners;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the additional property included in any Supplementary Declaration, including any Lots and any additions to the Common Area situated therein, and the owners, mortgagees and lessees thereof, with equal meaning and of like force and effect.

Section 11.03. Anything herein to the contrary notwithstanding, whenever this Declaration or the By-Laws provide for the approval or consent of the Administrator of Veteran's Affairs ("Administrator"), such approval or consent shall not be required unless the Administrator (a) has issued its project approval of the Development and such project approval has not terminated, (b) has issued a guarantee of the first mortgage on at least one

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Dwelling which guarantee is then outstanding, (c) is the owner or holder of a first mortgage on a Dwelling or (d) is the owner of a Dwelling. Such consent or approval shall be deemed given unless within thirty (30) days the person seeking the consent or approval is advised in writing to the contrary. The approval of the Administrator shall be required in the event the Association conveys or encumbers any portion of the Common Area. If in connection with the project approval of the Development the Declarant files a development plan with the Administrator, then the Declarant shall construct the Development in substantial conformance with the development plan and shall only alter the development plan with the Administrator's approval. However, the Administrator's approval shall not be a condition to the recording of a Supplementary Declaration under this Article XI. Prior to the Transfer Date, any merger, consolidation or dissolution of the Association shall be approved by the Administrator.

ARTICLE XII

BOCA DEL MAR IMPROVEMENT ASSOCIATION, INC.

Section 12.01. Membership. In accordance with the provisions of the Boca Del Mar Declaration, there has heretofore been organized a not-for-profit corporation under the laws of the State of Florida having the name Boca Del Mar Improvement Association, Inc. (referred to in this Declaration as the "Boca Del Mar Association") to act as the governing body for the maintenance and administration of certain recreational facilities located in Boca Del Mar, a planned unit development in Palm Beach County, Florida. Each Owner shall automatically be a member of the Boca Del Mar Association as long as he shall be an Owner, and such membership shall automatically terminate when he ceases to be an Owner; and upon the transfer of his ownership interest, the new Owner succeeding to such ownership interest shall likewise succeed to such membership. Each such member shall be entitled to use the facilities administered by the Boca Del Mar Association in accordance with and subject to the provisions of the Boca Del Mar Declaration and shall be responsible for payment of assessments levied by and user charges owing the Boca Del Mar Association. Such assessments and charges may be collected by the Board and remitted to the Boca Del Mar Association or remitted directly to the Boca Del Mar Association if such is the manner prescribed by the Boca Del Mar Declaration and payment thereof shall be secured by a lien on such member's lot and shall be the personal liability of the Owner as therein provided.

Section 12.02. Status of Boca Del Mar Declaration. The provisions of this Declaration are subject to all of the provisions of the Boca Del Mar Declaration and are not intended to modify, supersede or abate any of the provisions thereof. In the event of any inconsistency between the provisions of this Declaration and the provisions of the Boca Del Mar Declaration, the provisions of the Boca Del Mar Declaration shall prevail.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, including any rule and regulation promulgated by the Association. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorneys' fees incurred by the Association in prosecuting such action. The amount of such attorneys' fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting Owner's lot,

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enforceable as other liens herein established. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 13.02. In addition to all other remedies provided in this Declaration, the Board, in its sole discretion, may levy a special assessment upon an Owner for failure of the Owner, his family, guests, invitees, or employees, to comply with any provision in this Declaration or the rules and regulations of the Association, provided that the following procedures are followed:

(a) The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of the next Board meeting at which the Owner shall present testimony as to why the special assessment should not be imposed.

(b) The non-compliance shall be presented to the Board at the time and place provided in the notice, at which meeting a hearing shall be conducted for purposes of obtaining testimony as to the levying of a special assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board shall be submitted to the Owner not later than fifteen (15) days after the hearing.

(c) The Board may impose the following special assessments against the Owner in the event a violation is found:

(1) First non-compliance violation: A special assessment in an amount not in excess of \$500.00.

(2) Second non-compliance violation: A special assessment in an amount not in excess of \$500.00.

(3) Third and subsequent non-compliance violation or violations which are of a continuing nature: A fine in an amount not in excess of \$1,000.00.

(d) A special assessment as provided in this Article shall be due and owing not later than thirty (30) days after the written decision as provided in sub-section 13.02(b) above.

(e) Any special assessment levied in accordance with this Article may be enforced by the Association in the same manner as the enforcement of a special assessment provided for in Article VI of this Declaration.

Section 13.03. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 13.04. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinafter set forth. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this agreement may be amended, changed, added to, derogated, or deleted at any time and from time to time upon the recordation of any instrument executed by: (1) Developer, for so long as it holds title to any Lot affected by this Declaration; or alternatively, (2) Owners holding not less than two-thirds vote of the membership in the

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Association, provided that so long as the Developer is the owner of any Lot affected by this Declaration, the Developer's consent must be obtained.

Section 13.05. Any notices required under the provisions of this Declaration to be sent to any Member, Owner or to any holder, insurer or guarantor of a first mortgage secured by any portion of the Property shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member, Owner or holder, insurer or guarantor as it appears on the records of the Association at the time of mailing.

Section 13.06. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Property or any part thereof.

Section 13.07. In the event that any part of an improvement located on a Lot encroaches or shall hereafter encroach upon any part of any other Lot, valid easements for the maintenance of such encroachments are hereby established, including, but not limited to, eaves, overhanging projections and other architectural appendages, and shall exist so long as all or any part of the same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Dwelling of another Owner, or if the encroachment occurred as a result of the willful misconduct of such Owner. In the event the structure on any Lot is partially or totally destroyed, the Owner thereof shall have an easement to re-establish such encroachment to the same condition as it existed prior to destruction provided that in exercising the easement such Owner makes the necessary repairs and replacements to such adjoining Lot. Thereafter, there shall be valid easements for the maintenance of such encroachments so long as they exist.

Section 13.08. Declarant reserves to itself the right to rerecord the Plat of Subdivision referred to in Section 4.09(b) hereof, to correct any inaccuracies, errors or mistakes contained therein.

Section 13.09. Declarant and each Owner or Owners of any of the above land shall have the right, jointly and separately, to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of or to enforce the observance of the covenants set forth herein, in addition to the right to bring an ordinary legal action for damages. Whenever there shall have been built (or whenever there is being built) on any Lot in the Development any structure which is and remains in violation of the covenants set forth herein, for a period of thirty (30) days after actual receipt of written notice of such violation from Declarant or the Association by the Owner of such Lot, then Declarant shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant and such Owners to enforce any of the covenants herein set forth due to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

Section 13.10. The following provisions are intended for the benefit of each holder of a recorded first mortgage or trust deed encumbering a Lot ("First Mortgagee") and to the extent if at all, that any other provisions of this Declaration conflict with the following provisions, the provisions of this Section 13.10 shall control:

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(a) Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded first mortgage or trust deed on a Lot ("Insurer or Guarantor") and the unit number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of the default of any Owner's obligations under this Declaration which is not cured within thirty (30) days. Any First Mortgagee of a Lot who comes into possession of the said Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Lot which become due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Lot, whichever occurs first.

(b) Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:

- (i) to examine current copies of this Declaration, the By-Laws, rules and regulations and the books and records of the Association during normal business hours;
- (ii) to receive, without charge and within a reasonable time after such request, an audited financial statement prepared by the Association at the end of each of its respective fiscal years;
- (iii) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;
- (iv) to receive written notice of any decision by the Association or Owners to make a Material Amendment to the Declaration, By-Laws or the Articles of Incorporation of the Association;
- (v) to receive written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (vi) to receive written notice of any proposed action which would require the consent of a specified percentage of First Mortgagees; and
- (vii) to receive written notice of any condemnation or casualty loss that affects either a material portion of the Property or the Lot on which it holds, insures or guarantees the mortgage.

(c) No provision of this Declaration, the By-Laws or the articles of incorporation of the Association or any similar instrument pertaining to the Property or the Lots therein shall be deemed to give an Owner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Lots or Dwellings, and/or the Common Area, or any portion thereof or interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

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(d) Upon specific written request to the Association, each First Mortgagee, Insurer or Guarantor of a Lot shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Area if such damage or destruction or taking exceeds Ten Thousand Dollars (\$10,000.00), or if damages shall occur to a Lot in excess of Ten Thousand Dollars (\$10,000.00), notice of such event shall also be given.

(e) If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Lot will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the owner of a Lot or other party to priority over such First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.

Section 13.11. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class cooperative housing development.

Section 13.12. If all or any part of the Common Area only shall be taken through condemnation by any governmental authority having power so to do, the net proceeds of such taking shall be paid to and retained by the then owner of the Common Area subject, however, to the rights of the holders of first mortgage liens on the Dwellings. If any part of the Property including one or more Dwellings shall be taken by one or more concurrent condemnation proceedings, the entire net proceeds of such taking or takings, including (without limitation) all proceeds received on account of such taking of any part of the Common Area, shall be divided equitably among, and retained by, the Owners of the Dwellings wholly or partially taken in such condemnation proceedings, subject to the rights of the holders of first mortgage liens on the Dwellings. If the effect of such condemnation shall be to isolate any part of the Property from the remainder of the Property, and if no residential structures shall then have been constructed or situated within the portion of the Property so isolated, then all the Dwellings lying wholly or partly within the portion of the Property so isolated shall be deemed to have been and shall be removed from and released from all of the terms and provisions of this Declaration and this Declaration shall be of no further force or effect with respect thereto. For purposes of this Section 13.12, the term "condemnation" shall include also any sale under threat of condemnation to any governmental authority having condemnation power.

Section 13.13. Upon any dissolution of the Association, its assets shall be transferred to another homeowner's association having similar purposes.

Section 13.14. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering Dwellings or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of,

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make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot, and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 13.14 shall terminate at such time as the Declarant no longer holds or controls title to any Lot.

Section 13.15. Each Owner shall notify the Association of the name and address of the First Mortgagee relating to his respective Lot.

Section 13.16. All article and section headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration.

Section 13.17. At any time or times Declarant may assign any or all of its rights conferred on it as set forth in this Declaration and upon its execution of any assignment by Declarant, it shall be relieved from any liability arising from the performance or non-performance of such rights or obligations.

Section 13.18. Each Owner of a Lot shall file the correct mailing address of such Owner with Declarant and shall notify Declarant promptly in writing of any subsequent change of address. Declarant shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner wherever notices are required in this Declaration.

Section 13.19. The singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.

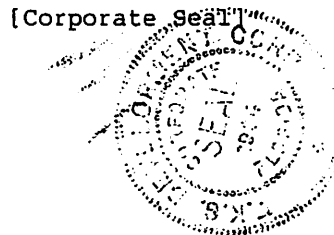
Section 13.20. This Declaration shall supersede any declaration of restrictions, covenants and easements previously recorded against the Property.

IN WITNESS WHEREOF, The Kennedy Group, Ltd., a Florida Limited Partnership, has caused this instrument to be executed as of the day and year first above written.

THE KENNEDY GROUP, LTD., a
Florida Limited Partnership

By: TKG Development Corp., a
Florida corporation,
its General Partner

By: [Signature]
Its: PRESIDENT



~~Attest:
By: _____
Its: _____~~

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STATE OF FLORIDA)
)
COUNTY OF PALM BEACH)

SS:

I, Robin L. Hollinger, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Timothy R. Kelly, the President of TKG Development Corp., a Florida corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation, as General Partner of The Kennedy Group, Ltd., a Florida Limited Partnership, for the uses and purposes therein set forth; and the said Secretary did also then and there acknowledge that he, as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 31st day of July, 1987.

Robin L. Hollinger
NOTARY PUBLIC



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7-13-57, 4g 84

84

LA VIDA

BEING A REPLAT OF TRACT 75-C OF BOCA DEL MAR NO. 8-P.U.D.
SITUATE IN SECTION 34, TOWNSHIP 47 SOUTH, RANGE 42 EAST
PALM BEACH COUNTY, FLORIDA

BOCA DEL MAR NO. 7
(P.B. 30, PGS. 210-217)

JANUARY, 1987

SHEET 2 OF 2

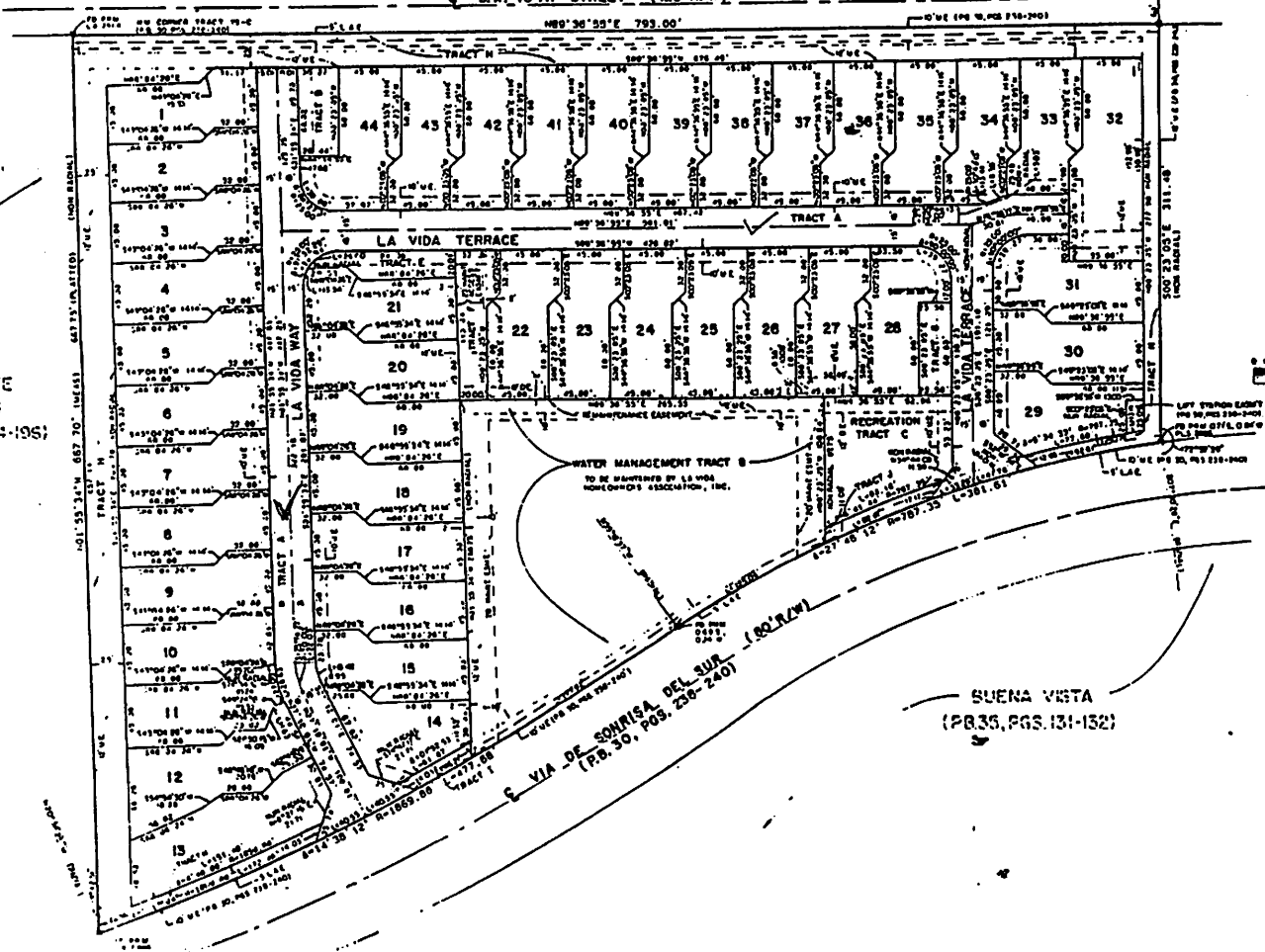
C. S.W. 10TH STREET (120'R/W)

DATE OF RECORD
DATE OF THIS REPLAT
DATE OF THE REPLAT
BY
BY
BY
BY
BY

BOCA POINTE
(TRACT 9)
(P.B. 43, PGS. 194-196)



BOCA DEL MAR NO. 8
TRACT 17
(P.B. 30, PGS. 239-240)



C. VIA DE SONRISA DEL SUR
(P.B. 30, PGS. 230-240)

SUENA VISTA
(P.B. 35, PGS. 131-132)

Meridian
Surveying and Mapping Inc.
LA VIDA