

DECLARATION OF COVENANTS  
AND RESTRICTIONS  
FOR VILLA SONRISA AT BOCA POINTE

THIS DECLARATION is made this 12<sup>th</sup> day of APRIL, 1985 by VILLA SONRISA, a New York general partnership, formerly known as Villa Sonesta, ("Declarant"), which declares that the real property described in Article II, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") set forth below.

ARTICLE I

DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" - VILLA SONRISA AT BOCA POINTE HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not-for-profit.

(b) "The Properties" - All such properties, and additions thereto (which additional properties may or may not be contiguous to the real property described in Article II herein), as are subject to this Declaration either at original recording or by any Supplemental Declaration recorded under the provisions of Article II hereof.

(c) "Community Areas" - The portions of The Properties described in Exhibit "B" attached hereto and made a part hereof, together with any and all improvements from time to time erected on same, including, without limitation, walkways, private streets, street lighting, entrance features and landscaping; excluding, however, any public or private utility installations thereon. If additional real property is brought under the provisions hereof by recorded supplemental declaration pursuant to Article II, then the Community Areas shall include the portion or portions of the additional real property that may be designated to be Community Areas in such supplemental declaration.

(d) "Unit" - A single family residential dwelling for which a certificate of occupancy has been issued, whether a condominium, townhome or detached residential unit.

(e) "Owner" or "Member" - The record owner, whether one or more persons or entities, of the fee simple or undivided fee interest in any Unit located on the Properties. The terms shall not include Condominium Associations or other associations comprised of Owners of Units.

(f) "Master Association" - The Boca Pointe Community Association, Inc., a Florida not-for-profit corporation.

(g) "Master Declaration" - The Declaration of Covenants, Conditions and Restrictions of Boca Pointe as recorded in Official Record Book 3552, Page 1488, and amended in Official Record Book 3921, Page 657, together with any amendments thereto subsequently adopted.

(h) "Condominium Association" - Any for profit or not-for-profit association created to administer a condominium pursuant to Chapter 718, Florida Statutes.

(i) "Condominium Building" - That portion of The Properties and appurtenant improvements subject to a Declaration of Condominium pursuant to Chapter 718, Florida Statutes.

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PREPARED BY & RETURN TO:  
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(j) "Developer" - Villa Sonrisa, a New York general partnership, its successors and assigns, if such successor or assignee acquires the undeveloped portion of the lands described in Exhibit "C" and is designated as such by Villa Sonrisa. The Developer may make partial or multiple assignments of its rights under this Declaration. All such assignees shall be deemed to be the Developer as to those rights which may have been assigned to them.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Palm Beach County, Florida, and is more particularly described in Exhibit "A" attached hereto and made a part hereof.

Section 2. Villa Sonrisa Community. The Developer is contemplating a development to be known as the Villa Sonrisa Community, as conceptually depicted on the site plan attached hereto as Exhibit "C". The Properties described in Exhibit "A" are a portion of the Villa Sonrisa Community. The decision of whether to subject all or any portion of the lands described in Exhibit "C" to the provisions of the Declaration shall be at the sole discretion of the Developer without regard to the fact that such action may alter the relative voting strength of the Members of the Association. The site plan is conceptual in nature only and is attached only for the purpose of depicting the land area affected. The location of the improvements, including, but not limited to, buildings, roads, water bodies, recreation facilities, and other amenities are subject to change at the sole discretion of the Developer, and as required by governmental regulations.

Subject only to the approval of Palm Beach County, Developer may from time to time bring all or portions of the lands described in Exhibit "C" (which may or may not be contiguous to the real property described in this Section 2) under the provisions hereof or may withdraw portions of The Properties from the effect of this Declaration by recorded supplemental declarations.

Developer, for itself, its successors and assigns, including the Community Association, any Condominium Association and Owners, covenants that any subsequently developed portions of the Villa Sonrisa Community shall, prior to platting, either: a) be made subject to this Declaration; or, b) be granted non-exclusive easements to afford such portions of the Villa Sonrisa Community access, utilities and drainage as required by any governmental or regulatory agency through the Villa Sonrisa Community and Community Areas; which grant of easement may require payment of a prorata share of the expenses attributable to such easements.

## ARTICLE III

### VILLA SONRISA AT BOCA POINTE

Section 1. Membership. Every Owner shall be a Member of the Association, and by acceptance of the deed, each Owner accepts his membership in the Association, acknowledges the authority of the Association as stated in this Declaration, and agrees to abide by and be bound by the provisions of this Declaration, any Supplemental Declaration, the Articles of Incorporation, the

Bylaws and other Rules and Regulations of the Association. All of the family members, guests, invitees, licensees and tenants of the Owners shall similarly be bound while in or on The Properties. Membership in the Association is compulsory and shall continue, as to each Owner, until the time the Owner transfers of record his interest in the Unit upon which his membership is based or until his interest is transferred or conveyed by operation of law. Membership is appurtenant to and shall not be separated from the real property interest upon which membership is based. Notwithstanding anything to the contrary set forth in this Section 1, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: All Owners with the exception of the Developer. Each Class A member shall be entitled to cast one vote for each Unit owned. When more than one person holds such interest or interests in any Unit, all such persons shall be Members, and the vote shall be exercised by one member as specified in the Articles of Incorporation of the Association, but in no event shall more than one vote be cast with respect to any Unit.

Class B: The Developer. The Class B member shall be entitled to one vote per each Unit owned; provided, however, that notwithstanding any provision to the contrary, the Developer shall have the right to elect the entire Board of Directors of the Association until the turnover date. The turnover date shall be 120 days after the earlier of (a) the eighth (8th) anniversary of the recordation of this Declaration, or (b) the giving of written notice by the Class B Member(s) to the Association waiving the right to elect the entire Board.

Section 3. Merger or Consolidation. Upon a merger or consolidation of the Association with any other association, the properties, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, The Properties, rights and obligations of another association may, by operation of law, be added to The Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other property as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within The Properties.

Section 4. Termination of the Association. In the event the Association is terminated, dissolved, or shall no longer continue to exist for any reason whatsoever except by reason of merger or consolidation, the Master Association may maintain all Community Areas and is hereby authorized to assess all Owners for the costs of such maintenance. Any Owner may petition the Circuit Court of the Fifteenth Judicial Circuit of the State of Florida for the appointment of a Receiver to manage the affairs of the Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association, The Properties, and Community Areas in the event the Master Association is unwilling to undertake the obligation hereunder. In the event a Receiver is appointed, the assets, both real and



personal, of the Association shall be dedicated to an appropriate public agency or utility. In the event that such dedication is refused acceptance, such assets may be granted, conveyed and assigned to any nonprofit corporation or association, trust or other organization. Any such disposition of assets shall be conditioned upon the assets being used for purposes similar to those for which they were utilized by the Association. No disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him under the recorded covenants and deeds applicable to The Properties unless made in accordance with the provisions of such covenants and deeds.

#### Section 5. Community Areas.

(a) Ownership. Developer may retain the legal title to the Community Areas so long as it owns fee simple title to at least one Unit in The Properties. On or before conveyance by Developer of the last Unit which it owns in The Properties (or sooner at the Developer's option), the Developer or its successors and assigns shall convey and transfer title to the Community Areas to the Association and the Association shall accept such conveyance, subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and easements of record. The Association is hereby empowered to delegate or convey any of its functions or properties to any governmental unit for public utilities or other public purposes consistent with the intended use of such property.

(b) Maintenance. Commencing with the date this Declaration is recorded, the Association shall be responsible for the maintenance of the Community Areas in a continuous and satisfactory manner and for the payment of taxes assessed against the Community Areas and any improvements and any personal property thereon accruing from and after the date these covenants are recorded. Such taxes shall be prorated between Developer and the Association as of the date of such recordation. The Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements situated on the Community Areas (upon completion of construction by Developer), including, but not limited to, landscaping, roadways, drainage structures, street lighting fixtures and appurtenances, except public utilities. All such work shall be done as ordered by the Board of Directors of the Association acting on a majority vote of the Board members. Maintenance of the street lighting fixtures shall include the fixtures within the Community Areas and shall further extend to payment for electricity consumed in the illumination of such lights. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article V hereof. Assessments for the Community Areas shall be against all Units equally; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with the lawfully adopted rules and regulations of the Association shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Community Areas or abandonment of his right to use the Community Areas.

(c) Developer's Right to Community Areas. Developer shall have the right from time to time to enter upon the Community Areas and upon adjacent properties for the purpose of constructing any facilities on the Community Areas that Developer elects to build.

(d) Street Lighting. The Association may install street lighting, and shall have the obligation for maintenance of any street lighting facilities from the date of recording this Declaration or from the date of installation of the street light-

ing, whichever occurs first. In the event the Developer, in its sole discretion, elects to install such street lighting, Developer shall be entitled to all rebates or refunds of the installation charges and the Association hereby assigns such rebates or refunds to Developer and the Association shall forthwith pay same to the Developer.

(e) Recreation Facilities and Additional Community Areas. The Community Areas described in Exhibit "B", of which the Recreation Facilities are a part, are depicted in "Phase 1" of Exhibit "C". The term Recreational Facilities shall include, but not be limited to, pools and accompanying sundecks, bath facilities and shall specifically exclude those portions of the Community Areas constituting roads, access tracts, or bike paths. Presently the facilities shown are the only facilities committed to be constructed by the Developer. Additional lands may, at the sole discretion of the Developer, be made subject to this Declaration (pursuant to Section 2 of Article II) without the submission of additional Recreation Facilities. The maximum number of Units that will utilize the Community Areas is 384, if all of the lands of the Villa Sonrisa Community are subjected to the terms of this Declaration without additional Recreational Facilities being provided.

The decision to declare additional Community Areas shall be at the sole discretion of the Developer and as required by governmental regulations.

(f) Designation of Restricted Community Areas.

(1) By the Developer - The Developer hereby reserves the right to designate certain Recreation Facilities of the Community Areas as Restricted Community Areas and certain Owners who may use the designated area ("Beneficiary Owners") in any Supplemental Declaration without the consent of any Owners or the Association. The cost and expenses for any Restricted Community Area shall be against the designated Beneficiary Owners equally, subject to the same condition as assessments for Community Areas

(2) By the Association - The Board of Directors may designate certain Recreation Facilities of the Community Areas as Restricted Community Areas and designate its Beneficiary Owners. Such designation shall be made by resolution of the Board which shall describe such areas, designate the Beneficiary Owners entitled to their use, set forth the amount of the annual assessment attributable thereto, and re-distribute such assessment among the Beneficiary Owners. The annual assessment shall be adjusted accordingly as to non-beneficiary and Beneficiary Owners. Such resolution shall be effective at the beginning of the next assessment period.

Section 6. Lawn and Exterior Maintenance. The Association shall provide maintenance of all lawn areas and sprinkler systems located within The Properties which are not subject to the jurisdiction of a Condominium Association. Each Condominium Association shall maintain and repair the Condominium Building in a manner similar to equivalent condominiums in Boca Pointe. Provided, however, that the Association may contract with the Condominium Association to maintain such areas if, in its sole discretion, the Association deems it desirable. The obligations of the Association as described herein shall extend only to the landscaping as originally installed by the Developer. If any Condominium Association fails to maintain its Condominium Building, the Association may, at its option, provide such service and the Owners within the Condominium Association shall be responsible for the expense of such service. Assessments for such service provided by the Association when the Condominium Association fails to maintain its Condominium Building shall be against all Units equally; provided, however, that the cost of any maintenance caused by the negligent conduct of an Owner, his guests, family

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or tenants, or by the failure of such Owner, his guests, family or tenants to comply with the lawfully adopted rules and regulations of the Association shall be levied as a special assessment against such Owner. In addition, an Owner, his guests, family or tenants may be specially assessed for any damage or injury caused by the negligent conduct of such Owner to any easement areas granted to the Association. Nothing contained herein shall obligate the Association to make repairs or replacements of improvements damaged by fire, windstorm, hail or other casualty; such repairs or replacements shall be made by the Condominium Association and/or Owner of the Unit which suffers damage.

Section 7. Maintenance of Adjacent Rights of Way. In addition to maintenance of its roadways, the Association shall provide cleanup, landscaping, landscaping maintenance and other maintenance of all Master Association, city, county or municipal rights of way to the edge of pavement, which rights of way are located adjacent to The Properties, to the extent permitted by the Master Association, city, county or municipal entity/owner, and to the extent that the standard of maintenance by said city, county or municipality is less than that desired by the Master Association.

Section 8. Architectural Control Board. The Architectural Control Board shall be a standing committee of the Association. The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this Declaration. The initial rules and regulations of the Architectural Control Board are set forth on Exhibit "D" attached hereto and any amendment thereto shall not be considered or deemed an amendment to this Declaration. A majority of said Board may take any action the Board is empowered to take, may designate a representative to act for the Board, and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Board, the remaining members shall have full authority to designate a successor. The members of the Board shall not be entitled to any compensation for services performed pursuant to this Section. When all residential dwelling units proposed by the Developer to be constructed within The Properties have been conveyed to Owners, the members of the Architectural Control Board shall be designated by the directors of the Association.

Section 9. Powers. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more dwelling units for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more person, firms or corporations for management or maintenance services. The Association shall have all other powers as provided in its Articles of Incorporation.

#### ARTICLE IV

#### ASSOCIATION-- COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for the Assessments. The Developer, for each Unit owned by it within The Properties, hereby covenants, and each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments for general expenses as provided in Section 2 hereof, and special assessments as provided in Section 5 hereof, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together



with such 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 Unit against which such assessment is made, and shall also be the personal obligation of the person who was the Owner at the time when the assessment fell due. Except as otherwise provided, all assessments shall be equally assessed against all Units within The Properties.

Section 2. Purpose of Assessments. The annual assessments levied by the Association shall be used exclusively for the general expenses of the Association. General expenses are any and all charges for the maintenance of the Community Areas as provided in Article III, and to promote the health, safety, welfare and recreational opportunities of the Members of the Association and their families residing with them, and their guests and tenants, including but not limited to: (a) expenses of administration, maintenance, repair or replacement of the Community Areas; (b) reasonable reserves deemed necessary by the Board of Directors for repair, replacement or addition to the Community Area; and, (c) expenses agreed upon as general expenses by the Association by a majority vote of the Board of Directors, the Board shall adopt an annual budget for the subsequent fiscal year which shall provide for allocation of expenses in accordance with this Declaration and in such a manner that the obligations imposed by this Declaration will be met.

Section 3. Budgets. The Board of Directors shall cause to be prepared a separate budget for the following:

- (a) The Community Areas; and
- (b) Any Restricted Community Areas that may be designated pursuant to Section III 6(f).

The expenses for the Community Areas shall be divided among all Units subject to this Declaration. The expenses for any Restricted Community Areas shall be divided among those Units entitled to the use of such Restricted Community Areas.

Section 4. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence on the first day of the month next following the recordation of this Declaration. Thereafter, the Board of Directors shall fix the date of commencement and amount of the assessment against each Unit at least thirty (30) days in advance of the commencement period. The annual assessments shall be payable in advance in monthly installments, or as otherwise determined by the Board of Directors of the Association. The amount of the annual assessment may be changed, at any time, by said Board from that originally adopted or that which is adopted in the future. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

Section 5. Special Assessments. A special assessment may be levied against one or more Units for the following:

- (a) special services to a specific Unit, Units or Condominium Building which services are requested by the Owner(s) or Condominium Association(s) thereof;
- (b) charges for expenses of the Association which are not general expenses but which are attributable to a specific Unit or Units and which are designated as a special charge;
- (c) reimbursement for damages caused by a Unit Owner or Owners, their family members, guests, invitees or tenants;

(d) capital improvements relating to the Community Area or any Restricted Community Areas;

(e) late charges, user fees, fines and penalties; and

(f) any general expense which is not covered due to deficiency in assessments.

The Board of Directors shall fix the amount and due date of any special assessment by resolution, which resolution shall also set forth the Unit or Units subject to such assessments. Special assessments for capital improvements shall not be effective until approved by two-thirds vote of the Members voting, in person or by proxy, at a meeting called for such purpose.

Section 6. Trust Funds. The portion of all annual assessments collected by the Association as reserves for future expenses, and the entire amount of all special assessments collected for capital improvements shall be held by the Association in trust for the Owners of all Units, as their interests may appear.

Section 7. Effect on Developer. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Developer is the owner of any Unit, the Developer shall not be liable for assessments against such Unit.

Section 8. Roster; Notice; Certificate. A roster of the Units and assessments applicable thereto shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for an assessment a certificate in writing, signed by an officer of the Association, setting forth whether such assessment has been paid as to the Unit owned by the Owner making request therefor. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein stated to have been paid.

Section 9. Collection of Assessment; Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; the Lien; Remedies of the Association. If the assessments are not paid on the date when due, then such assessments shall become delinquent and shall, together with such any late charges and/or interest thereon, the cost of collection thereof and attorneys' fees as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. Any individual who acquires title to a Unit upon the death of an Owner or by operation of law shall be personally liable for unpaid assessments with respect to such Unit. In any voluntary conveyance, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments made prior to the time of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee therefor.

If the assessment is not paid within fifteen (15) days after the due date, the Association may impose a late charge of \$25.00 and/or the assessment shall bear interest from the date when due at a rate set by resolution of the Board of Directors which shall not exceed the maximum interest allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or may record a claim of lien against the property on which the assessment is unpaid, or may foreclose the lien against the property on which the assessment is unpaid, in like manner as a foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or succes-

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sively, and there shall be added to the amount of such assessment, attorneys' fees and the costs of preparing and filing the claim of lien and complaint in such action. In the event a judgment is obtained, such judgment shall include the late charge and/or interest on the assessment as above provided and reasonable attorneys' fee to be fixed by the court together with the costs of the action, and the Association shall be entitled to attorneys' fees in connection with any appeal of any such action.

It shall be the legal duty and responsibility of the Association to enforce payment of the assessments hereunder.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessment provided for in this Article IV 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 institution 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 Unit by reason of the provisions of this Section 10, shall be deemed to be an assessment divided equally among, payable by, and assessed against all Units, including the Unit as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

Section 11. Exempt Property. The Board of Directors shall have the right to exempt property subject to this Declaration from the assessments, charges and liens created herein if such property is used (and as long as it is used) for any of the following purposes:

(a) Any easement or other interest therein dedicated and accepted by a public authority and devoted to public use or to the Master Association;

(b) All Community Areas as defined in Article I hereof;  
and

(c) All properties exempt from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association.

Notwithstanding any provisions herein, no land devoted to dwelling use shall be exempt from said assessments, charges or liens.

## ARTICLE V

### EASEMENTS

#### Section 1. Members' Easements.

A. To Community Areas - Each Owner shall have a permanent and perpetual easement for ingress and egress for pedestrian and vehicular traffic over and across the walkways,

roadways, access tracts and pedestrian/bike paths from time to time laid out on the Community Areas, for use in common with all Owners and Condominium Associations, their tenants, agents and invitees. The portion of the Community Areas not used, from time to time, for walkways and/or roadways or lakes shall be for the common use and enjoyment of the Members of the Association and each Owner shall have a permanent and perpetual easement for pedestrian traffic across all such portions of such tracts and for the use of same in such manner as may be regulated by the Association. The foregoing easements are subject to the following:

(1) The right and duty of the Association to levy assessments against each Unit for the purpose of maintaining the Community Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of The Properties from time to time recorded;

(2) The right of the Association to suspend the voting rights and right to use the Community Areas and facilities by an Owner for any period during which any assessment against his Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its lawfully adopted and published rules and regulations; and

(3) The right of the Association to adopt and enforce rules and regulations governing the use of the Community Areas and all facilities at any time situated thereon.

B. To Restricted Community Areas - If a portion of the Community Areas is designated Restricted Community Areas, as provided in this Declaration, the easement for pedestrian ingress and egress granted in Paragraph A above shall not be extinguished.

C. Right of Owner - The right of an Owner to the use and enjoyment of the Community Areas and facilities thereon shall extend to the members of his immediate family who reside with him, subject to regulations from time to time adopted by the Association in its lawfully adopted and published rules and regulations.

D. Right of Condominium Associations - Each Condominium Association, their employees, agents and licensees, is hereby granted a non-exclusive easement for ingress and egress across the Community Areas for the purpose of performing their maintenance obligations under their respective Declarations of Condominiums.

Section 2. Easements Appurtenant. - The easements provided in Section 1 shall be appurtenant to and shall pass with the title to each Unit.

Section 3. Utility Easements. Public utilities may be installed underground in the Community Areas when necessary for the service of The Properties or additional lands the Developer either owns or holds an option to purchase, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.

Section 4. Public Easements. Fire, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across The Properties.

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Section 5. Easement for Unintentional and Non-Negligent Encroachments. If any building or other improvement shall encroach upon any portion of the Community Areas or upon an easement by reason of original construction or by the non-purposeful or non-negligent act of Developer or any other Owner of such building or improvement, then an easement for such encroachment shall exist so long as the encroachment exists.

Section 6. Additional Easements. The Developer (during any period in which the Developer has any ownership interest in The Properties) and the Association shall each have the right to grant such additional electric, telephone, gas, sprinkler, irrigation, cable television or other easements, and to relocate any existing easement in any portion of The Properties and to grant access easements and to relocate any existing access easements in any portion of The Properties as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of The Properties, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with any Condominium Building.

Section 7. Association Easement. For the purpose solely of performing the maintenance authorized by Section 6 of Article III, the Association, through its duly authorized agents, employees or independent contractors, shall have the right to enter upon any Condominium Building at reasonable hours of any day. Each Owner and Condominium Association hereby grants to the Association, its duly authorized agents, employees or independent contractors such easements for ingress and egress, across the Units or Condominium Buildings and through improvements constructed, as may be reasonably necessary to effect and perform the maintenance aforementioned. In addition, the owner of the adjoining property (not within The Properties) may grant the Association, its duly authorized agents, employees or independent contractors, such easements for ingress and egress across its properties to effect and perform the maintenance aforementioned. In such event, the Association shall indemnify the adjoining property owner for any damage or injury to the easement areas caused by the use thereof. In the event an Owner is on vacation and/or will not be present to permit entry onto his Unit for the maintenance aforementioned, said Owner shall deposit his Unit key with his Condominium Association to permit entry thereon.

Section 8. Developer's Easement During Construction. For so long as the Developer is the owner of any portion of The Properties, or in the ordinary course of business, Developer, its licensees, employees and agents, shall have an easement over and across all The Properties and Community Area for the purpose of constructing Units and appurtenances, and any facilities on the Community Areas the Developer elects to construct.

## ARTICLE VI

### GENERAL RESTRICTIVE COVENANTS

Section 1. Applicability. The provisions of this Article VI shall be applicable to all Units and Condominium Buildings situated within The Properties.

Section 2. Land Use. All Units and Condominium Buildings shall only be used for residential purposes. Temporary uses for model homes, parking lots and/or sales offices shall be permitted for the Developer.

Section 3. Change in Units and Buildings. No Owner or Condominium Association shall make or permit any structural modi-



fication or alteration of any Condominium Building except with the prior written consent of the Architectural Control Board or its successor, and such consent may be withheld if, in the sole discretion of the party denying the same, it appears that such structural modification or alteration would adversely affect or in any manner endanger other Units or buildings. The interior alteration, modification and repair of Units shall be governed by the Declaration of Condominium.

Section 4. Building Location. Buildings shall be located in conformance with the Zoning Code of the County of Palm Beach, Florida, and any specific zoning approvals thereunder, or as originally constructed by Developer or its successor or assignee. Whenever a variance or special exception as to building location or other item has been granted by the authority designated to do so under the Zoning Code, said variance or special exception is hereby adopted as an amendment to this Section and any future variance or special exception as to building location or other item shall constitute an amendment of this Section.

Section 5. Landscaping of Easements. In addition to the easements reserved herein, easements for drainage, installation and maintenance of utilities and for ingress and egress are shown on the recorded plat(s) of The Properties. Within these easements no structure, planting or other material may be placed or permitted to remain that will interfere with vehicular traffic or prevent maintenance of utilities. Public utility companies servicing The Properties and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, including television cables and conduits and such other installations as may be required or necessary to provide maintenance and utility services to the Condominium Buildings and/or the Community Areas, under and through the utility easements as shown on the plat(s) and under and through such portions of The Properties not containing a building, as such buildings may from time to time be located. All utilities within The Properties, whether in streets, rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground.

Section 6. Nuisances. No noxious or offensive activity shall be carried on in any Unit or Condominium Building, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or any other Unit or Condominium Building.

Section 7. Temporary Structures. No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle shall be permitted on any portion of The Properties either temporarily or permanently.

Section 8. Signs. Except for one sign of not more than one square foot used to indicate the name and/or number of the Condominium Building, no sign of any kind shall be displayed to the public view on The Properties, without the prior consent of the Board of Directors of the Association; provided that the Developer, so long as it has not sold all of its Units in The Properties, shall retain the right to disapprove any signs displayed to the public view.

Section 9. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in The Properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in The Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to these restrictions

Section 10. Pets, Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any portion of The Properties, except that dogs weighing less than thirty (30) pounds, cats, or other household pets may be kept, subject to rules and regulations of the Association and the applicable Condominium Association; provided that 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. No dogs or other pets shall be permitted to have excretions anywhere within The Properties except as designated by the Association. In the event the pet provisions of a Declaration of Condominium are more stringent than those contained herein, the Declaration of Condominium shall prevail as to that portion of The Properties.

Section 11. Visibility at Intersections. No obstruction to visibility at street intersections shall be permitted.

Section 12. Architectural Control. Except for the original construction by the Developer, no building, wall, fence, or other structure or improvement of any nature shall be erected, placed or altered on any portion of The Properties until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the Architectural Control Board have been approved in writing by the Architectural Control Board and by the Master Association. All such structures and improvements are subject to the provisions of the Master Declaration. Each building, wall, fence, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Control Board seem sufficient. Any change in the exterior appearance of any building, wall, fence, or other structure or improvements, and any change in the appearance of the landscaping shall be deemed an alteration requiring approval.

Section 13. Exterior Appearances and Landscaping. The paint, coating, stain and other exterior finishing colors on all buildings shall be maintained as originally installed by Developer in accordance with the provisions of this Declaration without prior approval of the Architectural Control Board, but prior approval by the Architectural Control Board and the Master Association shall be necessary before any such exterior finishing color is changed. The landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations shall be maintained in accordance with the Declaration, and as originally installed by Developer, unless the prior approval for any substantial change is obtained from the Architectural Control Board and the Master Association.

Section 14. Commercial Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, campers, mobile homes, motor-homes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on any portion of The Properties, except only during the periods of approved construction, and except that they may be stored within garages. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other commercial services. The Developer may elect to include a storage area for such vehicles within The Properties, and, in such event, all such vehicles, boats, etc., must be stored within such area or within the garage.

Section 15. Antennae and Fences. No antennae, aerial or satellite dish; fence or wall; or other structure shall be erected on The Properties except as originally installed by Developer or its assignee, and except any approved by the Architectural Control Board.

Section 16. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited on any any portion of The Properties (exterior of any Unit or Condominium Building) except in those areas designated by the Association; provided, however, that the requirements from time to time of the County of Palm Beach for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. Drying Areas. No clothing, laundry or wash shall be aired or dried on the patio railings or walls of any Unit, or otherwise exposed to public view.

Section 18. Open Space. The portion(s) of any plat of The Properties which is considered required open space for a Planned Unit Development pursuant to the Palm Beach County Zoning Code, as same exists on the date of recordation of the Declaration, may not be vacated in whole or in part unless the entire plat is vacated.

Section 19. Condominium Building Documents. Copies of all Declarations of Condominium, Articles of Incorporation and Bylaws of the Condominium Association, and any amendments thereto shall be submitted to the Architectural Control Board prior to being recorded or filed in the Public Records. Upon receiving written approval of such documents from the Architectural Control Board, documents may be recorded in the Public Records. This provision shall apply also to any legal documents creating restrictions, covenants and servitudes and incorporating any corporation comprised of Owners. This provision shall not apply to any documents promulgated by the Developer.

Section 20. Use of the Community Areas. In using the Recreation Facilities of the Community Area, all children under twelve (12) years of age must be accompanied and supervised by a parent or an adult over twenty-one (21) years of age at all times.

## ARTICLE VII

### OWNERSHIP IN BOCA POINTE

Section 1. Ownership in Boca Pointe. By taking title to a Unit, each Owner becomes subject to the terms and conditions of the Master Declaration. Among other things, that document provides that an Owner shall become a Member of the Master Association; shall acquire certain property rights to common areas within Boca Pointe; shall be bound by any exclusive service contract for a television and security system; and shall be subject to the assessments of the Master Association and assessments for the television and security system, which assessments, except special assessments to a particular Unit, shall be collected by the Association.

Section 2. Membership in the Master Association. All Owners shall be Members in the Master Association. Notwithstanding such membership, only representative members, known as the Voting Members, shall be entitled to vote on behalf of all Members of the Association at meetings of the Members of the Master Association. The Voting Member shall mean a designated owner as to the votes allocated to Class B membership and the President or other authorized designee as to the votes allocated to Class A membership.



Section 3. Notice to the Master Association. Copies of all amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, and any easements or conveyances affecting the Community Areas, shall be promptly forwarded to the Master Association. The Association shall provide a current list of the names and mailing addresses of all owners within fifteen (15) days after receiving a written notice from the Master Association.

## ARTICLE VIII

### GENERAL PROVISIONS

Section 1. Duration. 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 Developer, the Association, the Condominium Association, or the Owner of any Unit subject to this Declaration and their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of two-thirds of the Units has been recorded, agreeing to change or terminate said covenants and restrictions in whole or in part.

Section 2. Notice. Any notice required to be sent to any 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 such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting or violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and failure by the Developer, the Association, any Condominium Association or Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants may also be enforced by the Architectural Control Board. The prevailing party in any such enforcement proceeding shall be entitled to his attorneys' fees and costs. The Association is hereby empowered to adopt reasonable rules and regulations for the imposition of fines to be levied against any Owner for failure to comply with the terms of this Declaration or rules and regulations of the Association. Any rule or regulation subjecting any Owners to fines shall include provisions for notice, hearing, appeal and fines. Fines shall constitute an assessment due to the Association and upon failure to pay such fine within the period prescribed by the Association shall become a charge and continuing lien upon the Owner's Unit.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 5. Amendments.

A. Until the Turnover Date, this Declaration may only be amended as follows: 1) by the Owners as provided below with the consent and joinder of the Developer; or 2) by the Developer, which amendment shall not require the joinder of the Association or any Owner unless it shall have the effect of materially in-

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creasing the assessments due hereunder without benefit of additional facilities.

B. After the Turnover Date, this Declaration may be amended as follows:

1) By the Owners holding not less than two-thirds (2/3) of the vote of the membership in the Association; provided, however, such amendment shall require the consent of the Developer so long as it is the Owner of any portion of the Properties; or,

2) By the Developer in order to correct scrivener's errors and in order to comply with the requirements of any governmental or regulatory agency.

Section 6. Effective Date. This Declaration shall become effective upon its recordation in the Palm Beach County Public Records.

EXECUTED as of the date first above written.

Signed, sealed and delivered  
in the presence of:

VILLA SONRISA, a New York  
General Partnership

By: Leland Development, Inc.,  
a Florida corporation,  
general partner

By: Lee C. Newton  
Lee C. Newton,  
President

By: Goldome Boca Pointe, Inc.,  
a Florida corporation,  
general partner

By: James A. Thompson  
JAMES A. Thompson  
Vice President

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of APRIL, 1985, by Lee C. Newton as President of Leland Development, Inc., a Florida corporation, general partner of Villa Sonrisa, a New York general partnership, on behalf of the partnership.

Kathleen Martin  
Notary Public,  
State of Florida at Large  
My Commission Expires: Aug. 13, 1987  
Notary Public, State of Florida  
My Commission Expires Aug. 13, 1987  
Resided This Day from: Memphis, Tenn.

STATE OF FLORIDA )  
SS  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of April, 1985, by James A. Thompson as Vice President of Goldome Boca Pointe, Inc., a Florida corporation, General Partner of Villa Sonrisa, a New York general partnership, on behalf of the partnership.

Kathleen Martin  
Notary Public  
State of Florida at Large  
My Commission Expires: Aug. 13, 1987  
Notary Public, State of Florida  
My Commission Expires Aug. 13, 1987  
Resided This Day from: Memphis, Tenn.

EXHIBIT "A"  
TO  
DECLARATION OF COVENANTS  
AND RESTRICTION FOR  
VILLA SONRISA AT BOCA POINTE

The lands described in the Plat of Villa Sonrisa at Boca Pointe Phase One, as filed in Plat Book 48, Pages 163 and 164, of the Public Records of Palm Beach County, Florida.

NOT A CERTIFIED COPY

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EXHIBIT "B"  
TO  
DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
VILLA SONRISA AT BOCA POINTE

COMMUNITY AREAS

Tracts A, B and C as shown for the purposes dedicated on the Plat of Villa Sonrisa at Boca Pointe Phase One as filed in Plat Book 48, Pages 163 and 164 of the Public Records of Palm Beach County, Florida (which is also described as all of the real property described in Exhibit "A" less and except therefore the Condominium Buildings).

TOGETHER WITH any and all easements granted to the Association for pedestrian/bicycle paths and illumination, ingress and egress, and maintenance across the Common Elements of any Condominium Building on The Properties.

NOT A CERTIFIED COPY

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EXHIBIT "D"  
TO  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR VILLA SONRISA AT BOCA POINTE

Initial  
Rules and Regulations  
of the  
Architectural Control Board  
of Villa Sonrisa

1. Any Owner who desires to construct an improvement or structure of any kind shall submit two complete sets of all plans and specifications and samples of proposed building materials to the Architectural Control Board (the "Board").

2. All approvals of the Board shall be subject to further approval by the Boca Pointe Community Association, Inc.

3. All exterior building materials shall be real and not artificial; the exteriors shall be consistent with the theme adopted by the Developer.

4. No metal cyclone fences are permitted. All walls shall be concrete block and stucco with wood trim, if desired.

5. No window or wall air conditioning units are permitted.

6. All mailboxes or receptacles for the delivery of newspapers, magazines or mail shall be approved by the Board prior to installation.

7. The following plant material shall not be planted in The Properties: a) Cocos Nucifera (coconut palm); b) Melaleuca Leucadendron (cajeput tree); c) Casuarine Equisetifolia (Australian Pine); d) Schinus Terebinthilolius (Brazilian Pepper); and e) Wedilia Trilobata (Wedilia).

8. Except when placed in front for pick-up, no garbage container shall be visible from any street or other right of way.

9. All dogs and cats shall be leashed at all times and Owners shall remove any excretions immediately.

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RECORD VERIFIED  
PALM BEACH COUNTY FLA  
JOHN B. DUNKLE  
CLERK CIRCUIT COURT