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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR IBIS COVE

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this
30th day of September 2000, by A.R.M. DEVELOPMENT CORP. OF S.W. FL. INC., a
Florida corporation, hereinafter referred to as Declarant.

STATEMENT OF BACKGROUND

WHEREAS, Declarant is the owner of the property as described in Exhibit "A" attached hereto
and made a part hereof (the "Property").

WHEREAS, Declarant intends, but is not obligated, to develop the Property in accordance with
the Planned Unit Development Ordinance for Ibis Cove, known as Ordinance No. 99-21, of the Board of
County Commissioners, of Collier County, Florida, as the same may be amended from time to time.

NOW, THEREFORE, Declarant declares that the Property and any and all additional property
which is hereinafter subjected to this Declaration shall be held, transferred, sold, conveyed, leased,
mortgaged and otherwise dealt with subject to the following covenants, restrictions and easements set forth
in this Declaration, which shall run with the Property, be part of such Property and inure to the benefit of,
and be enforceable by, each Owner and their successors in title.

ARTICLE I INTENT OF DECLARATION AND DISCLOSURES

This Declaration shall be binding on the Property.

This Declaration is intended to provide for the preservation and enhancement of the value,
desirability and attractiveness of the Property by imposing mutually beneficial covenants, restrictions and
easements on the Property. This Declaration provides a reasonable and flexible procedure for the overall
development of the Property and establishes a method of administration, maintenance, preservation, use and
enjoyment of the Property.

It is intended by the Declarant that the Property be utilized for the development of single family
and multi-family residential properties, and recreational and other attendant facilities. Declarant is not
obligated to develop all or any part of the Property. Declarant shall have the right to alter, amend, modify
or terminate this development plan at any time.

ARTICLE II
DEFINITIONS

2.01 "Area of Common Responsibility" shall mean and refer to the Common Areas together with those areas which by the terms of this Declaration are the maintenance responsibility of the Association.

2.02 "Articles" shall mean and refer to the Articles of Incorporation of Homeowners Association of Ibis Cove, Inc., a Florida corporation, which are filed with the Secretary of State of Florida, as same may be amended from time to time.

2.03 "Assessments" shall mean any and all assessments and charges, rendered by the Association including, but not limited to Regular, Special and Individual Assessments.

2.04 "Board of Directors" or "Board" shall mean and refer to the governing body of the Association.

2.05 "Bylaws" shall mean the By-laws of the Association, as the same may be amended from time to time.

2.06 "Common Areas" shall mean and refer to those areas of land within or without the Property which are dedicated to or owned by the Association; or any other property which is dedicated, conveyed, leased, used or licensed to the Association; any property over which the Association holds an easement; or any property anywhere located for which the Association has assumed responsibility of its maintenance, either under the terms of this Declaration or by separate agreement, and which are intended to be devoted to the common use and/or enjoyment of the Members, together with any and all personal property and fixtures located thereon. Common areas shall include, but, not be limited to, recreational facilities, maintenance facilities, Water Management Systems, sidewalks, open spaces, perimeter walls, landscaped areas, and entry features. Common Areas may be dedicated by Supplement. The term "Common Areas" shall also include any personal property acquired by the Association if said property is designated as Common Areas in the bill of sale or instrument transferring same or subsequently declared by the Association or the Declarant to be Common Areas.

2.07 "Community Wide Standards" shall mean the standards of conduct, maintenance, or other activity generally prevailing throughout the Ibis Cove community.

2.08 "Construction Committee" or "Committee" shall mean the committee formed herein to maintain the quality and architectural harmony of improvements within the Property.

2.09 "County" shall mean Collier County, Florida.

2.10 "Recreational Facilities" shall mean the lands, and other recreational facilities and improvements constructed on the Common Areas.

2.11 "Ibis Cove" shall mean that project developed by Declarant or others on the Property, comprised of single family and multi-family residences, clubhouse, and any and all other facilities and improvements constructed upon said premises.

2.12 "Declarant" shall mean and refer to A.R.M. DEVELOPMENT CORP. OF S.W. FL. INC., a Florida corporation, and its successors or assigns in interest. A person or entity shall be deemed an assignee or successor in interest of the Declarant only if specifically so designated in a duly recorded supplemental Declaration, which supplemental Declaration shall specifically so state, and shall be deemed an assignee successor in interest of Declarant only as to the particular rights or interests specifically designated in the recorded Supplement.

2.13 "Declaration" shall mean this Declaration of Covenants, Restrictions and Easements for Ibis Cove.

2.14 "Development Plan" shall mean and refer to the Planned Unit Development Ordinance for Ibis Cove, approved by the County for the development of Ibis Cove, as amended or supplemented from time to time, including but not limited to, by plats or declarations as may be filed of record.

2.15 "Director" shall mean a member of the Board of Directors elected or designated as such in the Articles or By-Laws.

2.16 "Governing Documents" shall mean and refer to the Declaration, together with any and all amendments and Supplements thereto, together with the Articles and Bylaws, as the same may be amended from time to time, and rules and regulations of the Association.

2.17 "Improvement" shall mean and refer to any building, structure or other man-made improvement constructed anywhere within the Property, including without limitation, a detached single family home, attached townhouse or villa, clubhouse, perimeter walls, landscaping, parking garages and entry features.

2.18 "Individual Assessment" shall mean an assessment levied in accordance with Section 9 of this Declaration.

2.19 "Institutional Mortgage" shall mean (a) any generally recognized lending institution having a first mortgage lien upon a Parcel including, but not limited to, any of the following institutions: a Federal or state savings and loan or building and loan association; a national, state or other bank or real estate investment trust; or mortgage banking company doing business in the State of Florida; or a life insurance company; or a subsidiary of a holding company owning any of the foregoing; or (b) any secondary mortgage market institution: including the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Housing Administration (FHA), and Veterans Administration (VA) and such other secondary mortgage market institutions as the Board shall hereafter approve in writing which have acquired a first mortgage upon a Parcel; or (c) any and all investors or lenders, or the successors and assigns of such investors or lenders, which have loaned money to Declarant to acquire or to construct improvements upon, the Property and who have a mortgage lien of any priority on all or a portion of the Property securing such loan; or (d) such other lenders as the Board shall hereafter approve in writing which have acquired a first mortgage lien upon a Parcel; or (e) Declarant.

2.20 "Association" shall mean and refer to the Homeowners Association of Ibis Cove, Inc., a Florida not-for-profit corporation, or any successor thereof by whatever name, charged with the duties and obligations set forth in this Declaration.

2.21 "Association Documents" shall mean any and all documents, instruments and agreements established by Declarant creating and governing the Association, including, but not limited to, the Declaration, Articles of Incorporation, By-Laws, and any procedures, rules, regulations or policies adopted by the Association, as amended from time to time.

2.22 "Association Expenses" shall mean and include the actual and estimated expenses incurred by the Association as described in this Declaration or incurred in carrying out the duties and responsibilities of the Association under this Declaration for which Owners are liable to the Association, including expenses relating to the Water Management System and any reasonable reserves, all as may be required by this Declaration or as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and/or the Articles. Common Expenses may also include, but not be limited to, the following:

- (a) taxes and special assessments levied or assessed upon the Common Areas;
- (b) charges levied by utilities or districts providing services for the Common Areas;
- (c) premiums on the policies of insurance which the Association owns or purchases;
- (d) sums necessary to repair, replace, construct, irrigate or reconstruct any structure or improvements upon the Common Areas damaged by any casualty not covered in whole or in part by insurance;
- (e) expenses necessary to construct, maintain, repair, operate, protect, modify, upgrade and or replace the Common Areas or any improvements thereon; and
- (f) costs of administration of the Association in the performance of its functions and duties under the Declaration, Articles and By-Laws; and
- (g) reimbursement to Declarant for funds advanced on behalf of the Association.

2.23 "Association Standards" shall mean the standards of conduct, construction, maintenance, architecture, landscaping or other activity generally prevailing throughout the Property and set forth in the Governing Documents. Such standards may be more specifically determined by the Declarant or by the Association.

2.24 "Members" shall mean and refer to any person or entity holding membership in the Association. All Owners shall be Members, provided, however, that there shall be no more than one (1) Membership for each Parcel.

2.25 "Owners" shall mean and refer to the record Owner(s) of fee simple title in a Parcel (including Declarant, but specifically excluding any party holding an interest merely as a security for the performance of an obligation). If a Parcel is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner. If a Parcel is subject to a written lease with a term in excess of one year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors, the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Association.

2.26 "Parcel" shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) villa units: patio or zero lot line homes and single-family detached houses on separately platted or described lots, as well as vacant land (homesites) intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Property. The term shall include all portions of the lot owned as well as any structure thereon. In the case of a structure which contains multiple dwellings, each dwelling shall be deemed a separate Parcel.

In the case of a Parcel of vacant land or land on which improvements are under construction, the tract shall be deemed to contain the number of Parcels designated for residential use for such tract on the site plan approved by Declarant, until such time as a subdivision plat or other instrument subdividing the land has been recorded in of the Public Records of Collier County, Florida on all or a portion thereof. After the recordation of the plat or other such instrument, which recordation may only occur with Declarant's consent, the number of Parcels for such portion of the Property shall be determined based upon the number of Parcels shown on the plat or other such instrument. After issuance of a certificate of occupancy on any portion thereof, the portion designated in the certificate of occupancy shall constitute a separate Parcel or Parcels as determined above and the number of Parcels on the remaining land, if any, shall continue to be determined in accordance with this paragraph. When the term "Residence" is used herein, it shall refer to a Parcel for which a certificate of occupancy or like certificate has been issued.

2.27 "Preservation Areas" means those portions of the Property comprised of mangrove forests, wetlands, cypress domes, resource protection areas and other environmentally-sensitive areas, as determined by Declarant. Preservation Areas may be Common Area as determined by Declarant. Preservation Areas may be passive areas, or may, subject to any requisite governmental approval, be used for educational programs and be equipped with such facilities as boardwalks and/or nature trails.

2.28 "Property" shall mean and refer to all real property subject to this Declaration, including any additional lands hereafter made subject hereto.

2.29 "Regular Assessment" shall mean and refer to the assessments levied in accordance with Section 9 of this Declaration, to pay for each year's Association Expenses, as further provided herein.

2.30 "Special Assessments" shall mean an assessment levied in accordance with Section 9 of this Declaration to pay Association Expenses which may accrue from time to time, for which insufficient monies from Regular Assessments, insurance proceeds, reserves, or other funds to pay the same; and/or to pay for capital costs not otherwise funded, all as provided herein.

2.31 "Streets" shall mean and refer to any roadway which is dedicated exclusively to the Association, and any and all other roadways for which the Association is charged with maintaining, or has agreed to maintain by any separate agreement. Streets and all median landscaping and special surface treatments such as, but not limited to, pavers or stamped concrete shall be maintained by the Association. The Declarant hereby reserves an easement for ingress and egress over all Streets not owned by it (if any) for the development and/or marketing of Ibis Cove. Declarant does hereby further grant all other Owners, a non-exclusive, perpetual easement for ingress and egress over and across the Streets. Declarant reserves the right to grant an easement for ingress and egress over the Streets and elsewhere within Ibis Cove, in favor of those persons of Declarant's choosing, for the development, operations or maintenance of Ibis Cove or any component thereof, or any other properties without regard as to whether said other properties comprises a portion of Ibis Cove.

2.32 "Supplement" shall mean a written amendment or supplement to this Declaration executed by or consented to by Declarant for the purpose of subjecting additional property to or deleting all or some portion of the Property from this Declaration; or for assigning or designating a portion of the Property for a particular use or value; or for such other purpose or purposes permitted elsewhere in this Declaration; in order to modify these restrictions as they apply to the Property; or in order to impose, expressly or by reference, additional restrictions and obligations on all or any portion of the Property.

2.33 "Turnover" shall mean the time at which Owners, other than the Declarant, assume control of the Association.

2.34 "Water Management System" shall mean and refer to lakes, ditches, culverts, lines, and constructed surface and/or underground systems and facilities for the drainage and/or storage of surface water. Said Water Management System may be entirely located upon the Property, but may also be comprised of public and private easements located outside of the Property, if the facilities service all or some portion of the Property on an exclusive or non-exclusive basis. The Water Management System shall be for the use and benefit of all lands that are now or hereafter a part of the Property. The Water Management System may, if Declarant so elects, service other lands that do not form a part of the Property; or, at Declarant's election, may need the service of other lands outside of the Property, for which the Association may pay a fee. Each Owner, the Association and Declarant shall have a perpetual, non-exclusive easement, right, license and servitude to use the Water Management System. Declarant, (with the consent of the owner of the fee underlying any part of the Water Management System), or the Association may reconfigure such parts of the Water Management System with the consent of the Declarant, provided same is then in accordance with sound engineering practices and governmental approvals. In such event, the perpetual non-exclusive drainage easement rights of Declarant, the Association and all Owners shall, without necessity of additional written documentation, be transferred from the previously existing Water Management System to the revised system. Declarant may dedicate to any applicable governmental agency or authority, all or any part of the drainage lines, structures and facilities which are part of the Water Management System. Declarant, or others with consent of Declarant, may execute such instruments as may be necessary or desirable to effect such dedication without the joinder or consent of the Association, any Owner, or the holder of any mortgage or other lien on any Parcel.

ARTICLE III

GENERAL PLAN FOR DEVELOPMENT OF THE PROPERTY

3.01 Plan for Development.

(a) Ownership and Development of the Property. Declarant is the owner of the Property. Declarant presently plans to develop all or a portion of the Property as a multi-phased, planned community comprising residential and recreational uses. Declarant makes no representations nor warranties of any kind or nature that it will dedicate any Common Areas or develop the Property in accordance with its present plans. Declarant reserves the right, in its sole and absolute discretion, to develop Ibis Cove and/or the Property in any manner it desires.

The Association is not a condominium association and therefore shall not be governed by the provision of Chapter 718, Florida Statutes. No portion of the Property is submitted by this Declaration to the condominium form of ownership. Declarant does not intend that any portion of the Property be submitted to the condominium form of ownership except that property legally described in a declaration of condominium specifically prepared in accordance with Chapter 718, Florida Statutes, executed by or with the consent of Declarant. Further, the expressed intent of the Declaration is that the substantive rights hereunder shall not

retroactively be affected by legislation subsequent to the date of the execution of the Declaration. Portions of Ibis Cove may contain Preservation Areas, which may be Common Areas.

(b) Governmental Interests. For so long as Declarant owns any portion of the Property, Declarant shall have the right to designate sites within the Property for fire, police, water and sewer facilities, and any and all other like services and/or utility facilities.

(c) Governmental Orders. Declarant may present applications for various development orders pertaining to the development of the Property. If such applications are approved, Declarant intends that the portions of the Property affected by such development order shall be developed in accordance with all applicable terms and provisions set forth in such development order. By way of illustration only and not limitation, any development order may set forth requirements or standards pertaining to such matters as wetland areas, flora, water management and exotic species. The effects of any such development orders may include increasing the responsibilities and obligations of the Association, as well as increasing the amount of Assessments due from Owners. Declarant shall have the right to seek changes to such development orders after they have been approved without the joinder or consent of any other person. Additionally, under any development order, Declarant retains the right to amend or add to any of the terms and provisions of this Declaration, Articles or By-Laws for the purpose of fulfilling the requirements of any such development order, without the joinder or consent of any other person. All Owners do hereby authorize and appoint Declarant as their respective attorney in fact, to execute any and all documents necessary to maintain the applicable development orders.

(d) Changes in Development Plan. The foregoing is the Development Plan currently anticipated by Declarant. Declarant shall not be obligated in any way to undertake the above Development Plan. Many factors, including changes in market conditions and in consumer preferences, may cause Declarant to change such Development Plan, and nothing in this Declaration shall in any way limit the right of Declarant, in its sole and absolute discretion, to change the Development Plan.

3.02 Property. Declarant shall have the right to change the use of any portion of the Property subject only to the approval of the Owner of that portion of the Property affected.

3.03 Supplements. Declarant shall have the right, alone and in its sole and absolute discretion, to execute and record in the office of the Clerk of the Circuit Court of Collier County, Florida, a Supplement containing provisions which (a) assign a specific use to any portion of the Property; (b) modify the provisions of this Declaration as they apply to all or any portion of the Property; (c) create new provisions to this Declaration as they apply to all or any portion of the Property; (d) withdraw the applicability of any or all of the provisions of this Declaration; (e) add or withdraw properties encumbered by this Declaration; and (f) do anything else permitted by this Declaration, without the joinder of any other party.

ARTICLE IV LAND USE WITHIN THE PROPERTY AND COMMON AREAS

4.01 Land Use within the Property:

(a) In general, Declarant may, in its sole and absolute discretion, establish any use for the Property which is consistent with the terms of this Declaration, any PUD, taxing districts, and applicable governmental orders, approvals, permits and regulations. The Property shall be subject to the use restrictions set forth in the Declaration and the design standards and guidelines adopted by the Association.

(b) Replacements, Repairs and Alterations. All replacements, repairs and other alterations to any Parcel must be consistent with the original design of the Parcel and the Declaration, unless otherwise approved by the Declarant.

4.02 Common Areas. The Common Areas shall be those areas specifically designated by Declarant as exclusively or primarily for use by Members. Declarant may, at any time prior to the termination of its Class B Membership, convey and transfer (or cause to be conveyed or transferred) to the Association, and the Association shall accept, any or all of the Common Areas.

THE ASSOCIATION SHALL ACCEPT "WHERE-IS, AS IS" THE CONVEYANCE OF ANY SUCH COMMON AREAS WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, REPRESENTATION OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATIONS TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS OR FURNITURE WHICH HAS BEEN OR WILL BE USED IN SUCH COMMON AREAS, EXCEPT AS SET FORTH HEREIN. BY ACCEPTANCE OF AN INTEREST IN ANY COMMON AREAS OR THE DEED TO ANY PARCEL, THE ASSOCIATION AND ALL OWNERS RELEASE DECLARANT FROM ANY CLAIMS AND WARRANTIES. NO CLAIM SHALL BE MADE BY THE ASSOCIATION OR ANY OWNER RELATING TO THE CONDITION, OR COMPLETENESS OF COMMON AREAS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREFROM. ALL COSTS AND EXPENSES OF ANY CONVEYANCE OF ANY PROPERTY BY DECLARANT TO THE ASSOCIATION SHALL BE PAID FOR BY THE ASSOCIATION.

4.03 Easements - Generally. The Association may enter into easement agreements or other use or possessory agreements whereby the Association may obtain the use or possession of certain real property not owned by Declarant, on an exclusive or non-exclusive basis, whether or not included within the Property, for certain specified purposes and whereby the Association agrees to maintain and pay for the taxes, insurance, administration, upkeep, repair, replacement and maintenance of such property. The aforementioned expenses shall be an Association Expense, whether or not such real property shall be Common Area. Prior to Turnover, no such agreement shall be entered into without the prior written consent of Declarant, which consent may be withheld in Declarant's sole and absolute discretion.

4.04 Utility And Other Easements

(a) Utility Easements

(i) There is hereby reserved and granted, for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of the Properties, those easements shown upon any recorded plat and as may be shown on any future recorded plats of the Properties. There is also hereby reserved within the Properties such easements, areas and rights-of-way for such other purposes as Declarant, in its sole discretion, may in the future determine. Within these easement areas, no structure, planting or other material (other than sod), which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain unless

such structure, planting or other material was installed by the Declarant and/or approved in writing by the Declarant or the Architectural Review Board.

(ii) Declarant hereby reserves the right and the power during a period of twenty (20) years from the date of the recordation of this Declaration or of the recordation of the plat or of any other applicable recorded instrument, whichever is later, to declare and file or record, additional easements granting the full free right, power and authority to lay, operate and maintain such drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication lines, cable television lines, and such other and further public service facilities as Declarant may deem necessary, along, through, in, over and under a strip of land up to ten (10) feet in width from all side, front and rear lines of any Parcel. The duration of any such easement shall be as set forth in an instrument of record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Parcel.

(b) Non-Exclusive Easements

(i) All Common Areas are hereby declared to be subject to a perpetual non-exclusive easement in favor of the Association in order that its employees and agents may carry out their duties on behalf of the Association.

(ii) Notwithstanding anything else to the contrary set forth herein, the Declarant reserves the right to grant perpetual non-exclusive easements over the Common Areas for utilities, water, sewer, cable television, drainage or other purposes for the benefit of certain Parcels of land in accordance with the PUD or any other governmental requirements applicable to the Properties. Provided, however, in connection with any such grant of easement, the Members of the Association, or any other entity benefitting from such grant of easement shall pay a pro rata share of the cost of maintaining the Properties subject to the easement based upon the relative use thereof by the respective Members.

(iii) Easements are hereby reserved throughout the Property by Declarant for its use and the use of its agents, employees, licensees and invitees, for all purposes in connection with development or sale of the Properties. Declarant retains the right to maintain offices on the Property, in a location to be selected by the Declarant, for the sale and resale of Parcels within Ibis Cove. Declarant may also construct and maintain signs on any Parcels owned by Declarant, or on the Common Areas, so long as Declarant owns any Parcel or land in Ibis Cove that it holds for development or sale which is subject to this Declaration.

(c) Enforcement Easements. Each owner hereby grants to the Association a non-exclusive easement for ingress and egress over the Common Areas and over the owner's Parcel, to enter upon the same at reasonable times to enforce the provisions of this Declaration, and the same shall not constitute a trespass.

(d) Emergency Right of Entry. The Association shall have the right, but not the obligation, to enter into any Parcel for emergency and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws, and the Association rules, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. No such entry shall be deemed a trespass or other offense. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Parcel to cure any condition which may increase the

possibility of a fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

(e) Easement for Encroachment and Overhang. There shall be a reciprocal appurtenant easement for encroachment and overhang between adjacent Lots. Such easement shall be for roof overhangs, and other improvements which were unintentionally placed or have settled or shifted. The easement shall be for a distance of not more than five (5) feet, as measured from any point on the common boundary between the adjacent Lots, along a line perpendicular to such boundary at such point. In no event shall an easement for encroachment of anything other than an overhang exist if such encroachment occurred due to willful conduct on the part of an Owner.

(f) Easement for Lake Maintenance. Declarant hereby grants to the Association, and its successors and assigns, a perpetual, non-exclusive easement for maintenance of lakes it is charged with maintaining upon, across, over and under any Property located, as shown on any plat of any portion of the Property, from the top of the bank of a lake or canal for ingress, egress and access to such lake or canal located within or adjacent to the Property; provided, however, the exercise of this easement shall not unreasonably interfere with the use of any Parcel. If such easement is not shown on a plat, then such easement shall be deemed to extend from the lake control elevation of a lake twenty (20') feet landward. No structure of any kind shall be constructed or maintained in this easement area unless approved by the Declarant.

(g) Additional Easements. The Declarant and the Board of Directors shall have the right to execute, without further authorization, such grants of easement or other instruments as may from time to time be desirable for the development of the Property.

4.05 Members' Common Area Easements

(a) Subject to the provisions of the Governing Documents and any prior use rights granted in the Association Common Areas, every Owner, their successors and assigns, their family members and every guest, tenant, and invitee of such Owner is hereby granted a right and non-exclusive easement of ingress and egress and enjoyment in and to the Common Areas owned by the Association subject to the following provisions:

(i) The right of the Association to charge admission and other fees for the use and security of the Common Areas;

(ii) The right of the Declarant and/or the Association, without further consent from the Members or their Mortgagees, to declare, grant and record perpetual easements granting the full free right, power and authority to lay, operate and maintain landscaping, drainage water lines, storm sewers, gas and electric lines, communication lines, cable television lines, and such other further service facilities or other uses as Declarant may deem necessary, along, through, in, over and under a strip of land up to ten (10) feet in width from all side, front and rear lines of any Parcel and along, through, in, over and under all Common Areas. Such easements may benefit Properties within Ibis Cove or Properties not within Ibis Cove. Further, the Declarant and/or the Association shall have the right to acquire, extend, terminate or abandon such easements;

(iii) The right of the Declarant, and all Persons lawfully on and entitled to occupancy rights on any property within Ibis Cove and Members with an interest in and to property within

Ibis Cove, to have a non-exclusive perpetual right of ingress and egress over and across lands owned by the Association subject to this Declaration and the other Governing Documents:

(iv) The right of the Declarant and/or the Association to ingress and egress over and across all Properties for the purpose of maintaining the conservation lands and conservation buffer zone;

(v) The right of the Declarant and/or the Association to access over and across all Common Areas, lakes, conservation lands and conservation buffer zone for the purpose of fulfilling all rights or obligations required by various permits issued to Declarant and/or Association by governmental authorities;

(vi) The right of the Association to borrow money for the purpose of acquiring or improving the Association Common Areas; provided, however, no real estate comprising Association Common Area may be mortgaged as security for any loan without the consent of two-thirds of all votes of the Members;

(vii) The right to take such steps as are reasonably necessary to protect the Association Common Areas against foreclosure; and

(viii) The right of Declarant or the Association to convey any unused and/or unneeded surplus Common area lands to owners of Parcels, including Declarant, or to convert any Common Areas to Parcels in Ibis Cove without consideration of any kind to the Association. The Declarant, in its sole discretion, shall determine what parts of Common Areas are to be considered unused and/or unneeded surplus lands

(b) So long as the Declarant owns a Parcel or any land in Ibis Cove that it holds for the purpose of development or sale, any and all rights of a Member of the Association and any and all restrictions, limitations, conditions and Rules and Regulations that a Member shall be subject to pursuant to this Article III, shall be subject to, and shall not be effective without, the written approval of the Declarant.

4.06 Delegation Of Right to Use Common Areas.

(a) A Member may delegate its right of use in and to the Association Common Areas to the members of its family, to residential tenants who reside in a Structure on the Member's Parcel and to the Member's guests, but only to the extent and subject to conditions, limitations and restrictions as may be provided for, and in accordance with, the Governing Documents.

(b) Each Member shall be responsible for the actions of any Person to whom the Member has delegated its right to use the Association Common Areas. Any unpaid charge against such Person shall be charged against such Member personally, and against such Member's Parcel. Any unpaid charge against such Person relating to the Association Common Areas, shall be charged against such Member personally and shall be assessed against such Member's Parcel. Any infraction of the Association's Rules and Regulations by such Person shall be deemed to be an infraction by such Member.

4.07 Changes in Common Areas Use or Boundaries. Declarant shall have the right, by an amendment or Supplement executed by Declarant alone, without the consent of the Association or the Owners, to take such action as may be required to relocate portions of, change the use or extent of use, or modify the boundaries of any of the Common Area or any Parcel of which Declarant is the Owner.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

5.01 "Members" shall mean and refer to those Persons or entities who are entitled to Membership in the Association as provided for in the Governing Documents. The two (2) classes of Membership are:

(a) "Class A" Membership. A Class A Member shall be an Owner of a Parcel located within Ibis Cove.

(b) "Class B" Membership. The only Class B Member shall be the Declarant and its successors and/or assigns. Declarant reserves the right to create additional classes of memberships from time to time as Declarant elects.

5.02 Membership

(c) Two (2) Classes of Membership are hereby established which are subject by this Declaration and the other Governing Documents to the jurisdiction and powers of the Association, and particularly to the Assessment and Assessment lien powers of the Association.

(d) The spouse of a Member, and all related children living in the home of a Member under the age of twenty-four (24), shall have the right to use of the Membership and shall enjoy all of the rights and privileges of a Member. The name of the spouse and of any such related children eligible for membership rights and privileges must be so noted on the Member's Application for Membership. If any change occurs in a Member's marital status or the status of related children living in the home, the Association must be so notified and the Member's Application for Membership revised accordingly. In the event of any dispute, the Member's Application for Membership as amended will be used for clarification and the Board's determination thereof shall be final.

(e) No Member may dispose of a Parcel or any interest in a Parcel by sale without approval of the Association. If any Person acquires title by devise, inheritance or gift, said Person's right to occupy or use the Parcel shall be subject to the approval of the Association. The approval of the Association shall not be denied to any heir or devisee who was the prior Member's lawful spouse at the time of his death. In the case of sales or gifts, the Member shall give the Association notice of such intention to sell or gift the Parcel, together with the name, address and telephone number of the intended purchaser or donee, and such other information as the Association may reasonably require. Any Person who has acquired title by devise or inheritance, or by any other manner not previously referred to herein, shall give the Association notice of the acquiring of title, together with such other information as the Association may reasonably require. If the proposed sale or gift is approved by the Association, or if the devise or inheritance is approved by the Association, said approval shall be stated in a certificate executed by an officer or director of the Association, which approval shall be recorded by the Persons so acquiring title. If approval is denied, then the Member shall not be entitled to sell the Parcel to the proposed purchaser or donee; and in the case of a devise or inheritance wherein approval has been denied, said heir or devisee shall use their best efforts to resell said Parcel to a Person who does meet with the reasonable approval of the Association.

(f) Membership shall not be denied anyone on the basis of race, sex, creed, ethnic background or national origin.

ARTICLE VI VOTING RIGHTS AND MEMBERSHIP

6.01 Voting Rights. The Association shall have two (2) classes of voting Membership

which are Class A and Class B. The Declarant reserves the right to amend the Governing Documents to create and define such additional classes of Membership, and modify existing classes Of memberships in a non-material fashion, as the Declarant, in its sole discretion, should so elect.

(a) Class A Membership. The Class A Member shall be an owner of a parcel with the exception of the Declarant for so long as Declarant is a Class B Member. All Owners shall be Class A Members. No Class A Member shall have a vote in Association affairs for so long as the Declarant is the sole voting Member as a result of its Class B Membership. After the Declarant is no longer the sole voting Member of the Association, each Class A Member shall be entitled to one (1) vote for each Parcel owned by it as defined in the Declaration. When more than one (1) Person or entity holds an interest in any Parcel, said Persons or entities shall decide among themselves and advise the Association, in writing, which shall be the sole Member, and only such Person shall qualify for Membership or continuation of Membership. In no event shall more than one (1) vote be cast with respect to any one Parcel owned by a Class A Member.

(b) Class B Membership. The Class B Member shall be the Declarant, and it shall be the sole voting Member of the Association until the occurrence of one of the following events: (i) it no longer owns a Parcel or any land in Ibis Cove that it holds for development or, sale; or (ii) delivery by it to the Association of written notice that the Declarant irrevocably terminates and cancels its Class B Membership; or (iii) by law, it must surrender control of the Association. In the event of termination by the Declarant, as outlined in (ii) or (iii) above, Declarant shall become a Class A Member as to each Parcel owned by Declarant and shall be entitled to Membership privileges in accordance with this Declaration.

(c) One Vote Per Property Unit. An Owner of a Parcel shall be entitled to one (1) vote for each Parcel owned.

(d) Joint Ownership, Corporations, Voting. Voting rights may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. In any situation where more than one person holds an interest in a Parcel, the vote for the respective Parcel shall be exercised by any such person; provided, however, the persons holding the interest in the Parcel can notify the secretary of the Association, in writing, prior to or during any meeting of the manner in which the vote is to be exercised, and in the absence of such notice, the Parcel's vote shall be suspended if more than one person seeks to exercise it. The voting rights of a Member that is a corporation, partnership or other entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the secretary, subject to the laws of the State of Florida.

6.03 Turnover. The Declarant shall determine, in its sole and absolute discretion, the time of Turnover, provided, however, that if Turnover has not sooner occurred, it shall occur three (3) months after ninety percent (90%) of the Lots in all phases of the community have been conveyed to Owners, or at such later time as may then be allowed by law. The Association shall give notice to all Owners of a Turnover meeting, which meeting shall be held not more sixty (60) days after giving such notice. The purpose of the Turnover meeting shall be to elect a new the Board of Directors, as well as such other business as shall properly come before the meeting. The Developer is entitled to elect at least one (1) member of the Board of Directors, as long as the Developer holds for sale, in the ordinary course of business, at least five percent (5%) of the Lots in all phases of the community.

6.04 Amendment. This Article may not be amended without the express written consent of the Declarant.

ARTICLE VII MAINTENANCE

7.01 Association's Responsibility. The Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall be responsible for the management, operation, maintenance and control of the Common Areas and Water Management Systems. The foregoing obligations include, but are not limited to, the following:

- (a) Maintenance, repair, and replacement of landscaping, perimeter walls and entry features on Common Areas.
- (b) Common Areas recreation facilities maintenance, repair and replacement.
- (c) Maintenance, repair and replacement of any improvements located within Common Areas.
- (d) Maintenance, repair and replacement of all drainage and irrigation facilities and of the Water Management System (unless said responsibilities have been transferred to a governing agency having jurisdiction thereof, which has assumed all maintenance responsibilities).
- (e) Maintenance, repair and replacement of all Streets and any and all other improvements located within the Common Area.
- (f) The Association, through its Board of Directors, shall have the right but not the obligation to elect to maintain, repair and replace all or some portion of the Lots (yards) within the Project as a common expense of the Association.

7.02 Entry Rights and Liability. The Association shall have the right, but not the obligation, for itself, its designee, or any agent or employee, to enter upon any Parcel to carry out the provisions of this Declaration and same shall not constitute a trespass. The Association shall not be liable for any action taken under this Section and each Owner of a Parcel agrees for itself and its family members to hold the Association harmless from any action undertaken pursuant to this Section.

7.03 Owners's Responsibility. Except for those maintenance duties which the Association has expressly agreed to assume, each Owner shall maintain his or her Parcel in good repair and in a neat and attractive condition in accordance with the Community Wide Standards and the Governing Documents. No Owner shall take any action which (a) increases the maintenance responsibility of the Association, (b) causes the Association's insurance premiums to increase, or interferes with the Association's maintenance or operational responsibilities. If any Owner fails to perform his or her maintenance responsibility in accordance with this Section, the Association may perform it and assess all costs incurred against the Parcel, and further assess the Owner thereof as an Individual Assessment. Prior to entry, the Association shall afford the Owner reasonable notice and an opportunity to remedy the situation, except when entry is required due to an emergency.

7.04 Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines which shall constitute a lien upon the Owner's Parcel, and suspension of the right to use any recreational facilities on the Common Areas, and exclusion from the Property of any contractor, subcontractor, agent or other invitee who fails to comply with the provisions of such rules and regulations. The Board shall, in addition, have the power to seek relief in any court for violations or to abate unreasonable disturbances. Imposition of sanctions shall be subject to the procedures for disciplinary action provided in the By-Laws of the Association. Fines shall constitute Individual Assessments subject to the lien rights provided in this Declaration.

7.05 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

7.08 Irrigation. If permitted by Declarant, the Association may act as a water provider with respect to providing irrigation services to all or some portions of the Property at rates to be set by the Association. The Association reserves the right to determine that the costs of providing and maintaining such services shall not be an Association Expense, but shall be billed on an individual basis as an Individual Assessment to the Owners of such portions of the Property which are provided the irrigation service. If determined by the Association to be in the best interests of Ibis Cove, the costs shall not be billed as an Individual Assessment, but rather, the costs of providing and maintaining such services shall instead be an Association Expense and paid as such by all Owners, regardless of any individual benefit received. EACH OWNER ACKNOWLEDGES THAT ANY WATER PROVIDED FOR IRRIGATION PURPOSES MAY BE UNTREATED WATER OR TREATED EFFLUENT. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE RESPONSIBLE FOR THE QUALITY OF WATER PROVIDED FOR SUCH IRRIGATION PURPOSES. ANY USE OF SUCH WATER SHALL BE AT THE USER'S OWN RISK.

ARTICLE VIII INSURANCE AND CASUALTY LOSSES

8.01 Insurance. The Board of Directors, or its duly authorized agent, shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Areas, if any, and at the election of the Board of Directors, upon any other property or improvements maintained by the Association. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Areas, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The liability limits shall be as established by the Board from time to time.

The Board may also obtain such other insurance policies as it deems appropriate, including, without limitation, Directors and Officers liability insurance and fidelity coverage.

8.02 Duty to Maintain Fidelity Insurance. Following Turnover, the Association shall, to the extent available at a reasonable cost, and as may be required by law, obtain fidelity bonds to protect against dishonest acts on the part of its officers, directors, employees and agents and on the part of all others who handle or are responsible for handling the funds of, or funds administered by, the Association. In addition, if responsibility for handling funds is delegated to a manager, such bonds shall be required for the manager and its officers, employees, and agents. Such fidelity coverage shall name the Association as an obligee and shall be written in an amount equal to at least one hundred percent (100%) of the estimated annual operating expenses of the Association, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.

8.03 Duty to Maintain Officers' and Directors' Personal Liability Insurance. The Board may, in its sole and absolute discretion, purchase officers' and directors' personal liability insurance at the expense of the

Association to protect the officers, directors and the Committee members and all other committee members from personal liability in relation to their duties and responsibilities on behalf of the Association.

8.04 Duty to Maintain Workers' Compensation Insurance. The Association shall obtain workers' compensation or similar insurance with respect to its employees, if any, in the amounts as may now or hereafter be required by law.

8.05 Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to its responsibilities and duties.

8.06 Individual Insurance. By virtue of taking title to a Parcel, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on their Parcel, and name the Association as a loss payee thereon to the extent permitted by law. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of his Residence, the Owner shall remove all debris within sixty (60) days and complete repair or reconstruction of the damaged structure within one (1) year. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that a Residence is totally destroyed, the Owner may decide not to rebuild or not to reconstruct, in which case the Owner shall clear the Parcel of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. Thereafter, the Association shall continue to maintain the Parcel in a neat and attractive condition.

8.07 Damage and Destruction.

(a) Filing Claims. Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. The Board shall have the exclusive power and authority to adjust losses under policies obtained by the Association; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, relating thereto. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to the Common Areas shall be repaired or reconstructed unless (i) the Class B Member (so long as it exists); and thereafter (ii) at least seventy-five percent (75%) of the total votes eligible to be cast by the Class A Members shall decide within sixty (60) days after the casualty not to repair or reconstruct, if for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Institutional Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Areas shall be repaired or reconstructed. In the event that it should be determined in the manner described above that the damage or destruction to the Common Areas shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected premises shall be restored to their natural state and maintained by the Association in a neat and attractive condition.

8.08 Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required

for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Areas or, if no repair or reconstruction is made, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

8.09 Insufficient Proceeds. If the damage or destruction to the Common Areas for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against Members on the same basis as provided for Regular Assessments. Additional Special Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE IX ASSOCIATION ASSESSMENT AND LIEN RIGHTS

9.01 Determination Of Lots Subject To Assessment. All Parcels within Ibis Cove, except those owned by Declarant for so long as Declarant is a Class B Member, shall be subject to the Assessment and lien rights of the Association, upon platting of such Parcels and amendment whereby such platted lots are added to the Declaration by instruments recorded in the Public Records of Collier County, Florida, or of any other applicable County in the State of Florida.

9.02 Association Functions. As more fully described in the Articles of Incorporation, the purpose of the Association shall be to operate the Association, to exercise its right to enforce the covenants and restrictions contained within this Declaration, and to operate and maintain the Association Common Areas in an attractive and proper manner and to assess its Members for the expense of such operation and maintenance.

9.03 Assessments

(a) The Association shall have the power to make and collect Assessments against Members to defray the costs, expenses and losses of the Properties owned, leased, operated or maintained by the Association, including but not limited to the conservation lands, and the conservation buffer zone. The Assessments levied by the Association shall be used exclusively for the purposes set forth in the Governing Documents. The Board of Directors of the Association shall have the authority to consider current maintenance costs and needs of the Association and to affix annual Regular Assessments for such costs to be paid by the Members of the Association. Each Member hereby covenants and agrees to pay to the Association: (i) Regular Assessments, dues, or charges, (ii) Special Assessments for capital improvements or other purposes, all as may be fixed, established, and collected from time to time by the Board of Directors of the Association, (iii) any Special Assessment made against a Member to maintain a conservation buffer zone within said Member's Parcel, and (iv) Individual Assessments. The Regular, Special and Individual Assessments, together with interest thereon, and costs of collection, including attorneys' fees and costs, shall be a charge on each Parcel owned by a Member and shall be a continuing lien upon the Parcel against which such Assessment is made. Each such Assessment, together with interest thereon, and costs of collection, including attorneys' fees and costs, as hereinafter provided, shall also be the personal obligation of the Person who is the Member at the time the Assessment fell due. Each Member is personally covenanting and agreeing to pay any such obligation, coming due prior to or during the time of its Membership in the Association and such personal obligations shall survive any conveyance of a Parcel.

(b) In addition to the Regular Assessments, the Association may levy, in any Assessment year, one or more Special Assessments applicable to that year for the purpose of defraying any deficiency of funds needed to operate the services and operations of the Association, including but not limited to, for the purposes of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement

of a capital improvement upon the Properties; for deficits in the event that casualty insurance is insufficient to repair or replace Common Areas; or to make up a deficiency in the operating budget of the Association.

(c) For that portion of an Assessment which relates to the functions of the Association the share of each Class A Member of the Association of the total Assessment shall be a fraction, the numerator of which is 1.00 and the denominator of which is the total number of Parcels then subject to Assessment. If Declarant determines that a Parcel is to be increased by adding a portion of another Parcel, then Declarant, at the time of sale, shall make a final and binding determination of what amount in excess of one (1) that such Parcel shall constitute with regard to the charging of Assessments.

(d) Regular Assessments based on the adopted budget shall be paid in quarterly installments, in advance, due on the first day of January, April, July and October for that portion of an Assessment which relates to the functions of the Association. Notwithstanding the foregoing, the Board reserves the right to change all Assessments to a lump sum annual payment if the Association, in its sole discretion, believes it to be appropriate. Special Assessments may be imposed at any time and shall be payable in the manner required by the Association.

(e) All monetary fines against any Member pursuant to the Governing Documents, or any expense of the Association which is the obligation of a Member or which is incurred by the Association on behalf of the Member pursuant to the Governing Documents, shall be an Individual Assessment and shall become a lien upon such Members' Parcel. Notice of the amount and due date of such Individual Assessment shall be sent to the Member subject to such assessment at the discretion of the Association Board of Directors.

(f) The purpose, exemption from, and non-payment of Regular, Individual and Special Assessments, and the establishment of annual budgets, shall be as set forth in the Governing Documents.

(g) The failure or delay of the Board to prepare or adopt the annual budget for any fiscal year shall not constitute a waiver or release in any manner of the Member's obligation to pay any Assessment as herein provided, whenever the same shall be determined. In the absence of an annual budget, each Member shall continue to pay the Assessment as established for the previous year.

9.04 Declarant's Duties And Obligations.

(a) For so long as Declarant is the Class B Member, the Declarant will pay for any Assessment year the actual expenses, which were properly incurred by the Association during that year, in excess of the sums received by the Association from the Members other than Declarant.

(b) A Parcel owned by the Declarant shall not be subject to Assessment for so long as Declarant is a Class B Member.

(c) Declarant's duties and obligations as set forth herein shall be further subject to the conditions, restrictions and other limitations and any procedures for billing and payment as set forth in the Association's By-Laws.

9.05 Assessment And Other Liens

(a) If any Member fails to pay any Assessment, or make any other payment herein required to be paid to the Association, within thirty (30) days of the date of invoice by the Association, then the Association is hereby granted a lien on the Class A Member's Parcel and shall have the right to record a Claim

of Lien encumbering such Member's Parcel. Any lien so recorded encumbering a Member's Parcel shall secure all sums then due, and all sums coming due thereafter, up to the date of the satisfaction or other discharge of the Claim of Lien hereinafter mentioned, together with interest at the highest permitted lawful rate under the laws of the State of Florida from the date of delinquency and all costs of collection, including attorneys' fees and costs, which includes those resulting from appellate proceedings, which may be incurred by the Association in enforcing this lien and the cost of performing any other work required to enforce compliance with this Article.

(b) The lien herein granted shall be effective from and after the date of recording of a Claim of Lien in the Public Records of Collier County, Florida, which Claim of Lien shall state the description of the property encumbered thereby, the name of the owner, the amount then due and the date when due. A lien shall continue in effect until all sums secured by said lien, as herein provided, shall have been fully paid and the lien satisfied or discharged.

(c) The Association may bring any action at law against a Member to pay its personal obligations to the Association, and it may foreclose the lien against a Member's Parcel. A Member against whom any such proceeding is successfully brought shall pay all costs of collection including all attorneys' fees and costs, which includes those resulting from appellate and bankruptcy proceedings.

(d) No Member may waive or otherwise avoid liability for the payments provided for herein by non-use or abandonment of the Member's interest.

9.06 Reserve Budget. The Board of Directors may, but is not obligated to, annually prepare a reserve budget to take into account the number and nature of replaceable assets, owned, controlled or maintained by the Association, the expected life of each such asset, and the expected repair or replacement cost thereof, in no event shall Declarant have any obligation to pay any monies for reserves, and Declarant's Parcels shall never be assessed for the same.

9.07 Date of Commencement of Assessments. The obligation to pay the Assessments provided for herein shall commence as to each Parcel on the day the initial Owner acquires title to the Parcel from the Declarant.

9.08 Statement of Status of Assessments. Upon ten (10) days' written notice to the Treasurer of the Association or the manager and payment of any processing fee set by the Association from time to time, any Owner or Institutional Mortgagee of a Parcel may request confirmation from the Association setting forth:

(a) The amount of any unpaid Assessments (whether Regular, Special, or Individual), interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Parcel or Golf Membership;

(b) The amount of the current periodic installments of the Regular Assessment and the date through which they are paid; and

(c) Any other information deemed proper by the Association.

The information contained in such statement, when signed by an officer of the Association, shall be conclusive upon the Association as to the person or persons to whom such statement is issued and who rely on it in good faith.

Prior to the issuance of such a statement, the Association may request the name of any proposed transferee of the Parcel and the scheduled transfer or closing date, so as to permit the records of the Association to accurately identify Members.

9.9 Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Assessments:

(a) Common Areas;

(b) All property (if any) dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks, if any.

9.11 Working Capital Contribution. A working capital contribution in such amounts as the Board may from time to time determine per Parcel shall be collected by the Association at the time of the transfer of title of any Parcel to the purchaser thereof, or in such amount as the Board of Directors may hereafter elect from time to time. This contribution may be used by the Board for any purpose it deems necessary or appropriate including the funding of the day-to-day operational expenses of the Association or the acquisition of additional equipment and/or services. Amounts paid into this fund are not Assessments and shall not be considered as an advance payment of Assessments, nor a reserve. In the event the Board determines that it does not have sufficient working capital to operate the Association the Board may, if it so elects, borrow money from Declarant in such amounts and upon such commercially reasonable terms as it deems appropriate, to be repaid to Declarant in accordance with the terms of the subject loan.

9.12 Management Company. The Association shall have the right to retain a management company or companies or contractors (any of which management companies or contractors may be, but are not required to be, a subsidiary, affiliate, or an otherwise related entity of Declarant) to assist in the operation of the Property.

9.13 Non-Waiver. No Owner may waive or otherwise exempt itself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of the Common Areas, or by abandonment of the Parcel. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required or to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

9.14 Indemnification. Subsequent to Turnover, the Association covenants and agrees that it shall indemnify, defend and hold harmless Declarant, and any related corporations, including, but not limited to, parent corporations and their employees, from and against any and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life and/or damage to property sustained on or about Common Areas or any other property controlled by the Association or other property serving the Association, or resulting or arising out of the operation of the Association and improvements thereof and thereon or resulting from or arising out of activities or operation of the Association, even if caused by Declarant's negligence, except for matters involving Declarant's own gross negligence. Such indemnification shall include, but not be limited to: (1) all costs, expenses, counsel fees (including, but not limited to, all investigative, trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred by Declarant arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments and/or decrees which

may be entered thereon, and (ii) costs, expenses, and attorney's fees which the Declarant may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions, covenants and restrictions contained in this Declaration to be kept and performed by the Association and/or the Owners, including the payment of Association Expenses or Expenses. The costs and expense of fulfilling this covenant of indemnification shall be an Association Expense, provided that the amount of any Assessment arising therefrom shall be in addition to, and not part of, the Regular Assessment prior to Turnover.

ARTICLE X USE RESTRICTIONS

All Parcels shall be used only for residential purposes as permitted by applicable law, and in accordance with the Governing Documents. The Association may add to, delete or modify these use restrictions pursuant to an amendment to this Declaration, or any rules and regulations. The following use restrictions shall be applicable to all Parcels, unless any Supplemental Declaration otherwise provides:

10.01 Partition. No part of a Parcel or Common Area may be partitioned or separated from any other part thereof except as provided herein. Whether partitioned, combined, or unchanged, each Parcel shall be conveyed, transferred, gifted, devised, bequeathed, encumbered, or otherwise disposed of, as the case may be, with all appurtenant rights, obligations and interests created by law or by this Declaration, including the Owner's membership in the Association, and the liability for all Assessments. No Parcel may be subdivided into two (2) or more Parcels and no Parcel may be combined with one (1) or more additional Parcels to form one (1) or more Parcels without the written consent of the Board of Directors and after full compliance with all zoning and subdivision regulations.

10.02 Compliance With Insurance Requirements. It shall be the responsibility of the individual Owners, and at their expense, to make arrangements in regard to hazard insurance on their own improvements, personal property and furnishings, and for public liability insurance covering their Parcel. In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Parcel as such Owner concludes to be desirable.

10.03 Abandoned, Inoperable, Commercial, Oversized and Other Vehicles. Abandoned or inoperable automobiles or oversized vehicles of any kind shall not be stored or parked on any portion of the Property. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of two (2) weeks or longer; provided, however, this shall not include vehicles parked in an enclosed garage or operable vehicles left on the Parcel by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner. "Oversized" vehicles, for purposes of this Section, shall be vehicles which are too high to clear the entrance to a residential garage.

No commercial vehicles, or campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, house trailers, golf carts or vans shall be permitted to be parked or to be stored on any portion of the Property except within enclosed garages or areas, if any, designated by the Association for that purpose. For the purpose of this Section, "commercial vehicles" shall mean those which are not designed and used for customary personal/family purposes. The

absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained above in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services. No parking on lawns shall be permitted.

No other vehicle shall be parked anywhere but on paved areas intended for that purpose, garages, or as approved by the Association for construction purposes. Owners shall park their vehicles overnight in their garages. No more than two vehicles which are used for customary and family purposes may be parked in a driveway overnight without the written consent of the Association.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind.

All garage doors shall be kept closed at all times except when needed to be left open for ingress and egress to the garage.

10.04 Trash. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles shall be screened from the public view and from the wind and protected from animal and other disturbances.

10.05 Construction Regulations. All Owners and their contractors shall comply with the construction regulations of the Association Standards, if any, and with any construction regulations adopted, from time to time, by Declarant, the Committee or the Board. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; permissible times of access and construction; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors, Owners and their representatives within the Property at any time; the conservation of landscape materials; and fire protection.

10.06 Compliance with Laws. Subject to the rights of reasonable contest, each Owner shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations.

10.07 Annoying Lights, Sounds, or Odors. No light, sound or odor shall be emitted from any Parcel which is obnoxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices or lights, other than devices used exclusively for security, fire prevention or fire control purposes, shall be permitted.

10.08 Pools. No above-ground pools shall be erected, constructed or installed on any Parcel.

10.09 Fences.

(a) No dog runs, animal pen or fences of any kind will be permitted on any Parcel except as approved by the Board of Directors.

(b) Where walls and fences are approved, the same shall not unreasonably block lake

or natural preserve views of adjacent Parcels. The decision regarding what is an unreasonable obstruction of such a view shall be made by Declarant, in its sole discretion. If a wall or fence is approved, it shall be located in a manner to limit the area enclosed to that necessary to afford privacy or for landscaping accents or for common signage. No wall or fence shall be constructed with a height of more than six (6) feet above the existing ground level of adjoining property unless specifically approved. No wall or fence shall be constructed on a property line or within any utility easement unless specifically approved by Declarant. Any Parcel on which a wall or fence has been constructed shall have and maintain a landscape buffer between the wall or fence and the adjacent property line.

(c) A wall, fence or enclosure shall only be constructed of materials and with a design and color as approved by the Construction Committee. No chain link fencing shall be allowed unless specifically approved for good cause and with adequate landscape screening.

10.10 Playground and Basketball Equipment. No jungle gyms, swing sets or other playground equipment including, but not limited to, basketball hoops and backboards shall be permitted on any Parcel, without the express written consent of the Association.

10.11 Lake/Canal/Drainage Area Use.

(a) No boats may be used upon the water bodies adjacent to or within the Property except by authorized personnel for proper maintenance and related purposes. Use of any water bodies may be subject to rules and regulations promulgated by the Board. Swimming or wading is not allowed and is strictly at one's own risk. Feeding alligators is prohibited.

(b) The Board may adopt regulations prohibiting or restricting activities in reasonably close proximity to any water bodies which may, in the Board's judgment, pose a threat of pollution. Among other activities, the Board may so regulate landscape fertilizing, pest control, the washing of vehicles, and other activities which may result in the contamination of and the flow of sediments into the water bodies.

(c) Lake, canal or drainage area water is not to be used for landscape irrigation, household uses, or other uses except as authorized purposes by Declarant, but subject to regulation by applicable governmental authorities.

(d) No structure of any kind shall be constructed or erected, nor shall any Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water, in any portion of any water body reserved for, or intended by Declarant to be reserved for, drainage ways, sluiceway or for the accumulation of runoff waters, as reflected in any plat, this Declaration, any Supplement or other instrument of record, without the specific written permission of Declarant.

(e) No Owner shall in any way deny or prevent ingress and egress to such water bodies for maintenance or landscape purposes by Declarant, the Association or any appropriate governmental agency that may reasonably require any right of ingress and egress, and easements therefore are hereby specifically reserved and created, as described in this Declaration.

(f) No Parcel shall be increased in size by filling in any water or retention or drainage areas on which it abuts without Declarant's express written approval. No Owner shall fill, dike, rip-rap, block, divert or change the established water or retention or drainage areas that have been or may be created by easement or by plat without the prior written consent of Declarant, which consent may be withheld in Declarant's sole discretion.

10.12 Antennas and Electronic Devices. Except as may be specifically permitted by law in effect as of the date of recording of this Declaration (and in such event, only to the extent permitted by such law), and so long as the same does not imperil the safety of Owners (as determined by the Board), no outside antennas, antenna poles, antenna masts, electronic devices, satellite dishes or antenna towers shall be permitted. If such device is permitted by such law(s), adequate screening shall be submitted for approval prior to installation. Placement of the aforesaid items within any screened enclosure on the Parcel shall be permitted so long as there is appropriate landscaping and/or other screening. The decision of what constitutes adequate landscaping and/or screening shall be made by Declarant, whose decision shall be final.

10.13 Pets and Animals. Commonly accepted household pets such as dogs, cats or birds may be kept on any Parcel. All animals shall be leashed while outdoors, and contained within the Owner's residence and shall not be permitted to roam freely. Any Owner whose pet defecates on any Common Areas or any Parcel shall immediately clean up the pet's waste. Pets may not be left unattended or leashed on porches, lanai, patios, on Common Areas, outside, or in garages. In the event that any pet shall, in the opinion of the Board of Directors, constitute a nuisance, the Owner shall remove said pet from the premises within two (2) days of the Board of Directors' notifying the Owner. Failure of an Owner to do so shall entitle the Association to obtain an order from a court of competent jurisdiction enforcing the decision of the Board of Directors. All costs incurred by the Association incident to all such actions, including reasonable attorneys fees, shall be recoverable against the offending Owner as an individual Assessment or otherwise. Failure to abide by the restrictions may result in a fine being levied by the Association. No horses, cows, hogs, pigs, swine, goats, chickens, pigeons or any other such animal, fowl or reptile shall be kept on any of the Property.

10.14 Factory-Built or Existing Structures. No structure of any kind of what is commonly known as "factory-built", "modular", or "mobile home" type construction shall be erected without the prior written permission of Declarant.

10.15 Landscaping: Sprinkler Systems. All areas not covered by structures, walkways or paved parking facilities shall be maintained as lawn or landscaped areas to the pavement edge of any abutting streets and to the water line of any abutting lakes, canals or water management areas. No stone, gravel, or paving of any type shall be used as a substitute for grass in a lawn. Certain areas as determined by the Declarant may remain in a natural or unimproved state. All lawns and landscaping shall be completed at the time of completion of the structure as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Association. The Association reserves the right to install a community wide irrigation system, and in that event, the cost of the same shall be assessed as an Association Expense.

10.16 Sidewalks. Declarant may construct sidewalks in Ibis Cove. Driveway cuts may be made in sidewalks or curbs, provided that the cuts and the construction of the driveways must be done in accordance with plans and specifications approved by Declarant. The Owner of a Parcel shall be liable to the Association for all damage done to sidewalks, landscaping, utility lines, streets and roads, signs, and Common Areas and any and all improvements located thereon by construction of a residence on the Owner's Parcel. The Owner of such Parcel shall repair any such damage to the satisfaction of the Association and the Association may make such repairs at the expense of the Owner. Such expense until paid shall constitute an Individual Assessment against the Owner and the Owner's Parcel.

10.17 Nuisance. No obnoxious or offensive activity or nuisance shall be carried on or be permitted to exist within Ibis Cove nor shall anything be done or permitted which is or may become offensive or detrimental or cause a disturbance or annoyance to any other Parcel or its occupants.

10.18 Leasing. The Owner of a Parcel shall have the right to lease such Parcel subject to the conditions and the terms of the Association's rules and regulations, and further subject to the following:

- (a) All leases shall be in writing, be in acceptable in form to the Association and shall be submitted to the Board of the Association not less than twenty (20) days prior to occupancy;
 - (b) No lease shall be for less than sixty (60) days in duration and a unit shall not be rented more than two (2) times in any calendar year;
 - (c) The lease shall be specifically subject to the Governing Documents and any failure of the tenant to comply with the Governing Documents shall be a default under the lease; and
 - (d) The Owner shall be liable for all losses and any violation of the Governing Documents committed by such Owner's tenant, without prejudice to such Owner's right to collect any sums paid from the tenant.
 - (e) All lessees must meet with the reasonable approval of the Association.
- The Association shall have the right to request an application be filed by the prospective lessee with the Association, for the Association's use in approving of the lessee.

10.19 Hazardous Materials. Each Owner shall comply with all federal, state and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, wastes and materials (collectively, the "Hazardous Materials"). No Owner or his tenants, guests, invites, or permeates shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about his or her Parcel any Hazardous Materials except in compliance with the Environmental Laws.

10.20 Signs. No sign or advertisement of any kind, including, without limitation, those of real estate brokers, contractors and subcontractors, shall be erected on any Parcel unless the same complies with the standards and guidelines established pursuant to the Declaration and has been approved by the Association, except as may be required by legal proceedings. The Association reserves the right to restrict the size, color, lettering, height, material and location of signs. The Association shall have the right to remove signs which fail to comply with standards set by the Association and upon prior approval of the Association may set more stringent sign requirements for the Parcels. Nothing herein shall prohibit Declarant from installing any signs for purposes of developing, selling or leasing all or any portion of the Property.

10.21 Wells, Laundry Lines and Commercial Offices. Private wells are strictly prohibited. No laundry lines or poles shall be permitted except for those which are retractable, and which shall remain retracted except when in use. Permitted exterior laundry lines and poles, shall be located only as permitted by the Association, and screened by landscaping or other features so as to not be readily seen by others. No Parcel may be used for commercial office purposes.

10.22 Outdoor Equipment. All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment and housing and sprinkler pumps and other such outdoor equipment must be underground or placed in areas so that they shall not be readily visible from adjacent streets, or adequate landscaping used as screening shall be installed around these facilities and maintained by the Owner.

10.23 Air Conditioners. Wall and window air conditioning or heating units shall not be permitted.

10.24 Solar Collectors; Roof Vents. Solar collectors, roof vents and other installations on the roofs of structures shall be permitted only at locations approved in writing by Declarant.

10.25 Walls, Fences, Hedges, etc. No wall, fence, hedge, or other divider shall be constructed with a height of more than six feet above the ground level of any adjoining Parcel or Common Area, and no hedge or shrubbery abutting the Parcel or Common Area lines shall be permitted without the prior written approval of the Declarant. No wall, fence, or hedge shall be constructed on any Parcel or Common Area unless its height, length, type, design, composition, material and location shall have first been approved in writing by Declarant. The height of any wall or fence shall be measured from the property elevations of adjoining developed property. Any dispute as to height, length, type, design, composition or material shall be resolved by Declarant, whose decision shall be final. Approval shall not be given for the construction of any wall, fence or hedge which unreasonably obstructs the water view of any residence.

10.26 Clothes Drying Area. No outdoor clothes drying area shall be allowed unless approved in writing by the Declarant, which approval may later be revoked by the Declarant.

10.27 Maintenance of Premises. No weeds, underbrush, high grass or other unsightly vegetation shall be permitted to grow or remain upon any Parcel and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Parcel. If for any reason an Owner permits such weeds, high grass, underbrush or other unsightly growths and fails to correct same after five (5) days notice by the Association, then the Association shall have the right to enter upon the premises and make such corrections and shall charge the Owner for the cost of the corrections. Said charge, until paid, shall be a lien against the offending Parcel. All lawns, landscaping and sprinkler systems and all structures, improvements and appurtenances shall at all times be kept in good, safe, clean, neat and attractive condition, and all structures shall be maintained in a finished, painted and attractive condition.

10.28 Outside Lighting. Except as may be initially installed by Declarant, no spotlights, floodlights, or similar type high intensity lighting shall be placed or utilized upon any Parcel which in any way will allow light to be reflected on any other Parcel or the improvements thereon without the written authorization of the Declarant. Other types of low intensity lighting which do not unreasonably disturb the Owners or other occupants of the Property may be allowed.

10.29 Correction of Health and Safety Hazards. Any conditions which are deemed by the Association to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association (although under no duty to do so), and the cost thereof shall be charged to the responsible Owner.

10.30 Declarant's Exculpation. Declarant may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without any liability of any nature or kind to any Owner or to any other person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons.

10.31 Business Use. No trade or business may be conducted in or from any Parcel, except that an Owner or occupant residing in a residence may conduct lawful business activities within the residence so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence; (ii) the business activity conforms to all zoning requirements for the Property and

who do not reside in the Property or door-to-door solicitation of other residents of the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (I) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Parcel shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by Declarant or a builder or developer approved by Declarant with respect to its development and sale of the Property or its use of any parcels which Declarant or a builder or developer owns within the Property, or to property designated by Declarant as a sales or other office. As to the this latter area, Declarant or any purchaser of such property shall have the right, subject to applicable governmental ordinances, to use same for office/professional business uses.

10.32 On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Property except that on-site underground storage of heating fuel, stored in a tank which is designated for the type of pool constructed on a Parcel and which meets applicable governmental requirements for swimming pool heaters shall be permitted. Up to five (5) gallons of fuel may be stored on each Parcel for emergency purposes and operating of lawn mowers, barbecue gas grills and similar tools or equipment; provided, however, all such tanks must meet applicable governmental requirements and must be approved as to location and screening from off-site view by the Construction Committee. The foregoing provisions shall not apply to any portion of the Property owned by Declarant or the Association.

10.33 Golf Carts. No golf carts shall be operated within the Property except as expressly permitted by the Association.

10.34 Outdoor Recreational Courts. With the exception of those courts operated by Declarant or the Association, no outdoor recreational courts, including but not limited to tennis, basketball, volleyball and badminton, shall be erected without specific approval of the Construction Committee, which may be conditioned upon adequate screening and buffering of such courts in order to minimize nuisances to adjacent Parcels, as well as a limitation of play to specific time periods during daylight hours. Nighttime illumination of any approved recreational court is prohibited, with the exception of those operated by Declarant, or the Association.

10.35 Insurance Rates. Nothing shall be done or kept in any Parcel or Common Area which will increase the rate of insurance on any property insured by the Association without the approval of the Board, nor shall anything be done or kept in any Parcel or on the Common Area which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

10.36 No Implied Waiver. The failure of Declarant or the Association to object to an Owner's or other person's failure to comply with the covenants or restrictions contained herein, in the Bylaws, or in any rules now or hereafter promulgated shall in no event be deemed a waiver of the provisions of such documents.

10.37 Rules. The Association, through the Board, shall have the right to promulgate and impose rules and thereafter to modify, alter, amend, rescind and augment any of the same with respect to the

(including, but not limited to, establishing reasonable fees for the use of facilities and establishing hours and manner of operation for Common Areas).

10.38 Preservation Areas. No plant or animal life shall be removed from the Preservation Areas by any person other than those qualified persons designated by Declarant.

10.39 Window Coverings. Window tinting as a method of energy conservation is permitted provided that the type and method of tinting is first approved by the Declarant. Reflective or foil window coverings are prohibited. No awnings, canopies or shutters shall be permanently installed on the exterior of any building unless first approved by the Declarant.

ARTICLE XI CONSTRUCTION COMMITTEE

11.01 Membership. There is hereby established a Construction Committee which shall be responsible for the administration of the Association Standards, construction, and modifications to existing improvements. The term "improvements" shall include landscaping. The Committee shall be composed of such number of persons as the Board directs, who need not be Members, and may constitute as few as one person. All of the members of the Committee shall be appointed, removed, and replaced by the Board of Directors.

11.02 Purpose. The Committee shall review, study and either approved or reject proposed alterations to improvements to the Parcels, all in compliance with this Declaration and as further set forth in any rules and regulations and the Association Standards as shall be adopted and established and may be amended from time to time by the Board of Directors. Notwithstanding any provision herein, the Committee shall have no power or authority to review improvements initially constructed on Parcels, or improvements made to existing Parcels, by the Declarant. The Committee shall exercise its best judgment to see that all improvements conform and harmonize with any existing buildings as to external design, quality and type of construction, materials, color, plat plan, height, grade and finished ground elevation, and all aesthetic considerations herein set forth. The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

11.03 Expenses. Except as hereinafter provided, all expenses of the Committee shall be paid by the Association. The Committee shall have the right to charge a reasonable filing fee for each application submitted to it for review, in an amount established by the Committee from time to time, which amount is designed to cover the costs of the Committee. The filing fees shall be collected by the Committee and remitted to the Association to help defray the expenses of the Committee's operation.

11.04 Criteria. The Construction Committee shall prepare and/or on behalf of the Board of Directors, shall promulgate design and development guidelines, performance criteria, and application and review procedures. Copies shall be available from the Construction Committee for review. The guidelines and procedure shall be those of the Association, and the Construction Committee shall have sole and full authority to prepare and to amend them. The Construction Committee shall make the guidelines and procedures available to Owners and builders who seek to engage in development of or construction upon all or any portion of the Property. If the Construction Committee fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within forty-five (45) days after submission thereof, the plans shall be deemed approved. If the Construction Committee disapproves any plans submitted to it, the Owner, builder or developer whose plans have been disapproved shall have the right to appeal the decision by written notice to the Board within fifteen (15) days after the Construction Committee issues its disapproval. The Construction

Committee shall establish, subject to the Board's approval, a procedure for such appeals. The Board's decision on any appeal shall be final.

The Construction Committee shall also promulgate detailed standards and procedures governing modifications, additions or alterations made on or to existing structures located on the Property. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the Construction Committee for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finished grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his residence, or to paint the interior of his residence any color desired; provided, modifications or alterations to the interior of screen porches, patios and similar portions of a residence visible from outside the residence shall be subject to approval hereunder.

11.05 Right to Inspect. Any member of the Construction Committee or their representative shall have the right, during reasonable hours and after reasonable notice, to enter upon any of the Property to inspect for the purposes of ascertaining whether construction is proceeding in accordance with the Declaration and the approved plans of the improvements. Such person or persons shall not be deemed guilty of trespass by reason of such entry.

11.06 Variances. The Committee may authorize variances from compliance with any of the Association Standards and their procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the denial of any permit, or disapproval of the terms of any financing shall not necessarily be considered a hardship warranting a variance.

11.07 Limitation of Liability. Neither the Committee, nor any individual member thereof, shall be liable to any person for any official act of the committee in connection with submitted plans and specifications, except to the extent the Committee or any individual member thereof acted with malice or wrongful intent. Approval by the Committee does not necessarily assure approval by the appropriate governmental board or commission. Notwithstanding that the Committee has approved plans and specifications, neither the Committee nor any of its members shall be responsible or liable to any Owner, or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval or failure to approve. Neither the Board, the Construction Committee or any agent thereof, shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Committee shall be defended and indemnified by the Association in any such suit or proceeding.

11.08 Approval Required. No construction, which term shall include within its definition, but not be limited to, staking, clearing, excavation, grading, and other site work; no exterior alteration or modification of existing improvements; and no plants or removal of plants, trees, or shrubs shall take place anywhere on the Property until the approval of the Construction Committee for the same has been obtained. The Board of Directors may establish reasonable fees to be charged by the Construction Committee on behalf on the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All residential structures constructed on any portion of the Property shall be designed by and built in accordance with the plan and specifications of a licensed architect and/or certified residential designer.

This Article shall not apply to any of the activities of Declarant, or to improvements or modifications to the Common Area by or on behalf of the Association.

11.09 Removal of Non-Conforming Improvements. The Association, upon request of the Committee and after reasonable notice to the offender and to the Owner, may remove any improvements constructed, reconstructed, refinished, altered, or maintained in violation of these covenants, and the Owner thereof shall forthwith reimburse the Association for all expenses incurred in connection therewith.

11.10 Compliance. Any contractor, subcontractor, agent, employee or other invitee of any Owner who fails to comply with the terms and provisions of the Association Standards and their procedures promulgated by the Construction Committee may be excluded by the Board from the Property without liability to any person, subject to the notice and hearing procedures contained in the By-Laws.

ARTICLE XII

WATER MANAGEMENT SYSTEM AREA RESTRICTIONS AND EASEMENTS

12.01 Improvements. All Owners acknowledge that their Parcel may contain, or be adjacent to, wetland preservation or mitigation areas, and upland buffers, which are encumbered by a conservation easement in favor of applicable governmental agencies and form a part of the Water Management System. No improvements, planting or other material (other than landscape material) of any kind shall be constructed, erected or installed, unless constructed, erected or installed by Declarant, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water, in any portion of a Water Management System reserved for, or intended by Declarant to be reserved for, drainage ways, sluiceways or for the accumulation of run-off waters, as reflected in any plat or instrument of record, without the specific written permission of the Declarant, while a Class B Member, and thereafter by the Association.

12.02 Ingress and Egress. An Owner shall in no way deny or prevent ingress and egress by Declarant or the Association to any Water Management System for maintenance or landscape purposes, or to retrieve objects from lakes. The right of ingress and egress, and easements therefor, are hereby granted in favor of the Declarant, the Association, and all appropriate governmental or quasi-governmental agencies that may reasonably require such ingress and egress and easements therefor are hereby specifically reserved and created.

12.03 Modification. No Parcel shall be increased in size by the filling in of any water retention or Water Management System on which it abuts. Owners shall not fill, dike, rip-rap, block, divert or change the established water retention and Water Management Systems that have been or may be created by easement. No Owner may draw water for irrigation or other purposes from any lake, pond, canal or other Water Management System, nor is any swimming in such areas allowed.

12.04 Prohibitions. No conservation lands and conservation buffer zones may be altered from their natural state other than to remove exotic vegetation, or to install and maintain Common Areas facilities, or to provide the utilities and drainage as shown on any plat and approved construction plans. Each Owner of a Parcel containing a conservation buffer zone shall retain use of the conservation buffer zone, but the Owner may in no way alter such area from its natural state as noted above. Activities prohibited within the conservation lands and conservation buffer zones include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soils or other substances such as trash; removal or destruction of trees, shrubs or other vegetation, with the exception of exotic vegetation removal; dredging or

removal of soil material; diving or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control or fish and wildlife habitat conservation or preservation. Each Owner or other beneficiary of any conservation lands, conservation buffer zones, or Common Areas, shall have the right to institute litigation to ensure that said properties and easements therefor are properly and continually maintained.

12.05 Responsibility. All Water Management Systems within the Property will be monitored and maintained, and shall be the ultimate responsibility of the Association. The Association accepts said responsibility, and incident thereto, shall have the power and authority to institute proceedings against Owners as necessary to enforce conditions of applicable conservation easements and permits therefor. The Association may enter any Parcels or Common Areas and make whatever improvements or repairs are deemed necessary to restore proper water management. The cost shall be an expense of the Association. In addition thereto, any Owner or other beneficiary of the Water Management System shall have the right to institute litigation against the Association to ensure that the Water Management System, and easements therefor, are properly and continuously maintained.

Notwithstanding the foregoing, the Association shall have the power and authority to convey title to, and maintenance responsibilities for, all or such portion of the Water Management Systems as the Association elects; provided, however, said conveyance may only be made to a governmental agency, which may assume responsibility for the proper maintenance and care of the Water Management System.

12.06 Construction. Nothing in this Section shall be construed to allow construction of any new water management facility or alteration of Water Management Systems without first obtaining the necessary permits from all governmental regulatory agencies having jurisdiction.

12.07 Other Properties. Declarant does hereby reserve the right to grant non-exclusive drainage easements benefiting lands not included within the Property, and to allow said benefitted lands to utilize the Water Management System, upon such terms and conditions (if any) that Declarant deems appropriate, without regard as to whether said benefitted lands ever comprise a portion of Ibis Cove. In particular and without limitation, Declarant anticipates that Declarant may grant drainage easements to the properties adjacent to Ibis Cove, allowing said properties to tap into or share the Water Management System. The Association shall have the perpetual responsibility for the maintenance of the surface water management system of the property adjacent to Ibis Cove which is currently owned by the Cornerstone United Methodist Church.

ARTICLE XIII GENERAL PROVISIONS

13.01 Term. The covenants and restrictions of this Declaration shall run with and bind the property subjected to this Declaration, and shall inure to the benefit of and shall be enforceable by Declarant, the Association, or the Owner of any portion of the Property subjected to this Declaration, 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 they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing signed by the majority of the then current Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

13.02 Amendment. Until the termination of the Class B Membership, Declarant may unilaterally amend this Declaration without the consent of the Association or any third party. After such termination, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is (a)

necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Parcels; (c) required by an Institutional Mortgagee to enable such lender or purchaser to make or purchase mortgage loans on the Parcels; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Parcels; provided, however, any such amendment shall not adversely affect the title to any Parcel unless the Owner thereof shall consent thereto in writing. Following Turnover, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the Association, and the vote of the Declarant, so long as the Declarant owns any Parcel or other portion of the Property; provided, however, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment affecting the Water Management System shall be of any force and effect unless the South Florida Water Management District consents to the same. Any amendment to be effective must be recorded in the public records of Collier County, Florida.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of the Declarant under this Declaration or any other of the Governing Documents, without specific written approval from the Declarant.

13.03 Severability. 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.

13.04 Litigation. No judicial or administrative proceeding shall be commenced by the Association unless approved by a vote of seventy-five percent (75%) of the votes eligible to be cast. This Section shall not apply, however, to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall assess all Members, other than the Declarant, for the costs of claim or litigation, including without limitation attorneys' fees incurred, and funds from any Assessments shall not be used for any such claim or litigation. The prevailing party shall be entitled to recover as part of the award all such advanced costs and reasonable attorneys' fees and related costs, fees or expenses of such claim or litigation. In the event the Declarant is the prevailing party, the Association shall levy a Special Assessment against all Owners, other than the Declarant, for the Declarant's cost for any such claim or litigation. This provision shall not be amended unless such amendment is made by the Declarant or is approved by the percentage of votes and pursuant to the same procedures necessary institute proceedings as provided above.

13.05 Declarant's Sales Activities. Nothing herein shall be construed to restrict, prohibit or in any way inhibit Declarant's efforts to promote, market and sell the Property, or any portion thereof. In particular and without limitation, Declarant shall be entitled to operate sales trailers, model apartments and model homes, sales offices and/or construction offices anywhere on the Property including, but not limited to, at the clubhouse; sponsor promotional events anywhere on the Property, and make such other use of the Property as Declarant deems appropriate to promote the use or sale of the Property. This provision may not be modified nor deleted without the express written consent of Declarant, which consent may be withheld for any reason.

ARTICLE XIV AREAS AND FACILITIES

14.01 General. Declarant may, but shall not be obligated, to install entrance features, walls and/or fences, lighting components, landscape plants and irrigation systems. Any and all such improvements shall be maintained by the Association.

14.02 Easements. It is hereby declared that any and all platted easements are further dedicated, granted and reserved in favor of the Association for the erection, maintenance, repair, replacement and reconstruction of all entrance features, walls and/or fences, lighting components, landscape plants and irrigation systems constructed by Declarant, and any other common facilities which the Association may later elect to install if such common facilities shall be approved by the members.

14.03 Expenses. The costs of operating, maintaining, repairing, replacing and reconstructing the Common Areas and all walls and/or fences, lighting components, landscape plants, irrigation systems and other common facilities located within the Property and all easements appurtenant thereto shall be an Association Expense.

14.04 Use of the Words "Ibis Cove". No person shall use the words "Ibis Cove," or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, Owners may use the words "Ibis Cove" in printed or promotional matter when such term is used solely to specify that particular property is located within the Ibis Cove development, and the Association shall be entitled to use the words "Ibis Cove" in its business name.

14.05 Security. Neither Declarant nor the Association make any representations whatsoever as to the security of the premises or the effectiveness of any monitoring system, guardhouse, or security service. All Members agree to hold Declarant and the Association harmless from any loss or claim arising from the occurrence of any crime or other act. Neither the Association, Declarant, nor any successor declarant shall in any way be considered insurers or guarantors of security within the Property. Neither the Association, Declarant, nor any successor declarant shall be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken, if any. All Owners and occupants of any Parcel, tenants, guests and invitees of any Owner, as applicable, acknowledge that the Association and its Board of Directors, Declarant, or any successor declarant and the Construction Committee do not represent or warrant that any fire protection system, burglar alarm system, gatehouse, or other security system, if any designated by or installed according to guidelines established by Declarant or the Construction Committee may not be compromised or circumvented; that any fire protection, burglar alarm systems, gatehouse or other security systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise; nor that fire protection or burglar alarm systems or gatehouse, or other security systems will in all cases provide the detection or protection for which the system is designed or intended. Each Owner and occupant of any Parcel, and each tenant, guest and invitee of an Owner, as applicable, acknowledges and understands that the Association, its Board of Directors and committees, Declarant, or any successor declarant are not insurers and that each Member, Owner and occupant of any Parcel and each tenant, guest and invitee of any Member or Owner assumes all risks for loss or damage to person, to structures, and to the contents thereof, and further acknowledges that the Association, its Board of Directors and committees, Declarant, or any successor declarant have made no representations or warranties, nor has any Owner, Member, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purposes, relative to any fire and/or burglar alarm systems or other security systems recommended or installed, if any, or any security measures undertaken within the Property, if any.

14.06 Cable and Telecommunications Systems.

(a) Declarant hereby reserves unto itself and its designees, successors, assignees and licensees the right, without obligations, to construct or install over, through, under, across and upon any portion of the Property for the use of the Owners and their permitted or authorized guests, invites, tenants and family members one or more cable and/or telecommunications receiving and distribution systems and electronic surveillance systems, emergency, medical or surveillance monitoring or alarm systems (all or any part of which shall be referred to herein as the "System"), the exact description, location and nature of which may have not yet been fixed nor determined. Declarant will have and hereby reserves to itself and its designees, successors, assignees and licensees a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Property shall be determined solely by Declarant, its successors, designees and assigns) together with a perpetual and exclusive right and privilege of: (i) unlimited ingress and egress thereto for installing, constructing, inspecting, repairing, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, television and radio signals, electronic banking, surveillance, fire, police and emergency medical protection; and (ii) transmitting, the facilities and equipment of which shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees.

(b) Declarant and/or the Association shall have the right to enter into contracts for the exclusive provision of the System, as Declarant and the Association shall deem, in their sole respective discretion, to be in the best interests of the Property. Should the Declarant enter into a contract or contracts pursuant to this subsection (b), the Association shall to the extent the Declarant assigns its rights

and obligations under any such contract or contracts accept such assignment, the Association hereby agrees to be bound by all of the terms and provisions of the contract or contracts.

(c) The term "Contractual Designee" or "Designees" shall mean the company or companies with which Declarant or the Association has contracted for the furnishing of such System services.

(d) Every Owner subscribing to the services provided by any contract for the System may be subject to a charge, payable per Parcel on such day of each month or quarter in advance, as the Board may select, for basic cable television programming services. The Association shall impose, along with Association Assessments, against each Parcel an Individual Assessment as it shall determine, in the amount of the basic fees due and payable for the System and shall collect same and forthwith remit the amount collected to the Contractual Designee providing the System services.

(e) Declarant may excuse portions of the Property from the provisions of this Section which, in the determination of Declarant, have uses for System services inconsistent with the overall design of such services in the Property as a whole.

14.07 Declarant's Rights.

(a) Declarant, its successors, designees and assigns shall have the right to make such use of the Property as Declarant shall, from time to time, determine. In recognition of the fact that Declarant will have a continuing and substantial interest in the development and administration of the Property, Declarant hereby reserves for itself, its successors, designees, and assigns, the non-exclusive right to use all Common

construction, marketing, and development including, but: not limited to, the right to carry on construction and to enter and transact business; maintain models and sales and rental offices; employ sales and rental personnel; show Parcels; use on-site transportation systems; and use portions of the Property and Parcels and improvements owned by Declarant or the Association for purposes set forth above, for storage of construction materials, and for construction and assembling construction components without any cost to Declarant and its successors, nominees and assigns. In addition to its other rights to the Common Area, Declarant, its successors, designees, and assigns, shall have the non-exclusive right to use all or any portion of any buildings thereon as a sales, rental, or construction office. Any models, sales areas, sales or rental office(s), parking areas, construction office(s), signs and any other designated areas or property pertaining to the sale, construction, marketing, maintenance and repair efforts of Declarant shall not be part of the Common Area and shall remain the property of Declarant or its nominees, as the case may be. Declarant shall have the non-exclusive right to construct, maintain and repair structures and landscaping and other improvements to be located on the Property as Declarant deems necessary or appropriate for the development of the Property. Declarant's use of any portion of the Property as provided in this subparagraph shall not be a violation of this Declaration.

(b) Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have the right to retain and use, in connection with any Parcels it owns, any and all of the rights and privileges it has reserved in this Declaration; provided that Declarant shall no later than Turnover, assign all such rights and privileges it then has to the Association and the Association must accept such assignment.

(c) The Declarant shall not in any way or manner be held liable or responsible for any person's violation of this Declaration or the Governing Documents, other than those committed by itself. Any provision of the Governing Documents which requires the consent of Declarant shall be subject to Declarant's right to withhold its consent in its sole discretion.

The rights and privileges of Declarant, its successors, designees and assigns, as herein set forth in the paragraph above are in addition to and in no way limit any other rights or privileges of Declarant, its successors, designees and assigns, under this Declaration, the Articles or the By-Laws. The provisions of the paragraph above, like other provisions of this Declaration, grant or reserve rights to and for Declarant and may not be suspended, superseded or modified in any manner unless same is consented to in writing by Declarant. This right of use and transaction of business as set forth herein, like Declarant's other rights herein, may be assigned in writing by Declarant in whole or in part as Declarant deems appropriate.

ARTICLE XVI

RIGHTS OF INSTITUTIONAL MORTGAGEES

16.01 Financial Matters and Insurance. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Governing Documents and the books, records and financial statements of the Association to the Owners and Institutional Mortgagees. In addition, evidence of insurance shall be issued to each Owner and Institutional Mortgagee upon written request to the Association.

(a) Upon written request to the Association identifying the name and address of the Institutional Mortgagee and the legal description of the subject Parcel, the Association shall provide such Institutional Mortgagee with timely written notice of the following:

(i) Any condemnation loss or any casualty loss which affects any material portion of the Common Area;

(ii) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(iii) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Parcel;

(iv) Any failure by an Owner of a Parcel encumbered by a mortgage held, insured or guaranteed by an Institutional Mortgagee to perform his obligations under the Governing Documents, including, but not limited to, any delinquency in the payment of Regular or Special Assessments, or any other charge owed to the Association by said Owner when such failure or delinquency has continued for a period of sixty (60) days.

Any failure of the Association to send any such notice to any Institutional Mortgagee shall have no effect on any meeting, act or thing which was to have been the subject of such notice nor affect the validity thereof, and the Association shall not be liable for damages which may be caused by or arise from the failure to send such notice.

(b) Any Institutional Mortgagee who receives a written request from the Association to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Institutional Mortgagee within twenty (20) days of the date of the Association's request.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants, Restrictions and Easements for Ibis Cove on this _____ day of October 2000.

DECLARANT:

(Corporate Seal)

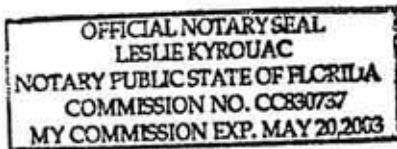
ARM DEVELOPMENT CORP. OF S.W. FL.,
INC., a Florida Corporation

By: Ovadia Roni Elias
Ovadia Roni Elias, President

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing Declaration of Covenants and Restrictions was acknowledged before me this 13th day of November 2000, by Ovadia Roni Elias as President of ARM Development Corp. of S.W. Florida, Inc., a Florida corporation, who is personally known to me.

(SEAL)



Leslie Kyrouac
NOTARY PUBLIC

Leslie Kyrouac
TYPED/PRINTED NAME OF NOTARY

F:\APPS\SP51\UPDOCS\IbisCove\DOC1

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR IBIS COVE**

2762275 OR: 2789 PG: 2049

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL
03/12/2001 at 02:30PM DWIGHT E. BROCK, CLERK
REC FEE 10.50

Retn:
SIESKY & PILON
1000 N TAMiami TR #201
NAPLES FL 34102

WHEREAS, on the 15th day of November, 2000, A.R.M. DEVELOPMENT CORP. OF S.W.FL., INC., a Florida corporation, caused to be recorded the Declaration of Covenants, Restrictions and Easements for Ibis Cove in Official Record Book 2743, Page 3193, of the Public Records of Collier County, Florida; and

WHEREAS, pursuant to Article 13.02, A.R.M. Development Corp. of S.W.Fl., Inc. reserved to itself the right to amend the said Declaration; and

WHEREAS, it is now the desire of A.R.M. Development Corp. of S.W.Fl., Inc. to amend the said Declaration;

NOW THEREFORE, the Declaration of Covenants, Restrictions and Easements for Ibis Cove is hereby amended as follows:

Legal description (Exhibit A) is attached hereto

IN WITNESS WHEREOF, A.R.M. Development Corp. of S.W.Fl., Inc. has caused this Amendment to be executed this 8 day of February, 2001.

A.R.M. DEVELOPMENT CORP. OF S.W.FL.,
INC., a Florida corporation

BY: Ovadia Roni
Ovadia Roni Elias, President

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing was acknowledged before me this 8 day of February, 2001 by Ovadia Roni Elias, as President of A.R.M. Development Corp. of S.W.Fl., Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.



SEAL

Linda S. Morris
Commission # CC 990105
Expires Jan. 22, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

Linda S. Morris

Notary Public
Printed name: LINDA S MORRIS
My commission expires: _____

Prepared by:
James A. Pilon, Esq.
Siesky, Pilon & Wood
1000 N. Tamiami Trail, #201
Naples, FL 34102

EXHIBIT A

The West ½ of the West ½ of the Northwest 1/4 of Section 27, Township 48 South, Range 25 East, Collier County, Florida, less the North 810 feet thereof

AND

The East ½ of the West ½ of the Northwest 1/4 of Section 27, Township 48 South, Range 25 East, Collier County, Florida, less the Northerly 150 feet of said parcel

TOGETHER WITH

The North ½ of the Northwest 1/4 of the Southwest 1/4 of Section 27, Township 48 South, Range 25 East, Collier County, Florida.

SAID PROPERTY IS NOW KNOWN AS

Block A, Lots 101 - 138; Block B, Lots 201 - 232; Block C, Lots 301 - 314; Block D, Lots 401 - 406; Block E, Lots 407 - 415; Block F, Lots 501 - 506; Block G, Lots 507 - 515; Block H, Lots 601 - 616; Tracts A, B, C, D, R, RW1, RW2, L1, L2, L3, L4, L5 and LB, IBIS COVE, according to the plat thereof recorded in Plat Book 35, Pages 52 through 58, Public Records of Collier County, Florida.