

**DECLARATION OF COVENANTS AND RESTRICTIONS
OF
SILVER OAKS VILLAGE AT THE VINES**

Original Declaration, dated July 9, 1990
Amended March 11, 1998
Amended February 10, 2000

THIS DECLARATION OF COVENANTS AND RESTRICTIONS of SILVER OAKS VILLAGE AT THE VINES is made this 9th day of July, 1990, by PHH HOMEQUITY CORPORATION, a Delaware corporation d/b/a PHH ASSET MANAGEMENT, hereinafter referred to as "Declarant."

1. DEFINITIONS. The terms used in this Declaration, and in the Articles and By-Laws, shall have the following meanings, unless the context otherwise requires:

1.1. ARTICLES means the Articles of Incorporation of the Association attached hereto as Exhibit "B", as same may be amended from time to time.

1.2. ASSESSMENT means the amount of money which may be assessed against an Owner for the payment of the Owner's share of Common Expenses, and/or any other funds which an Owner may be required to pay to the Association as provided by this Declaration, the Articles or the By-Laws.

1.3. ASSOCIATION means Silver Oaks Village Homeowner's Association, Inc., a Florida corporation not-for-profit.

1.4. BOARD means the Board of Directors of the Association.

1.5. BY-LAWS means the By-Laws of the Association attached hereto as Exhibit "C", as same may be amended from time to time.

1.6. COMMON AREAS means any property, whether improved or unimproved, or any interest therein including an easement interest, which is owned by the Association or which is otherwise declared to be a Common Area by this Declaration, and is to be used by all of the residents within the Subject Property, and their guests and invitees. Common Areas may include, but are not limited to, parks, open areas, lakes, the Surface Water Management System, roads, entrance ways, parking areas and other similar properties.

1.7. COMMON EXPENSES means all expenses properly incurred by the

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Association which include, but are not limited to, the following:

1.7.1. Expenses incurred in connection with the administration and management of the Association.

1.7.2. Expenses incurred in connection with the ownership, operation, maintenance, repair, improvement or operation of the Common Areas (whether or not same are conveyed to the Association), or any portion of the Lot to be maintained by the Association as provided in this Declaration.

1.7.3. Expenses of obtaining, repairing or replacing personal property in connection with the performance of the Association's duties.

1.7.4. Expenses of providing utility services for lighting for the Common Areas.

1.7.5. Expenses declared to be Common Expenses by the provisions of this Declaration and/or by the Articles or By-Laws.

1.7.6. Any expense of prosecuting or defending any action for or against the Association, including attorney's fees.

1.7.7. Assessments payable by the Association to The Vines Community Association, Inc.

1.7.8. Expenses incurred in connection with the operation and maintenance of the Surface Water Management system.

1.8. COMMON SURPLUS shall mean and refer to the excess of all receipts of the Association over the amount of the Common Expenses.

1.9. DECLARANT shall mean and refer to the person or entity executing this Declaration, or any person or entity who may be assigned all or a portion of the rights of Declarant pursuant to a written assignment executed by the then present Declarant recorded in the Public Records of the County in which the Subject Property is located. In any event, the term "Declarant" shall not include any person or entity acquiring title only to one or more Lots containing Unit(s), unless Declarant specifically assigns its rights as Declarant to such person or entity.

1.10. DECLARATION shall mean and refer to this Declaration of Covenants and Restrictions of Silver Oaks Village at The Vines as it may be amended from time to time.

1.11. INSTITUTIONAL LENDER means the holder of a first mortgage encumbering a Lot, which holder in the ordinary course of business makes, purchases,

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guarantees, or insures residential mortgage loans, whether construction or permanent, and which holder is not the Owner of the Lot and is not owned or controlled by the Owner. An Institutional Lender may include, but is not limited to, a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension or profit sharing plan, mortgage company, an agency of the United States or any other governmental authority, or any other similar type of lender generally recognized as an institutional type lender. For definitional purposes only, an Institutional Lender shall also mean the holder of any mortgage executed by or in favor of Declarant, whether or not such holder would otherwise be considered an Institutional Lender.

1.12. LOT means any parcel of land located within the subject Property, which has been or is intended to be conveyed by Declarant to an Owner and which contains or is intended to contain a Unit, and shall include any Unit constructed upon the Lot from time to time.

1.13. OWNER means the record owner(s) of a Lot or Unit.

1.14. SUBJECT PROPERTY means the property which is subject to this Declaration, which property is described as Exhibit "A", plus any additional property which may be made subject to this Declaration, pursuant to an amendment to this Declaration, and includes any Units or improvements constructed thereon. The Subject Property may further be identified by reference to the Plat to be recorded in the Public Records of Lee County, Florida.

1.15. SURFACE WATER MANAGEMENT SYSTEM means the surface water management system for the Subject Property as permitted by the South Florida Water Management District.

1.16. UNIT shall mean and refer to the residential dwelling constructed upon a Lot.

2. ASSOCIATION. In order to provide for the administration of the Subject Property and this Declaration, the Association has been organized under the laws of the State of Florida.

2.1. ARTICLES. No amendment to the Articles shall be deemed an amendment to this Declaration, and this Declaration shall not prohibit or restrict amendments to the Articles, except as specifically provided herein.

2.2. BY-LAWS. No amendment to the By-Laws shall be deemed an amendment to this Declaration, and this Declaration shall not prohibit or restrict amendments to the By-Laws, except as specifically provided herein.

2.3. MEMBERSHIP. All Owners shall be members of the Association. Membership as to each Lot shall be established and transferred, as provided by the

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Articles and By-Laws.

2.4. APPROVAL OR DISAPPROVAL OF MATTERS. Whenever the decision of the Owners is required upon any matter, whether or not the subject of an Association meeting, such decisions shall be expressed in accordance with the Articles and the By-Laws.

2.5. ACTS OF THE ASSOCIATION. Unless the approval or action of the Owners and/or a certain percentage of the Board is specifically required by this Declaration, the Articles, or By-Laws, or by applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board, without the consent of the Owners, and the Board may so approve an act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken, such action or approval may be conditioned in any manner the Association deems appropriate, or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as herein specifically provided to the contrary.

2.6. VOTING. On all matters as to which the Owners shall be entitled to vote, there shall be one vote for each Unit, to be cast in the manner provided in the Articles and the By-Laws.

3. COMMON AREAS.

3.1. The Common Areas shall consist of all the Subject Property except for the Lots. Declarant shall have the right to convey title to any Common Area to the Association, and in addition, shall have the right to convey title to any property owned by Declarant, or any interest therein, to the Association as a Common Area, and any such conveyance shall be effective upon recording the deed or instrument of conveyance without acceptance by the Association. In any event, Declarant shall be required to convey all Common Areas no later than the closing of the last Lot by Declarant. In addition, the Association may accept as a Common Area the conveyance of any property, or any interest therein, by any person other than Declarant.

3.2. USE. All persons or lessees residing within any Unit, and their guests and invitees, shall have and are hereby given the right to use all Common Areas for the purposes for which same are intended, subject to the terms of this Declaration and reasonable nondiscriminatory rules and regulations which may be adopted by the Board from time to time.

3.3. ADDITIONS, ALTERATIONS OR IMPROVEMENTS. The Association shall have the right to make additions, alterations or improvements to the Common Areas, and to purchase any personal property, as it deems necessary or desirable from time to time, provided, however, that if the cost of any additions, alterations,

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improvements or personal property shall in any calendar year exceed in the aggregate the sum of Five Thousand Dollars (\$5,000.00), Board approval shall be obtained or, alternatively, a majority vote of Unit Owners shall be required.

3.4. DRIVEWAYS. It is acknowledged that each Unit will have a driveway within the Common Areas, and any driveway serving a unit shall be for the exclusive use of the Owner or residents of said Unit.

4. EASEMENTS. Each of the following easements are hereby created, which shall run with the land and, notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of this Declaration.

4.1. UTILITIES. Easements as may be required for the installation, maintenance, repair and providing of utility services, equipment and fixtures in order to adequately serve the Subject Property or any Lot, including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage, television antenna and cable television facilities, and electronic security and for the Surface Water Management System as permitted by the South Florida Management District. An Owner shall do nothing on his Lot and Unit to inspect, maintain, repair or replace such utility service facilities and shall remove any improvements interfering with or impairing the utility services or easement herein reserved; provided such right of access shall not unreasonably interfere with the Owner's permitted use of the Lot and, except in the event of an emergency, entry into any Unit shall be made with reasonable notice to the Owner.

4.2. PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON AREAS. Common Areas shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all Owners and residents of the Subject Property, and their guests and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

4.3. ENCROACHMENTS. If any portion of the Common Areas encroaches upon any Lot; if any Unit encroaches upon any Lot or upon any portion of the Common Areas; or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvements; (ii) settling or shifting of any improvements; (iii) any addition, alterations or repair to the Common Areas made by or with the consent of the Association, (iv) any repair or restoration of any improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the common Areas; or (v) any non-purposeful or non-negligent act of an Owner except as may be authorized by the Board, then, in such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand.

4.4. EASEMENTS FOR OVERHANGING troughs or gutters, downspouts and

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the discharge therefrom of rainwater and the subsequent flow thereof over the Lots or the Common Areas.

4.5. SERVICE EASEMENT. Easements in favor of governmental and quasi-governmental authorities, utility companies, cable television companies, ambulance or emergency vehicle companies, and mail carrier companies, over and across all roads existing from time to time within the Subject Property, and over, under, on and across the Common Areas, as may be reasonably required to permit the foregoing, and their agents and employees, to provide their respective authorized services to and for the Subject Property and the Owners.

4.6. EASEMENTS FOR PEDESTRIAN AND VEHICULAR TRAFFIC. Easements for pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist upon the Common Areas and be intended for such purpose; and for pedestrian and vehicular traffic and parking over, through, across and upon such portion of the Common Areas as may from time to time be paved and intended for such purposes, same being for the use and benefit of the Owners and the residents of the Subject Property, the holders of any mortgage encumbering any Lot, and their guests and invitees.

4.7. ADDITIONAL EASEMENTS. Declarant (so long as it owns any Lot) and the Association, on their behalf and on behalf of all Owners, each shall have the right to (i) grant and declare additional easements over, upon, under and/or across the Common Areas in favor of the Owners and residents of the Subject Property and their guests and invitees, or in favor of any other person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Subject Property in favor of the Association and/or the Owners and residents of the Subject Property and their guests and invitees or in favor of any person, entity, public or quasi-public authority, or utility company, as the Declarant or the Association may deem desirable for the proper operation and maintenance of the Subject Property, or any portion thereof, or for the health, safety or welfare of the Owners, or for any other reason or purpose. So long as such additional easements, or the modification, relocation or abandonment of existing easements will not unreasonably and adversely interfere with the use of Lots for dwelling purposes, no joinder of any Owner or any mortgagee of any Lot shall be required or, if same would unreasonably and adversely interfere with the use of any Lot for dwelling purposes, only the joinder of the Owners and Institutional Lenders of Lots so affected shall be required. To the extent required, all Owners hereby irrevocably appoint Declarant and/or the Association as their attorney-in-fact for the foregoing purposes.

4.8. EASEMENTS AND RESTRICTIONS OF RECORD. The Subject Property is subject to restrictions, reservations and easements which have been placed of record prior to the recording of this Declaration.

5. MAINTENANCE OF THE SUBJECT PROPERTY.

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5.1. BY THE ASSOCIATION. The Association shall operate, maintain, repair and replace, as a Common Expense, the following portions of the Subject Property:

5.1.1. COMMON AREAS. The Association shall maintain all Common Areas or other areas for which the duty to maintain has been delegated to and accepted by the Association, and all paving, parking areas, landscaping, exterior painting of units and improvements contained thereon from time to time.

5.1.2. LANDSCAPING. The Association shall be responsible for the maintenance and care of all landscaping throughout the Subject Property and in the unpaved portion of contiguous road right-of-ways, except for any landscaping contained within any patio or fenced-in area within any Lot. The Association shall plant, remove and/or replace sod, plants, flowers, shrubbery and trees when in the sole discretion of the Board same is appropriate and in the best interest of the Subject Property. The Association's responsibility shall be limited to mowing, trimming, pruning, edging, fertilizing, weeding, and insect and disease control. Further, pursuant to Lee County Ordinance No. 90-06, the Association will maintain the Subject Property free of the plant species known as Melaleuca, Australian pine, and Brazilian pepper.

5.1.3. SUBDIVISION WELLS AND WATER SPRINKLER SYSTEM. The Association shall maintain and repair wells (if any), pipes and water sprinkler systems throughout the Subject Property.

5.1.4. PRIVATE ROADS, DRIVEWAYS, WALKWAYS, PATHS AND STREET LIGHTS. The Association shall maintain and repair all private roads, driveways, walkways, paths, fencing, signage, street furniture and street lights throughout the Common Areas. The Association shall be responsible for payment of electricity consumed in the illumination of such street lights and for cleaning of the roof of each Unit.

5.1.5. SURFACE WATER MANAGEMENT SYSTEM. The Association shall operate and maintain the Surface Water Management System.

5.1.6. OTHER PROPERTY. The Association shall have the right to maintain such other areas within or contiguous to the Subject Property as the Board determines from time to time is in the best interest of the Owners, and the cost of any such maintenance shall be a Common Expense.

5.1.7. Notwithstanding the foregoing, if any such maintenance is required due to the actions of any Owner, or the residents of any Unit, or their guests or invitees, the Owner of the Unit shall be responsible for the cost of such maintenance and may be assessed for such cost by the Association.

5.2. BY THE OWNERS. Each Owner shall maintain his Unit and all improvements, equipment and appurtenances upon his Lot, except those portions of his

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Unit and/or Lot which are to be maintained by the Association as discussed above in good order, condition and repair and shall perform promptly all maintenance, replacement, and repair work, whether structural or nonstructural, ordinary or extraordinary, so as to keep his Unit in good condition and repair and in conformity with the aesthetic standards required from time to time by the Association.

5.2.1. The maintenance of the exterior of each Unit is the responsibility of the Owner, including but not limited to roof repair, repaving, and maintenance and replacement of exterior appurtenances, accessories, and decorative features. The obligation of the Owner to maintain, repair and replace shall be performed so as to maintain his Unit in the same manner and to replace items as needed with the same or similar materials and of like size, color and quality as the original. No exterior maintenance shall be initiated without the prior express written approval of the Board, except in emergencies. The Board shall require all exterior maintenance to be accomplished in a manner such that the character of the development is maintained. The color and quality of all paint, fencing, walls, and roof materials shall be approved by the Board of Directors so as to maintain uniformity and the aesthetic quality of the development.

5.2.2. Notwithstanding anything to the contrary contained in this Article 5, until such time as Declarant shall cease to own any Lot and/or Unit or elects to transfer control of the Association to the Owners, whichever shall first occur, Declarant shall maintain the exterior of each Unit including but not limited to repainting, roof repair, repaving, and maintenance and replacement of exterior appurtenances, accessories, and decorative features, on behalf of the Owners and shall have any and all rights and powers necessary to accomplish same, including the right of reasonable access to the Lot and improvements thereon from time to time. Each Owner shall pay to the Association an additional charge for such exterior maintenance as is determined to be reasonable by Declarant in Declarant's sole discretion and such charge shall be treated as a Common Expense.

5.2.3. LIMITATIONS. No Owner shall in any way maintain, modify, or improve any areas for which the Association has responsibility for maintenance without the prior written consent of the Association.

5.2.4. REPAIR AND RECONSTRUCTION FOLLOWING CASUALTY. Each Owner, with the concurrence of the Owner's Institutional Lender, if any, and the Board of Directors, shall reconstruct or repair said owner's Unit in the event such Unit is destroyed or damaged in whole or in part by fire or other casualty. Such repair or reconstruction shall be performed in a good and workmanlike manner in conformance with the original plans and specifications. In the event that the Owner fails to commence reconstruction or repair or to contract for such work to be performed within thirty (30) days of receipt of the insurance proceeds by the owner or the Institutional Lender named as loss payee in the policy covering the Unit, the Board, in its sole

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discretion, may elect to initiate the repairs or construction and may enter into any and all agreements with contractors with respect thereto, whether or not such contractors may be Directors or Officers of the Association or an entity in which a Director or Officer has an interest. In the event the Association elects to initiate the repair and reconstruction, and the insurance proceeds utilized for such purpose, if any, are insufficient to fully pay the costs of same, the Association shall levy a special assessment against the Owner in an amount equal to such cost or deficiency, as the case may be.

6. ASSOCIATION INSURANCE. The insurance other than title insurance which shall be carried upon the Subject Property and/or the Units shall be governed by the following provisions:

6.1. ASSOCIATION INSURANCE.

6.1.1. APPROVAL BY INSTITUTIONAL LENDERS. Each Institutional Lender will have the right upon reasonable notice to the Association to review and approve, which approval shall not be unreasonably withheld, the form, content, insurer, limits and coverage of all insurance purchased by the Association, and to require the Association to purchase insurance complying with the reasonable and customary requirements of the Institutional Lender. In the event of a conflict between Institutional Lenders, the decision of the Institutional Lender holding mortgages encumbering Lots which secure the largest aggregate indebtedness shall control.

6.1.2. NAME INSURED. The named insured on all policies purchased by the Association shall be the Association, individually and as agent for all Owners covered by the policy, without naming them, and as agent for their mortgagees, without naming them.

6.1.3. CUSTODY OF POLICIES AND PAYMENT OF PROCEEDS. All policies shall provide that payments for losses made by the insurer on account of casualty to any portion of the Subject Property shall be paid to the Association.

6.1.4. COPIES TO OWNERS OR INSTITUTIONAL LENDERS. One (1) copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the Association to each owner or Institutional lender who holds a mortgage upon a Lot covered by the policy, and who in writing requests the Association to provide it with such policies.

6.1.5. DEDUCTIBLES. Any deductible or exclusion under an insurance policy purchased by the Association shall be a Common Expense, and shall not exceed such sum as is approved by the Board of Directors of the Association from time to time.

6.1.6. COVERAGE

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6.1.6.1 CASUALTY. All buildings and improvements upon the common Areas and all personal property of the Association included in the Common Areas are to be insured in an amount equal to the maximum insurable replacement value. Such coverage shall afford protection against:

6.1.6.1.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

6.1.6.1.2 Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location and use, including, but not limited to vandalism and malicious mischief, and all other risks normally covered by a standard "All Risk" endorsement, where available.

6.1.6.2 LIABILITY. Comprehensive general public liability insurance insuring the Association against loss or damage resulting from accidents or occurrences on or about or in connection with the Subject Property, or any work, matters or things related to the Subject Property or this Declaration and its exhibits, with such coverage as shall be required by the Association, and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

6.1.6.3 WORKMEN'S COMPENSATION as shall be required to meet the requirements of law.

6.1.6.4 FIDELITY BONDS. The Association, at its election, may obtain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association.

6.1.6.5 Such other insurance as the Association shall determine from time to time to be desirable or as may reasonably be required by an Institutional Lender pursuant to Paragraph 6.1, such as where applicable, contractual and all-written contract insurance, employer's liability insurance and comprehensive automobile liability insurance. In no event shall the Association be required to purchase flood insurance, and in the event any Institutional Lender requires flood insurance the responsibility for same shall be the applicable Owner.

6.2. PREMIUMS. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that any increase in any insurance premium occasioned by misuse, occupancy, or abandonment of a Unit by a Owner, or by resident of any Unit, or by a member of their families or their guests or invitees, shall be assessed against and paid by that Owner.

6.3. NOTICE OF POSSIBLE INADEQUATE INSURANCE COVERAGE.

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In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Owners, the Association shall give notice of any excess exposure within a reasonable time to all Owners who may be exposed to the liability and they shall have the right to intervene and defend.

6.4. OWNER'S INSURANCE.

6.4.1. HOMEOWNER'S INSURANCE. Each Owner shall be responsible for obtaining homeowner's insurance (fire and casualty) at his own expense insuring the Unit at not less than the maximum replacement value. Any such insurance proceeds received by Owner shall be held as constructive trustee on behalf of Owner and the Association. Each Owner, at his expense and discretion, shall be responsible for obtaining insurance for personal property, personal liability, living expenses, flood damage and for improvements made to his Lot or Unit.

7. RECONSTRUCTION OR REPAIR TO COMMON AREAS:

7.1. DETERMINATION TO RECONSTRUCT OR REPAIR. If any part of the Subject Property is damaged or destroyed by casualty, whether or not the damage will be repaired shall be determined in the following manner:

7.1.1. COMMON AREAS. The damaged property shall be reconstructed or repaired unless a majority of the Owners vote to the contrary.

7.2. ESTIMATES OF COST. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair from one or more reliable licensed contractors, and shall submit copies of all acceptable estimates to the Insurance Trustee.

7.3. ASSESSMENTS. If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association, or if at any time during or after the reconstruction and repair, the funds for the payment of the cost thereof are insufficient, Assessments shall be made against the owners, in sufficient amounts to provide funds to pay such costs. Such Assessments for damage to Units shall only be made against the Owners of the damaged Units, in proportion to the cost of reconstruction and repair of each Owner's respective Unit.

8. TAXES. All real estate and personal property taxes assessed against a Unit shall be the responsibility of the Owner. The Association shall be responsible for real property and personal property taxes assessed against the Common Areas and personal property owned by the Association. Such taxes which are the responsibility of the Association shall be deemed Common Expenses.

9. ASSESSMENT FOR COMMON EXPENSES:

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9.1. Each Owner of a Lot shall be responsible and personally liable for the payment to the Association of Assessments for Common Expenses, whether general or special, for each Lot owned by the Owner, which amount shall be assessed to the Owner as described below. In addition, each Owner of a Lot shall be liable for all unpaid Assessments for Common Expenses owed by the prior Owner of the Owner's Lot without prejudice to any right the Owner may have to recover from the prior Owner any Assessments so paid. However, no Owner shall be liable for any Assessments owed by Declarant.

9.2. Prior to the beginning of each fiscal year, the Board shall adopt a budget for such year which shall estimate all of the Common Expenses to be incurred by the Association during the fiscal year. The Board shall then establish the Assessment for Common Expenses for each Lot, and shall notify each Owner in writing of the amount, frequency, and due dates of the Assessment for Common Expenses. From time to time during the fiscal year, the Board may modify the budget, and pursuant to the revised budget or otherwise, the Board may, upon written notice to the Owners, change the amount, frequency and/or due dates of the Assessments for Common Expenses. If the expenditure of funds for Common Expenses is required in addition to funds produced by Assessments for Common Expenses, the Board may make special Assessments for Common Expenses, which shall be levied in the same manner as hereinbefore provided for regular Assessments, and shall be payable in the manner determined by the Board, as stated in the notice of any special Assessments for Common Expenses. In the event any Assessments for Common Expenses are made payable in equal periodic payments, as provided in the notice from the Association, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until (i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date or the payment of a specified amount, or (ii) the Association notifies the Owner in writing of a change in the amount and/or frequency of the periodic payments. In no event shall any Assessments for Common Expenses be due less than ten (10) days from the date of the notification of such Assessments.

9.3. Assessments for Common Expenses as to each Lot not containing a Unit shall be twenty-five percent (25%) of the Assessments for Common Expenses for a Lot containing a Unit, and except for the foregoing, the Assessments for Common Expenses as to each Lot shall be equal. The full Assessment for Common Expenses as to each Lot upon which a Unit is constructed shall commence on the first day of the second full calendar month after a certificate of occupancy for the Unit is issued by the controlling governmental authority, or upon the conveyance of the Lot by Declarant, or upon the first occupancy of the unit, whichever occurs first. The Declarant shall be excused from this provision.

9.4. In addition to Assessments for Common Expenses, the first Owner acquiring title from Declarant to a Unit shall pay to the Association a contribution to a working capital fund of the Association in an amount equal to two (2) months'

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Assessments for Common Expenses, which shall be in addition to the Owner's responsibility for Assessments for Common Expenses. The working capital fund shall be used by the Association for start-up expenses or otherwise as the Association shall determine from time to time and need not be restricted or accumulated.

9.5. Until such time as Declarant no longer owns any Lot, or until Declarant notifies the Association in writing that Declarant elects to pay Assessments for Common Expenses as in the case of any other Owner, Declarant shall not be liable for Assessments for Common Expenses for any Lots owned by Declarant, but in lieu thereof, Declarant shall be responsible for all Common Expenses in excess of the Assessments for Common Expenses receivable from the other Owners, including amounts payable to the working capital fund. During such period when Declarant is not liable for Assessments for common Expenses for Lots owned by Declarant, the Assessments for Common Expenses shall be established by Declarant based upon its good faith estimate of which the Assessments for Common Expenses would be if all Units and improvements contemplated within the Subject Property were contemplated, so that Assessments for Common Expenses during such period will be approximately equal to which said Assessments would be if the development of the Subject Property was complete.

10. DEFAULT.

10.1. MONETARY DEFAULTS AND COLLECTION OF ASSESSMENTS.

10.1.1. The Association shall be the collecting agent for and on behalf of the Vines Community Association, Inc.

10.1.2. INTEREST. If any Assessment is not paid within ten (10) days after the due date, the Association shall have the right to charge the defaulting Owner a late fee of ten percent (10%) of the amount of the Assessment, or Ten Dollars (\$10.00), whichever is greater, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular Assessment, then the Assessment shall be due ten (10) days after written demand by the Association.

10.1.3. ACCELERATION OF ASSESSMENTS. If any Owner is in default in the payment of any Assessment owed to the Association for more than thirty (30) days after written demand by the Association, the Association shall have the right to accelerate and require such defaulting Owner to pay to the Association Assessments for Common Expenses for the next twelve (12) month period, based upon the then existing amount and frequency of Assessments for Common Expenses. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in the regular Assessments for Common Expenses, for all special Assessments for Common Expenses, and/or for all other Assessments payable to the Association.

10.1.4. LIEN FOR ASSESSMENTS. The Association has a lien on

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each Lot for unpaid Assessments owed to the Association by the Owner of such Lot, and for late fees and interest, and for reasonable attorneys' fees incurred by the Association incident to the collection of the Assessment for enforcement of the lien, and all sums advanced and paid by the Association for taxes and payment account of superior mortgages, liens or encumbrances in order to preserve and protect the Association's lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the Lot is located, stating the description of the Lot, the name of the record Owner, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all Assessments or other monies owed to the Association by the Owner until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

10.1.5. COLLECTION AND FORECLOSURE. The Association may bring an action in its name to foreclose a lien for Assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any claim of lien, and the applicable Owner shall be liable to the Association for all costs and expenses incurred by the Association in connection with the collection of any unpaid Assessments, and the filing, enforcement, and/or foreclosure of the Association's lien, including reasonable attorneys' fees, and all sums paid by the Association for taxes and an account of any other mortgage, lien or encumbrance in order to preserve and protect the Association's lien. The Board is authorized to settle and compromise the Association's lien if the Board deems a settlement or compromise to be in the best interest of the Association.

10.1.6. RENTAL AND RECEIVER. If an Owner remains in possession of his Unit and the claim of lien of the Association against his Unit is foreclosed, the Court, in its discretion, may require the Owner to pay a reasonable rental for the Unit, and the Association is entitled to the appointment of a receiver to collect the rent.

10.1.7. SUBORDINATION OF LIEN. Where any person obtains title to a Lot pursuant to the foreclosure of a first mortgage of record of an Institutional Lender, or where an Institutional Lender accepts a deed to a Lot in lieu of foreclosure of the first mortgage of record of such lender, such acquirer of title, its successors and assigns, shall not be liable for any Assessments or for other monies owed to the Association which are chargeable to the former Owner of the Lot and which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu thereof, unless the payment of such funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid Assessments or other monies are Common Expenses collectable from all of the Owners, including such acquirer and his successors and assigns. The new Owner, from and after the time of acquiring such title,

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shall be liable for payment of all future Assessments for Common Expenses and such other expenses as may be assessed to the Owner's Lot. Any person who acquires a Lot (except through foreclosure of a first mortgage of record of an Institutional Lender, or deed in lieu thereof) including, without limitation, persons acquiring title by sale, gift, devise, operation of law or by purchaser at a judicial or tax sale, shall be liable for all unpaid Assessments and other monies due and owing by the former Owner to the Association, and shall not be entitled to occupancy of the Unit or enjoyment of the Common Areas, or of the recreational facilities as same may exist from time to time, until such time as all unpaid Assessments and other monies have been paid in full.

10.1.8. ASSIGNMENT OF CLAIM AND LIEN RIGHTS. The Association, acting through its Board, shall have the right to assign its claim and lien rights for the recovery of any unsaid Assessments and any other monies owed to the Association, to any third party.

10.1.9. UNPAID ASSESSMENTS - CERTIFICATE. Any Owner shall have the right to require from the Association a certificate showing the amount of unpaid Assessments against him with respect to his Lot. The holder of a mortgage or other lien of record shall have the same right as to any Lot upon which he has a lien. Any person other than the Owner who relies upon such certificate shall be protected thereby.

10.1.10. APPLICATION OF PAYMENTS. Any payments made to the Association by any Owner shall first be applied towards any sums advanced and paid by the Association for taxes and payment on account of superior mortgages, liens or encumbrances which may have been advanced by the Association in order to preserve and protect its lien: next toward reasonable attorneys' fees incurred by the Association incidental to the collection of assessments and other monies owed to the Association by the Owner and/or for the enforcement of its lien: next towards interest on any Assessments or other monies due to the Association, as provided herein; and next towards any unpaid Assessments owed to the Association, in the inverse order that such Assessments were due.

10.2. NON-MONETARY DEFAULTS. In the event of a violation by any Owner (other than the non-payment of any Assessment or other monies) of any of the provisions of this Declaration, or of the Articles or By-Laws, the Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the Owner fails to commence and diligently proceed to completely cure such violation as soon as practicable within seven (7) days after written notice by the Association, the Association may, at its option:

10.2.1. Commence an action to enforce the performance on the part of the Owner, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

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10.2.2. Commence an action to recover damages; and/or

10.2.3. Take any and all actions reasonably necessary to correct such failure, which action may include, where applicable, but is not limited to, removing any addition, alteration, improvement or change which has not been approved by the Association, or performing any maintenance required to be performed by this Declaration.

All expenses incurred by the Association in connection with the correction of any failure, plus a service charge of ten percent (10%) of such expenses, and all expenses incurred by the Association in connection with any legal proceedings commenced against any Owner, including reasonable attorneys' fees, shall be assessed against the applicable Owner, and shall be due upon written demand by the Association. The Association shall have a lien for any such Assessment and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such Assessment, and may take such action to collect such Assessment or foreclose said lien as in the case and in the manner of any other Assessment as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the county in which the Subject Property is located.

10.3. NEGLIGENCE. An Owner shall be liable and may be assessed by the Association for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Lot or Unit, or the Common Areas.

10.4. RESPONSIBILITY OF AN OWNER FOR OCCUPANTS, TENANTS, GUESTS AND INVITEES. Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his Unit, and for all guest and invitees of the Owner or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to the Common Areas, or any liability to the Association, the Owner shall be assessed for same in the case of any other assessment, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the Association. Furthermore, any violation of any of the provisions of this Declaration, of the Articles or the By-Laws, by any resident of any Unit, or any guest or invitee of an owner or any resident of a Unit, shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

10.5. RIGHT OF ASSOCIATION TO EVICT TENANTS, OCCUPANTS, GUESTS AND INVITEES. With respect to any person present in any Unit or any portion of the Subject Property, other than an Owner and the members of his immediate family permanently residing with him in the Unit, if such person shall materially violate

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any provision of this Declaration, the Articles, or the By-Laws, or shall create a nuisance of an unreasonable and continuous source of annoyance to the residents of the Subject Property, or shall willfully damage or destroy any Common Areas or personal property of the Association, then upon written notice by the Association, such person shall be required to immediately leave the Subject Property and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable Owner whom such person was visiting, or with whose permission such person was present on the Subject Property, and the Association may collect such Assessment and have a lien for same as elsewhere provided. The foregoing shall not be deemed to limit, modify, or affect any other rights or remedies available to the Association, or any rights or remedies the Association may have with respect to similar actions by an Owner or a member of his immediate family residing with him in the Unit.

10.6. NO WAIVER. The failure of the Association to enforce any right, provision, covenant or condition which may be granted by this Declaration, the Articles, or the By-Laws, shall not constitute a waiver of the right of the Association to enforce such right, provision, covenant or condition in the future.

10.7. RIGHTS CUMULATIVE. All rights, remedies and privileges granted to the Association pursuant to any terms, provisions, covenants or conditions of this Declaration, the Articles or the By-Laws, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Association thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it may have by law.

10.8. ENFORCEMENT BY OR AGAINST OTHER PERSONS. In addition to the foregoing, this Declaration may be enforced by Declarant, or the Association, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration. In addition to the foregoing, any Owner shall have the right to bring an action to enforce this Declaration against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no owner shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

11. TERM OF DECLARATION: All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all Owners, their successors, heirs or assigns, regardless

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of how the Owners acquire title, for a period of fifty (50) years from the date of this Declaration, unless within such time, one hundred percent (100%) of the owners execute a written instrument declaring a termination of this Declaration (as it may have been amended from time to time). After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods of ten (10) years each, until a majority of the votes of the entire membership of the Association executes a written instrument declaring a termination of this Declaration (as it may have been amended from time to time). Any termination of this Declaration shall be effective on the date the instrument of termination is recorded in the public records of the county in which the Subject Property is located, provided, however, that any such instrument, in order to be effective, must be approved in writing and signed by the Declarant so long as the Declarant owns any Lot, or holds any mortgage encumbering any Lot.

12. AMENDMENT:

12.1. This Declaration may be amended from time to time, by the Declarant and without the consent of the Association or any Owner, so long as the Declarant owns any Lot. In addition, this Declaration may be amended upon the approval of not less than sixty-seven percent (67%) of the votes of the entire membership of the Association, provided, however, that any such amendment, in order to be effective, must be approved in writing and signed by the Declarant so long as the Declarant owns any Lot or holds any mortgage encumbering any Lot. In order to be effective, any amendment to this Declaration must first be recorded amongst the public records of the county in which the Subject Property is located, and except for amendments made by the Declarant, any amendment shall contain a certification by the President and Secretary of the Association that the amendment was duly adopted.

12.2. No amendment shall discriminate against any Owner, or class or group of Owners, unless the Owner(s) so affected join in the execution of the amendment. No amendment shall change the number of votes of any Owner unless the Owner(s) affected by such amendment join in the execution of the amendment. No amendment may be made which modifies the subordination of Assessment liens, or modifies any provisions which are for the express benefit of Institutional Lenders (except for amendments granting or expanding the rights or protections of Institutional Lenders) without the approval of Institutional Lenders holding first mortgages encumbering at least fifty-one percent (51%) of the Lots. Any amendment which would affect the Surface Water Management System, including the water management portions of the Common Areas, must have the prior approval of the South Florida Water Management District.

13. SPECIAL PROVISIONS REGARDING INSTITUTIONAL LENDERS:

13.1. NOTICE OF ACTION. Upon written request to the Association by an Institutional Lender holding, insuring or guaranteeing a first mortgage encumbering any Unit, identifying the name and address of the holder, insurer or guarantor and the Unit

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number or address, any such holder, insurer or guarantor will be entitled to timely written notice of:

13.1.1. Any condemnation loss or any casualty loss which affects a material portion of the subject Property or any Lot on which there is a first mortgage held, insured or guaranteed by such holder, insurer or guarantor, as applicable;

13.1.2. Any delinquency in the payment of Assessments or other monies owed by an Owner, or any other default in the performance by the Owner of any obligation under this Declaration, the Articles or the By-Laws, which Owner's Unit is subject to a first mortgage held, insured or guaranteed by such holder, insurer or guarantor, which remains uncured for a period of sixty (60) days.

13.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

13.1.4. Any proposed action which would require the consent of a specified percentage of Institutional Lenders.

13.2. CONSENT OF INSTITUTIONAL LENDERS. Whenever the consent or approval of any, all or a specified percentage or portion of the holder(s) of any mortgage(s) encumbering any Lots is required by this Declaration, the Articles, the By-Laws, or any applicable statute or law, to any amendment of the Declaration, the Articles or the By-Laws, or to any action of the Association or to any other matter relating to the Subject Property, the Association may request such consent or approval of such holder(s) by written request sent certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by such holder(s)). Any holder receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested, in writing, by certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by the Association), which response must be received by the Association within thirty (30) days after the holder receives such request, and if such response is not timely received by the Association, the holder shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by all the directors of the Association, which affidavit, where necessary, may be recorded in the public records of the county where the Subject Property is located, and which affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained. The foregoing shall not apply where an Institutional Lender is otherwise required to specifically join in an amendment to this Declaration.

14. MISCELLANEOUS PROVISIONS.

14.1. CONFLICT WITH ARTICLES OR BY-LAWS. In the event of any conflict between the Articles and the By-Laws and/or this Declaration, this Declaration,

the Articles and the By-Laws, in that order, shall control.

14.2. AUTHORITY OF ASSOCIATION AND DELEGATION. Nothing contained in this Declaration shall be deemed to prohibit the Board from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the Board by this Declaration including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the Board is expressly authorized to so delegate any power or right granted by this Declaration.

14.3. RIGHTS OF SUCCESSORS IN INTEREST AND ASSIGNEES OF DECLARANT. Any right, power or authority granted to or reserved by the Declarant pursuant to this Declaration, the Articles or the By-Laws, either express or implied, may be exercised or enforced by any successor in interest or assignee of the Declarant. However, any purchaser of any Lot containing a Unit from the Declarant shall not be deemed a successor in interest or any assignee of the Declarant for purposes of this paragraph, unless the Declarant specifically assigns its rights hereunder to such purchaser by written document recorded in the public records of the county in which the Subject Property is located.

14.4. PARTIAL INVALIDITY. The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section, subsection, clause, phrase, word or other provision of this Declaration shall not affect the validity of the remaining portions which shall remain in full force and effect.

14.5. GENDER. Unless otherwise so required, the use of the singular shall include the plural and plural shall include the singular, and the use of any gender shall be deemed to include all genders.

14.6. REAL COVENANTS. All of the restrictions, reservations, covenants, conditions and easements contained herein constitute covenants running with the land and shall rule perpetually unless terminated or amended as provided herein , and shall be binding upon all Owners as herein defined , and in consideration of receiving and by acceptance of any deed, grant, devise or mortgage, all grantees, devisees or mortgagees, their heirs , personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of this Declaration and the Articles and By-Laws. Both the burdens imposed and the benefits derived from this Declaration shall run with each Lot, as herein defined.

EXHIBIT A

LEGAL DESCRIPTION

Tract F of Vintage Golf and Country Club, according to the Plat thereof, as recorded in Plat Book 37, at Pages 41 through 50 inclusive of the Public Records of Lee County, Florida; less and excepting the following: All of Lost Creek at The Vintage, according to the Plat thereof, as recorded in Plat Book 38, at Pages 20 through 38 inclusive, of the Public Records of Lee County, Florida.