

MERGED
DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS FOR
ESTADA

(through August 2013)

ARTICLE I
DEFINITIONS

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

- (a) "Association" shall mean and refer to the ESTADA HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not-for-profit, which is to be incorporated.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.
- (c) "Common Areas" shall mean and refer to the real property legally described in Exhibit "A" attached hereto, together with any improvements on such tracts including without limitation all structures, recreational facilities, lake, open space, offstreet parking areas, private streets, sidewalks, street lights, and entrance features, but excluding any public utility installations thereon.
- (d) "Lot" shall mean and refer to any lot in The Properties and any Lot shown upon any resubdivision of any plat of The Properties or any portion thereof.
- (e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1 hereof.
- (g) "Developer" shall mean and refer to MAPLE LEAF DEVELOPMENTS, a Florida partnership, and its successors and assigns.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Legal Description. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Palm

Beach County, Florida and is more particularly described in Exhibit "B" attached hereto and made a part hereof.

The property described in Exhibit "B" and the property described in Exhibit "C", less and except Tract H, as described in the Plat of ESTADA OF LOS PASEOS PUD, according to the plat thereof, recorded in Plat Book 37, at Pages 110 and 111, of the Public Records of Palm Beach County, Florida, is subject to this Declaration.

Section 2. Merger or Consolidation. Upon a merger or consolidation of the Association referred to herein with any other association as provided in its articles of incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other property as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within The Properties.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot in The Properties shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member of said Association.

Section 2. Voting Rights. The Association shall have one class of voting membership. All members, as defined in Section 1, shall be entitled to one vote for each Lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised by one such member as specified in the Articles of Incorporation of the Association but in no event shall more than one vote be cast with respect to any such Lot.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Ownership. All residential dwelling units proposed by Developer to be constructed within The Properties have been conveyed to purchasers. Developer has conveyed and transferred the record fee simple title to the Common Areas to the Association and the Association has accepted such conveyance subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and

easements of record. Beginning upon the date this instrument is recorded, the Association shall be responsible for the maintenance of the Common Areas in a continuous and satisfactory manner and for the payment of taxes assessed against the Common Areas and any improvements and any personal property thereon accruing from and after the date these covenants were recorded.

Section 2. Members' Easements. Each Member of the Association and each tenant, agent and invitee of such Member shall have a permanent and perpetual easement for ingress and egress for pedestrian and vehicular traffic over and across the walkways and driveways from time to time laid out on the Common Areas, for use in common with all such Members, their tenants, agents and invitees. The portion of the Common Areas not used from time to time for walkways and/or driveways shall be for the common use and enjoyment of the Members of the Association and each Member shall have a permanent and perpetual easement for pedestrian traffic across all such portions of such tracts and for the use of same as common open space in such manner as may be regulated by the Association. The foregoing easements are subject to the following:

- (a) The right and duty of the Association to levy assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration and with any restrictions on the various plats of The Properties from time to time recorded.
- (b) The right of the Association to suspend the voting rights and right to use the Common Areas and facilities by an Owner as provided in Article X, Section 3, of this Declaration.
- (c) The right of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon.

The right of an Owner to the use and enjoyment of the Common Areas and facilities thereon shall extend to tenants, invitees, and to the members of his immediate family who reside with him, subject to the lawfully adopted and published rules and regulations of the Association.

Section 3. Easements Appurtenant. The easements provided in Section 2 shall be appurtenant to and shall pass with the title to each Lot.

Section 4. Maintenance and Operation. The Association shall at all times maintain and operate in good repair, and shall replace as often as necessary, any and all improvements situated on the Common Areas (upon completion of construction by Developer, including, but not limited to, all recreational facilities, landscaping, paving, drainage structures, street lighting fixtures and appurtenances, sidewalks, television and radio antennae and cables for common use, and other structures, except utilities, all such work to be done as ordered by the Board of Directors of the Association acting on

a majority vote of the Board members. Maintenance and operation as used herein shall include payment for all utilities, janitorial services, supplies, etc. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article V hereof. Such assessments shall be against all Lots equally; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member or by the failure of a Member to comply with the lawfully adopted rules and regulations of the Association shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

Section 5. Utility Easements. Public utilities may be installed underground in the Common Areas when necessary for the service of The Properties but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.

Section 6. Public Easements. Fire, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas.

Section 7. Cable Television Easements. The Association and/or any private cable television company selected by the Association may be granted an easement for the installation, maintenance, repair and replacement of such facilities and equipment.

ARTICLE V THE ASSOCIATION - - COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for maintenance of the Common Areas as provided in Article IV hereof, the buildings and landscaping as provided by Article VI herein, and to promote the health, safety, welfare, and recreational opportunities of the Members of the Association and their families residing with them, and their guests and tenants.

Section 2. Capital Improvements. Funds necessary for capital improvements relating to the Common Areas, and buildings and landscaping maintained by the Association, may be levied as special assessments by the Association, upon approval of a majority of the Board of Directors of the Association and upon approval of two-thirds favorable vote of members voting at a meeting or by ballot as may be provided in the By-Laws of the Association.

Section 3. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for in this Article V shall commence on the first day of the month next following the recordation of these covenants.

The annual assessments shall be payable in advance in monthly installments, or in annual, semi-annual or quarter-annual installments if so determined by the Board of Directors of the Association.

The assessment amount may be changed at any time by the Board of Directors. The assessment shall be for the calendar year, but the amount of the annual assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months remaining in such calendar year.

The due date of any special assessment under Section 2 hereof shall be fixed in the Board resolution authorizing such assessment.

Section 4. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

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

Section 5. Liability for Assessments. An Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all assessments and other charges coming due while that person is the Owner. Except as provided in Section 8 of this Article V below, the Owner shall also be jointly and severally liable with the previous Owner for all unpaid assessments and other charges that came due up to the time of the transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Lot and proceed in the same manner as provided herein and in Chapter 720, Florida Statutes, as amended from time to time, for the collection of unpaid assessments. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Area or by the abandonment of the Lot for which the assessments are made or otherwise.

Section 6. Default in Payment of Assessments. All of the assessments provided for in this Article V, whether annual assessments, special assessments or exterior maintenance assessments, and installments thereon, not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an

administrative late fee in an amount not to exceed the highest amount provided for in Chapter 720, Florida Statutes, as same may be amended from time to time, on assessments and installments thereon not paid when due. All partial payments upon account shall be applied in the manner prescribed in Chapter 720, Florida Statutes, as same may be amended from time to time. The Association has a lien on each Lot to secure the payment of assessments. The lien is effective from and shall relate back to the earliest date permitted by law, but in no event later than the date of recording of this Declaration. However, as to a first mortgagee of record, the lien is effective as of the date of the recording of a claim of lien in the Public Records of Palm Beach County. All claims of lien must state the description of the Lot, the name of the record Owner, the name and address of the Association, the amount due and the due dates, and must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, which are due at the time a claim of lien is recorded, as well as all annual assessments, special assessments, and exterior maintenance assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection and foreclosure process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of assessments as aforesaid, the Association may declare the assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 11 of this Article V below.

Section 7. Appointment of Receiver to Collect Rental And Right To Collect Rental. If the Owner remains in possession of the Lot or rents the Lot, the rents are hereby deemed assigned to the Association upon default by the Owner in the timely payment of assessments and the Association may collect rental from the Owner if the Owner remains in possession after an action for foreclosure is filed, and may request the Court in its discretion to require the Owner to pay such rental for the Lot into the Court Registry or the Association is entitled to the appointment of a receiver to collect such rental. In addition thereto, the Association has the right to demand and collect the rent otherwise payable to the Owner in the manner provided in Chapter 720, Florida Statutes, as the same may be amended from time to time.

Section 8. First Mortgagee. A first mortgagee acquiring title to a Lot as a result of foreclosure of its first mortgage, or by deed in lieu of foreclosure, may not, during the period of its ownership of such Lot, whether or not such Lot is unoccupied, be excused from the payment of some or all of the assessments coming due during the period of such ownership. In addition, the first mortgagee is liable for the assessments or other charges imposed by the Association pertaining to such Lot which became due prior to acquisition

of title as a result of the foreclosure or the acceptance of such deed; provided, however, the first mortgagee's liability may be limited to the maximum amount set forth in Chapter 720, Florida Statutes, as same may be amended from time to time. If any assessments or other charges are extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid assessments shall be collectible from all of the Owners, including such acquirer, and such acquirer's successors and assigns.

Section 9. Certificate of Unpaid Assessments. Within fifteen (15) days after request by an Owner or mortgagee of a Lot, the Association shall provide a certificate stating whether all assessments and other moneys owed to the Association by the Owner with respect to his Lot have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association or its authorized agent may charge a reasonable fee for the preparation of the Certificate.

Section 10. Acceleration of Assessment Installments Upon Default. If an Owner shall be in default in the payment of an installment upon an assessment, the Board may accelerate the remaining installments of the assessment upon notice to the Owner, and the then unpaid balance of the assessment shall be due upon the date stated in the notice.

Section 11. Set Off. Any funds due and payable by the Association to an Owner under this Declaration, the Articles of Incorporation or the By-Laws, or under Chapter 720, Florida Statutes, shall be subject to a right of set-off for any amounts due and owing to the Association by the Owner under this Declaration, the Articles of Incorporation, the By-Laws, or Chapter 720, Florida Statutes.

Section 12. Suspension of Use Rights and Voting Rights. In addition to and cumulative with all other remedies, if an Owner is delinquent in the payment of assessments, the Association may suspend the rights of the Owner and the occupants of the Owner's Lot to use the Common Areas and may suspend the Owner's right to vote as a member of the Association, such suspensions to be imposed in the manner and on the terms provided in Chapter 720, Florida Statutes, as the same may be amended from time to time.

Section 13. Trust Funds. The portion of all regular assessments collected by the Association for reserves for future expenses, and the entire amount of all special assessments, shall be held by the Association in trust for the Owners of all Lots as their interest may appear.

ARTICLE VI MAINTENANCE BY ASSOCIATION

Section 1. Exterior Finishing. The paint, coating, stain and other exterior finishing colors on all buildings shall be maintained by the Association as originally installed by the Developer without prior approval of the Architectural Control Board, but prior approval by the Architectural Control Board shall be necessary before any such exterior finishing color is changed.

Section 2. Landscaping. The Association will be responsible for all lawn maintenance, including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, as originally installed by Developer in accordance with said Declaration of Restrictions and Protective Covenants, unless the prior approval for any substantial change is obtained from the Architectural Control Board. The Association's duty to maintain extends only to areas that are readily accessible. If a fence is installed in the rear yard, there must be an unlocked gate to provide ingress and egress of same.

ARTICLE VII GENERAL RESTRICTIVE COVENANTS

Section 1. Applicability. The provisions of this Article VI shall be applicable to all Lots situated within The Properties.

Section 2. Land Use. No Lot shall be used except for residential purposes. Temporary uses for model homes, parking lots, and/or sales offices shall be permitted until Developer has sold all Lots.

Section 3. Change in Buildings. No Owner shall make or permit any structural modification or alteration of any building except with the prior written consent of the Architectural Control Board (hereinafter identified) or its successor, and consent may be withheld if in the sole discretion of the party requested to give the same it appears that such structural modification or alteration would affect or in any manner endanger other dwelling units. No building shall be demolished or removed without the prior written consent of all Owners of all other dwelling units with which such building was connected at the time of its construction.

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

Section 5. Easements. Easements for installation and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plats of The Properties. Within these easements no structure, planting or other material may be placed or permitted to remain that will interfere with the vehicular traffic or prevent the maintenance of utilities. Public utility companies servicing The Properties, and the Association shall have a perpetual easement for the installation and maintenance, of water lines, sprinkler lines, sanitary sewers, storm drains, gas lines, electric and telephone lines, cables and conduits, and television cables and conduits under and through the utility easements as shown on the plats and under and through such

portions of the Lots beyond the buildings, as such buildings may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures, or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage. All utilities within the subdivisions, whether in streets rights-of-way or utility easements, shall be installed and maintained underground, provided, however, that water and sewer treatment facilities and control panels for utilities may be installed and maintained above ground.

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

Section 7. Temporary Structures. No structure of a temporary character, or trailer, tent, mobile home or recreational vehicle shall be permitted on any Lot either temporarily or permanently. No gas tank, gas contained, or gas cylinder (other than portable tanks used in connection with gas barbeques) shall be permitted to be placed on or about the outside of any house or any ancillary building, and all gas tanks, gas containers and gas cylinders (other than portable tanks used in connection with gas barbeques) shall be installed underground in every instance where gas is used. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative safety wall approved by the Architectural Control Board referred to in Section 12 hereof.

Section 8. Signs. No sign of any kind shall be displayed to the public view on The Properties except one sign of not more than one square foot used to indicate the name of the resident; or one sign of not more than five square feet advertising the property for sale.

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

Section 10. Pets, Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs weighing less than thirty (30) pounds, cats, or other household pets may be kept, subject to rules and regulations of the Association, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they do not become a nuisance or annoyance to any neighbor. No dogs or other pets shall be permitted to have excretions on any Lot, or anywhere else within The Properties except in locations designated by the Association in its rules and regulations.

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

Section 12. Architectural Control. The Association's authority to approve or disapprove changes in the building includes, without limitation, the authority to require plans and specifications, to approve or disapprove the location, size, type or appearance of any structure or the improvement, and to enforce standards for external appearance of any structure or other improvement. No building, wall, fence, or other structure or improvement of any nature shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the Architectural Control Board have been approved in writing by the Architectural Control Board. Each building, wall, fence, or other structure or improvement of any nature shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the Architectural Control Board have been approved in writing by the Architectural Control Board. Each building, wall, fence, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Control Board seem sufficient. Any change in the exterior appearance of any building, wall, fence, or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. A majority of the Board may take any action the Board is empowered to take, may designate a representative to act for the Board, and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Board, the remaining members shall have full authority to designate a successor. The members of the Board shall not be entitled to any compensation for services performed pursuant to this covenant. The members of the Architectural Control Board shall be designated by the directors of the Association.

Section 13. Exterior. Aluminum foil may not be placed on windows or glass doors.

Section 14. Commercial Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, campers, mobile homes, motor homes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored any place on any Lot, except only during the periods of approved construction on said Lot, and except that they may be stored within garages or behind patio walls if not visible from the streets. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery, and other commercial services.

Section 15. Fences. No fence, wall or other structure shall be erected in the front yard, back yard, or side yard setback areas, except where originally installed by Developer and except fences approved as to type and location by the Architectural Control Board, as above provided.

Section 16. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited on any Lot except in a walled-in area; provided, however, that the requirements from time to time of the County of Palm Beach for disposal or collection shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. Drying Areas. No clothing, laundry or wash shall be aired or dried on any portion of any Lot in any area exposed to view from any other Lot or Unit. Drying areas will be permitted only in locations approved by the Architectural Control Board and only when protected from view by screening or fencing approved by the Board.

Section 18. The Board may make and amend rules and regulations regarding the use of the Common Property and restricting antennae and satellite dishes, including, but not limited to, the installation, location, size, appearance and type of antennae or satellite dish on any Lot; and any other rules restricting the use of the Lots must be approved by a majority of the Owners, present and voting, in person or by proxy, at a meeting at which a quorum is established.

ARTICLE VIII PARTY WALLS

Section 1. General. Each wall built as part of the original construction of any attached single family dwellings upon The Properties and placed on the dividing line between the Lots thereof shall constitute a party wall, and each Owner shall own that portion of the wall which stands on his own Lot, with a cross-easement of support in the other portion.

Section 2. Sharing of Repairing Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore the same, but no greater dimension of said party wall, or of any extension, or restoration, thereof, shall be placed upon the land of the other Owner not extending, constructing, or restoring, said party wall than that existing prior to such fire or other casualty, without the written consent of the latter first obtained; no part of any addition to the dimensions of said party wall, or of any extension thereof already built, that may be made by any of said Owners, or by those claiming under them respectively, shall be placed upon the land of the other Owner, without the written consent of the latter first obtained. If the

other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution for the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weather Proofing. Notwithstanding any other provision of this Article VII, any Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article VII shall be appurtenant to the land and shall pass to such Owners' successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article VII, each party shall chose one arbiter, and such arbiters shall choose one additional arbiter, and the decision of a majority of all the arbiters shall be final and conclusive of the question involved.

Section 7. Easement for Roof Overhangs. In connection with the construction of the residences upon the Lots, it is contemplated that the roofs of certain residences way overhang party walls and may thus encroach onto adjacent Lots. There is hereby created over an Lot upon which such encroachment occurs an easement for such encroachment. Such easement shall only arise with respect to roof encroachments which occurred with respect to the original construction of the residences.

ARTICLE IX OWNERSHIP IN VIA VERDE

Section 1. Ownership in Via Verde. By taking title to a Lot, each Owner becomes subject to the terms and conditions of the Declaration of Maintenance Covenants for Via Verde dated April 18, 1975, and filed in Official Records Book 2413, Page 1935 of the Public Records of Palm Beach County, Florida. Among other things, that document provides that an Owner shall become a member of the Via Verde Homeowner's Association, Inc.; shall acquire certain property rights to common areas within Via Verde; and shall become subject to the assessments of the Via Verde Homeowner's Association, Inc.

Section 2. Membership in Via Verde Homeowners' Association, Inc. In accordance with the provisions of the Articles of Incorporation of Via Verde Homeowners' Association, Inc., all Owners shall be members in that Association. Notwithstanding such membership, only a representative member, elected at a meeting of the members of the Association, shall be entitled to vote on behalf of all members of the Association, at meetings of the members of the Via Verde Homeowners' Association, Inc.

Section 3. Notice to Via Verde Homeowners' Association, Inc. Copies of all amendments to this Declaration, the Articles of Incorporation and By-Laws of the Association and any easements or conveyances affecting the Common Areas, shall be promptly forwarded to the Via Verde Homeowners' Association, Inc.

ARTICLE X GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owners and their respective legal representatives, heirs, successors and assigns, for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

Section 2. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the association at the time of such mailing.

Section 3. Compliance and Default. Each Owner and every occupant, lessee, guest, agent, employee or contractor of an Owner and the Association shall be governed by and shall comply with the terms of this Declaration and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by Chapter 720, Florida Statutes, as same may be amended from time to time:

A. Negligence. An Owner shall be liable for the expense of any maintenance, repair or replacement, whether to the Common Areas, the Lot or the Owner's personal property, or to the personal property of the Association or other Owners, including, but not limited to, repair after casualty hereunder, made necessary by his or her violation of any portion of this Declaration or the rules and regulations of the Association, or by his or her negligence or intentional misconduct or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association. Any such expense advanced by the Association, together with interest, costs and attorneys' fees, shall be secured by a lien against the Lot enforceable in the same manner as an assessment under Article V hereof.

B. Compliance. In the event an Owner or occupant fails to comply with such Owner's obligations under this Declaration or fails to observe and comply with any provision of the By-Laws or the Articles of Incorporation of the Association, applicable

rules and regulations, or any other agreement, document or instrument affecting the Property, in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance or to sue in a court of law for damages. The Association may also enter the Lot, perform any corrective work necessary in the judgment of the Board of Directors, and levy a special charge against the Owner and the Lot for the sums necessary to do whatever work is required to put the Owner or Lot in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Lot, enforceable in the same manner as assessments levied under Article V hereof.

C. Fines. In the event an Owner or anyone for whom Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Property in the manner required, the Association shall have the right to impose a fine against the Owner and the Lot. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by Chapter 720, Florida Statutes, as the same may be amended from time to time. To the extent permitted by Chapter 720, Florida Statutes, as the same may be amended from time to time, any fine levied hereunder shall be a lien against the Lot enforceable in the same manner as a lien for assessments under Article V hereof. Furthermore, there shall be no limitation on the amount of a fine that may accumulate for a continuing violation.

D. Suspension of Voting Rights. The Association may suspend an Owner's voting rights in the event the Owner is more than ninety (90) days delinquent in the payment of any assessment provided for in Article V hereof or any monetary obligation owed to the Association.

E. Suspension of Use Rights. The Association may suspend the right of an Owner to use any portion of the Common Areas for any violation of this Declaration, or any exhibit to this Declaration, or any other governing document, including, but not limited to, the Rules and Regulations, or in the event the Owner is more than ninety (90) days delinquent in the payment of any assessment provided for in Article V hereof or any monetary obligation owed to the Association. Such suspension shall be imposed in the manner provided in Chapter 720, Florida Statutes, as the same may be amended from time to time.

F. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of an Owner or the Association to comply with the requirements of Chapter 720, Florida Statutes, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

G. No Waiver of Rights. The failure of the Association or any Owner to enforce any covenant, restriction or other provision of Chapter 720, Florida Statutes, this

Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

H. Election of Remedies. All rights, remedies and privileges granted to the Association or an Owner pursuant to any terms, provisions, covenants or conditions of the governing documents 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 party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the governing documents.

Section 4. 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.

Section 5. Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this agreement may be amended, changed, added to, derogated, or deleted at any time and from time to time upon the execution and recordation of any instrument executed by Owners holding not less than two-thirds vote of the membership in the Association. Any provisions relating to subdivision and zoning requirements of Palm Beach County may not be amended without the prior written consent of the office of the County Attorney of Palm Beach County.