Kevin C. Karnes, Lee County Clerk of Circuit Court
INSTR. # 2022000129289, Doc Type RES, Pages 3, Recorded 4/18/2022 at 2:55 PM, Deputy Clerk WSEIBERT ERECORD
Rec Fees: $27.00

This instrument prepared by:
Christina Harris Schwinn, Esq.
PAVESE LAW FIRM
1833 Hendry Street
Fort Myers, Florida 33901
(239) 334-2195

CERTIFICATE OF AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF KELLY GREENS AND TO THE ARTICLES OF INCORPORATION FOR KELLY GREENS MASTER ASSOCIATION, INC.

THE UNDERSIGNED, being duly elected President and Secretary, respectively, of **KELLY GREENS MASTER ASSOCIATION, INC.**, a Florida not-for-profit corporation, do hereby certify that the resolution set forth below was approved, evidenced by a written statement or ballot, manifesting their intention that such amendment be adopted. The resolution was approved and adopted by the board of directors at a duly noticed board meeting on December 18, 2020 for the purpose of amending and restating the Rules and Regulations of Kelly Greens Master Association, Inc. as recorded in Instrument 2011000121479: as amended at Instrument No. 2015000240833; Notice of Preservation recorded at 2017000176384; as further amended at Instrument No. 2019000115966; as further amended at Instrument No. 2020000135030; as further amended at Instrument No. 2020000298692; as further amended at Instrument No. 2021000028722; as further amended at Instrument No. 2021000173340; as further amended at Instrument No. 2021000204112; and as further amended at Instrument No. 2022000114017 in the Public Records of Lee County, Florida.

RESOLVED: That the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens be and are hereby amended in the form attached hereto as Exhibit "A".

The following resolution was approved by a two-thirds (2/3rds) vote of the voting interests present in person or by proxy at a duly called meeting of the Association on April 4, 2022:

RESOLVED: That the officers and directors are hereby instructed and authorized to execute the aforementioned document and cause it to be filed of Public Record, together with a Certificate of Amendment.

Dated this 18th day of April, 2022.

AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR KELLY GREENS

New text appears in **bold and is underlined**.
Deleted text appears in a ~~strikethrough~~ format.

Section 3.2 is amended as follows:

3.2 Membership Privileges. Each of the 939 Lots or Units is entitled to one (1) membership. The word "membership," for purposes of determining use rights to the golf course and other facilities, shall mean one (1) person and spouse or two (2) persons who ~~are not related by blood, marriage or adoption but who, in fact,~~ live and reside together full-time ~~as a single housekeeping unit and~~ **with** their children**, if any,** under the age of twenty-one (21) years who reside in the Lot or Unit. Such Lot or Unit owned by more than one family shall be required to select one (1) family for the golf membership. Likewise, a corporation or other entity that owns a Lot or Unit shall designate, in writing, to the Master Association one (1) family that may use said golf membership. The Association may specifically limit or place restrictions on the use of the golf course and other facilities by member family, guests, tenants and invitees. Nothing in this paragraph shall be construed to limit or abridge the power of the Association to formulate, amend and enforce restrictions on the use of the Common Area.

WITNESS #1:

Jordan Kovelcik
Printed Name of Witness

WITNESS #2:

Virginia Cowden
Printed Name of Witness

KELLY GREENS MASTER ASSOCIATION, INC.

By: Frances Roebuck Kuhns
Print Name: Frances Roebuck Kuhns
Title: President

ATTEST:

Faye Coffman
Print Name: Faye Coffman
Title: Secretary

STATE OF FLORIDA)

COUNTY OF LEE)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 18th day of April, 2022, by Frances Roebuck Kuhns, as President of KELLY GREENS MASTER ASSOCIATION, INC. who is ☒ personally known to me or ☐ produced the following identification _____ and did not take an oath.

EWA BEN
MY COMMISSION # HH 065831
EXPIRES: November 30, 2024
Bonded Thru Notary Public Underwriters

(SEAL)

EWA BEN
Notary Public

EWA BEN
Printed Name of Notary

INSTR # 201100012479, Doc Type RES, Pages 01, Recorded 05/24/2011 at 03:41 PM, Charlie Green, Lee County Clerk of Circuit Court, Rec. Fee $520.00 Deputy Clerk PSMITH

This instrument prepared by:
Christopher J. Shields, Esq.
PAVESE LAW FIRM
1833 Hendry Street
Fort Myers, Florida 33901
(239) 334-2195

CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF KELLY GREENS

THE UNDERSIGNED, being duly elected and acting President and Secretary, respectively, of **KELLY GREENS MASTER ASSOCIATION, INC.**, a Florida not-for-profit corporation, do hereby certify that the resolution set forth below was approved, evidenced by a written statement or ballot, manifesting their intention that such amendment be adopted. The resolution was approved and adopted by the votes indicated for the purpose of amending the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens as originally recorded in Official Records Book 1958, Page 4732 *et seq.*, and as may have been subsequently amended, in the Public Records of Lee County, Florida.

The following resolution was approved by at a two-thirds (2/3rds) vote of the voting interests present in person or by proxy at a duly called meeting of the Association:

RESOLVED: That the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens be and are hereby amended and restated, and the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Kelly Greens is in the form attached hereto as Exhibit "A."

RESOLVED: That the officers and directors are hereby instructed and authorized to execute the aforementioned document and cause it to be filed of Public Record, together with a Certificate of Amendment.

Dated this 19TH day of MAY, 2011.

WITNESS #1:

DAVID KLACKLE
Printed Name of Witness

KELLY GREENS MASTER ASSOCIATION, INC.

By:
Print Name: THOMAS D. CHAMBERS
Title: President

WITNESS #2:

ATTEST:

PENELOPE A. MONAGHAN
Printed Name of Witness

STATE OF FLORIDA)

COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 19TH day of MAY, 2011, by THOMAS J. CHAMBERS, as President of KELLY GREENS MASTER ASSOCIATION, INC., a non-profit Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification and did not take an oath.

(SEAL)

EWA BEN
MY COMMISSION # DD 841495
EXPIRES: November 30, 2012
Bonded Thru Notary Public Underwriters

Notary Public

EWA BEN
Printed Name of Notary

F:\WPDATA\CJS\FORMS\CONDO\Amendment\Kelly Greens CERTIFICATE OF AMENDMENT Declaration 5-17-11.wpd

INSTR. # 2019000115966, Pages 4
Doc Type: RES, Recorded: 5/21/2019 at 2:58 PM
Linda Doggett Lee County Clerk of the Circuit Court
Rec Fees: $35.50

Deputy Clerk PSMITH
#1

This instrument prepared by:
Christina Harris Schwinn, Esq.
PAVESE LAW FIRM
1833 Hendry Street
Fort Myers, Florida 33901
(239) 334-2195

CERTIFICATE OF AMENDMENT TO THE SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF KELLY GREENS AND TO THE ARTICLES OF INCORPORATION FOR KELLY GREENS MASTER ASSOCIATION, INC.

THE UNDERSIGNED, being duly elected President and Secretary, respectively, of **KELLY GREENS MASTER ASSOCIATION, INC.**, a Florida not-for-profit corporation, do hereby certify that the resolution set forth below was approved, evidenced by a written statement or ballot, manifesting their intention that such amendment be adopted. The resolution was approved and adopted by the votes indicated for the purpose of amending the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens as recorded in Instrument 2011000121479; as amended at Instrument No. 2015000240833; and as further amended at Instrument No. 2017000176384 in the Public Records of Lee County, Florida.

The following resolution was approved by a two-thirds (2/3rds) vote of the voting interests present in person or by proxy at a duly called meeting of the Association on April 1, 2019:

RESOLVED: That the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens be and are hereby amended in the form attached hereto as Exhibit "A".

RESOLVED: That the Articles of Incorporation for Kelly Greens Master Association, Inc. be and are hereby amended in the form attached hereto as Exhibit "B".

RESOLVED: That the officers and directors are hereby instructed and authorized to execute the aforementioned document and cause it to be filed of Public Record, together with a Certificate of Amendment.

Dated this 1 day of April, 2019.

WITNESS #1:

Cathy Sands

Cathy Sands

Printed Name of Witness

KELLY GREENS MASTER ASSOCIATION, INC.

By: John D Nolan

Print Name: JOHN DOLAN

Title: President

WITNESS #2:

Virginia Cowden

Virginia Cowden

Printed Name of Witness

ATTEST:

Geraldine C. Stupp

Print Name: Geraldine C. Stupp

Title: Secretary

STATE OF FLORIDA)

COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 16 day of May, 2019, by John Dolan, as President of KELLY GREENS MASTER ASSOCIATION, INC., a non-profit Florida corporation, on behalf of the corporation. He/She is personally known to me or has produced _____, as identification and did not take an oath.

Kimberly R Nolan

Notary Public

(SEAL)

KIMBERLY R. NOLAN
MY COMMISSION # GG006793
EXPIRES September 19, 2020
(407) 398-0153 FloridaNotaryService.com

Kimberly R Nolan

Printed Name of Notary

Kevin C. Karnes, Lee County Clerk of Circuit Court
INSTR. # 2022000114017, Doc Type RES, Pages 2, Recorded 4/5/2022 at 3:13 PM, Deputy Clerk AESCOBAR ERECORD
Rec Fees: $18.50

Resolution Authorizing an Increase
To the Kelly Greens Master Association, Inc.'s
Membership Initiation Fee

The Kelly Greens Master Association, Inc. ("Association") is the entity responsible for administration and management of the Kelly Greens Community. Its board of directors is authorized pursuant to Section 3.5.1 of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens ("Declaration") which is recorded at Instrument No. 2011000121479 in the Public Records of Lee County, Florida to adopt this Resolution.

WHEREAS, Section 3.5.1 of the Declaration authorizes the Association's board of directors to increase the Membership Initiation Fee one time during the Association's fiscal year; and

WHEREAS, the Association's board of directors approved a 10% increase increasing the Membership Initiation Fee from $6,000 to $6,600 effective APRIL 1, 2022; and

WHEREAS, the board of directors is authorized to record this Resolution in the Public Records of Lee County, Florida.

NOW, THEREFORE, be it resolved that:

1. The Membership Initiation Fee is increased to $6,600 from $6,000.
2. The increased Initiation Fee goes into effect effective APRIL 1, 2022.

This Resolution was adopted by the Board of Directors on this 22nd day of FEBRUARY, 2022, and is effective as of APRIL 1, 2022.

WITNESS #1:

Signature

Jordan KovaleiK
Printed Name

ATTESTED TO:

By: Frances Roebuck Kuhns
Frances Roebuck Kuhns
Its: Secretary

WITNESS #2:

Virginia Corden
Signature

Virginia Corden
Printed Name

STATE OF FLORIDA :
:
COUNTY OF LEE :

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 22nd day of FEBRUARY, 2022, by Francis Roebuck Kuhns, as Secretary for Kelly Greens Master Association, Inc. who is ☒ personally known to me or ☐ produced the following identification _____.

(SEAL)

EWA BEN
MY COMMISSION # HH 065831
EXPIRES: November 30, 2024
Bonded Thru Notary Public Underwriters

Notary Public in and for
The State of Florida

EWA BEN
Print/Type Name of Notary

My Commission Expires: 11-30-2024

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2021000204112, Doc Type AFF, Pages 2, Recorded 6/21/2021 at 10:37 AM, Deputy Clerk LAMBROSIO ERECORD
Rec Fees: $18.50

Resolution Authorizing an Increase
To the Kelly Greens Master Association, Inc.'s
Membership Initiation Fee

The Kelly Greens Master Association, Inc. ("Association") is the entity responsible for administration and management of the Kelly Greens Community. Its board of directors is authorized pursuant to Section 3.5.1 of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens ("Declaration") which is recorded at Instrument No. 2011000121479 in the Public Records of Lee County, Florida to adopt this Resolution.

WHEREAS, Section 3.5.1 of the Declaration authorizes the Association's board of directors to increase the Membership Initiation Fee one time during the Association's fiscal year; and

WHEREAS, the Association's board of directors approved a 10% increase increasing the Membership Initiation Fee from $5,500 to $6,000 effective February 23, 2021; and

WHEREAS, the board of directors is authorized to record this Resolution in the Public Records of Lee County, Florida.

NOW, THEREFORE, be it resolved that:

1. The Membership Initiation Fee is increased to $6,000 from $5,500.
2. The increased Initiation Fee goes into effect effective April 1, 2021.

This Resolution was adopted by the Board of Directors on this 23 day of February, 2021, and is effective as of April 1, 2021.

WITNESS #1:

Catherine L Sands
Signature

Catherine Sands
Printed Name

ATTESTED TO:

By: Frances Roebuck Kuhns
Frances Roebuck Kuhns
Its: Secretary

WITNESS #2:

Virginia Cowden
Signature

Virginia Cowden
Printed Name

STATE OF FLORIDA :
:
COUNTY OF LEE :

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 23RD day of February, 2021, by Francis Roebuck Kuhns, as Secretary for Kelly Greens Master Association, Inc. who is ☒ personally known to me or ☐ produced the following identification _____.

(SEAL)

EWA BEN
MY COMMISSION # HH 065831
EXPIRES: November 30, 2024
Bonded Thru Notary Public Underwriters

EBen
Notary Public in and for
The State of Florida

EWA BEN
Print/Type Name of Notary

My Commission Expires: 11-30-2024

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000135030, Doc Type RES, Pages 2, Recorded 6/15/2020 at 11:22 AM, Deputy Clerk BDURR ERECORD
Rec Fees: $18.50

Resolution Authorizing an Increase
To the Kelly Greens Master Association, Inc.'s
Membership Initiation Fee

The Kelly Greens Master Association, Inc. ("Association") is the entity responsible for administration and management of the Kelly Greens Community. Its board of directors is authorized pursuant to Section 3.5.1 of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens ("Declaration") which is recorded at Instrument No. 2011000121479 in the Public Records of Lee County, Florida to adopt this Resolution.

WHEREAS, Section 3.5.1 of the Declaration authorizes the Association's board of directors to increase the Membership Initiation Fee one time during the Association's fiscal year; and

WHEREAS, the Association's board of directors approved a 10% increase increasing the Membership Initiation Fee from $5,000 to $5,500 effective June 15, 2020; and

WHEREAS, the board of directors is authorized to record this Resolution in the Public Records of Lee County, Florida.

NOW, THEREFORE, be it resolved that:

1. The Membership Initiation Fee is increased to $5,500 from $5,000.
2. The increased Initiation Fee goes into effect effective June 15, 2020.

This Resolution was adopted by the Board of Directors on this 29th day of May, 2020, and is effective as of June 15, 2020.

WITNESS #1:

Virginia Cowden
Signature

ATTESTED TO:

By: Frances Roebuck Kuhns
Frances Roebuck Kuhns
Its: Secretary

Virginia Cowden
Printed Name
WITNESS #2:
Deborah Hansen
Signature
Deborah Hansen
Printed Name

STATE OF FLORIDA :
:
COUNTY OF LEE :

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29 day of MAY, 2020, by Francis Roebuck Kuhns, as Secretary for Kelly Greens Master Association, Inc. who is ☒ personally known to me or ☐ produced the following identification _____.

(SEAL)

EWA BEN
MY COMMISSION # GG 041199
EXPIRES: November 30, 2020
Bonded Thru Notary Public Underwriters

Notary Public in and for
The State of Florida

EWA BEN
Print/Type Name of Notary

My Commission Expires: November 30, 2020

EXHIBIT "A"

AMENDMENT TO THE
SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR KELLY GREENS

New text appears in **bold and is underlined**.
Deleted text appears in a ~~strikethrough~~ format.

3.5 Membership Initiation Fee

3.5.2 A transferee who is already a current member of the Kelly Greens Master Association, Inc., by reason of his/her/its pre-existing ownership of another Lot or Unit within Kelly Greens, shall still be required to pay the membership initiation fee. ~~, subject to the following: (1) the payment shall be held by the Association in escrow in an interest-bearing account; and, (2) upon subsequent conveyance of the pre-existing Lot or Unit owned by the member at the time of becoming a transferee subject to this section, and payment of a membership initiation fee by the incoming member, the funds in escrow, together with any accrued interest, shall be returned to the member, but only on the condition that the subsequent transfer of the pre-existing Lot or Unit~~ **If the subsequent conveyance of the member's pre-existing Lot or Unit** occurs within **three hundred and sixty-five (365)** ~~one hundred and eighty (180)~~ days from the date the member acquired title to the second Lot or Unit within Kelly Greens, **the Member Initiation Fee paid by the member shall be refunded without interest**. If the subsequent transfer does not occur within **three hundred and sixty-five (365)** ~~one hundred and eighty (180)~~ days from the acquisition of title, the amount in escrow, ~~together~~ with**out** ~~accrued~~ interest, shall be transferred to the Membership Initiation Fee Fund.

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF KELLY GREENS

(SUBSTANTIAL REWORDING OF DECLARATION AND BYLAWS. PLEASE SEE ORIGINAL DECLARATION, AS RECORDED IN OFFICIAL RECORDS BOOK 1958, PAGES 4732-4791; AND, AS LATER AMENDED AND RESTATED IN OFFICIAL RECORDS BOOK 3395, PAGE 4892, ET SEQ.; AND, AS LATER AMENDED IN OFFICIAL RECORDS BOOK 3924, PAGE 3787, ET. SEQ.; AND, AS LATER AMENDED IN OFFICIAL RECORDS BOOK 4669, PAGE 3399, ET. SEQ.; AND, AS LATER AMENDED IN INSTRUMENT NUMBER 2006000144634, PUBLIC RECORDS OF LEE COUNTY, FLORIDA).

The Association ("Association"), as representative of the members of Kelly Greens, and pursuant to the amendment powers contained in the Declaration of Covenants, Conditions and Restrictions, the By-Laws, and Florida Statutes, after proposed notice and discussion, and after recommendation and approval, does hereby file these Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Kelly Greens.

1. **CONFIRMATION OF PRIOR STATEMENT OF DECLARATION OF COVENANTS AND RESTRICTIONS SUBMISSION:** The members of Kelly Greens, do hereby confirm the statements of the Declaration of Covenants, Conditions and Restrictions, as reflected in the Public Records of Lee County, Florida, as follows: Statement of Declaration of Covenants, Conditions and Restrictions Submission, Official Record Book 1958, pages 4732-4791, Public Records of Lee County, Florida.

2. Definitions. In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

2.1 "A & E Committee" shall mean the Architectural and Engineering Committee for Kelly Greens established pursuant to Section 13.1 hereof.

2.2 "Articles" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as Exhibit "B" and made a part hereof, as amended from time to time.

2.3 "Assessments" shall mean any assessments made in accordance with this Declaration and as further defined in Section 11 hereof.

2.4 "Association" also known as "Club" shall mean Kelly Greens Master Association, Inc., its successors and assigns.



2.5 "Association Documents" shall mean this Declaration, the Articles, the By-Laws, the Rules and Regulations, and any Community Guidelines, as amended from time to time.

2.6 "Board" shall mean the Board of Directors of the Association.

2.7 "By-Laws" shall mean the By-Laws of the Association in the form attached hereto as Exhibit "C," and made a part hereof, as amended from time to time.

2.8 "Common Areas" shall mean all real property interests and personalty within Kelly Greens designated as Common Areas from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to the common use and enjoyment of the Owners within Kelly Greens. The Common Areas may include, without limitation, the Recreational Tracts, including the Golf Course, Clubhouse, Driving Range, Putting Greens, Cart and Bag Storage Areas, Tennis Courts, Fitness Areas and Swimming Pools, Gatehouse(s), Entryway(s) and Entry Gate(s), if any, decorative and non-decorative street lights, the Surface Water Management System, lakes, open space areas, internal buffers, perimeter buffers or landscape areas, improvements, easement areas owned by others, additions, irrigation pumps, irrigation lines, sidewalks, streets, lights, walls, commonly used utility facilities, signage, other lighting, and landscaping within property owned by Association. The Common Areas do not include any portion of a Home, Lot or Living Unit. The Common Areas will include the road rights of way designated or depicted on the plat for Kelly Greens, as recorded in Public Records of Lee County, Florida, as further identified as Kelly Palm Drive, Kelly Pine Court, Kelly Greens Boulevard, Kelly Sands Way, Kelly Bay Court, Kelly Woods Drive and Kelly Cove Drive.

2.9 "Community Guidelines" shall mean such standards of alterations, improvements, or maintenance, if any, established by the Board of Directors, pursuant to Section 13.4 hereof.

2.10 "Declaration" shall mean this Declaration, together with all amendments and modifications thereof.

2.11 "Family" or "Single Family" means any one of the following:

(A) One natural person, his or her spouse, if any, and their custodial children, if any.

(B) Not more than two natural persons not meeting the requirement of (A) above, but who customarily reside together as a single housekeeping unit, and the custodial children of said parties, if any.

The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity. "Family Member" is a person who resides in a Unit as part of the Owner's Family, but is not a title holder.

2.12 "Home" shall mean each lot and its dwelling structure constructed thereon and appurtenances thereto constructed within Kelly Greens. The term "Home" may not reflect the same division of property as reflected on a Plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to such Home. In a condominium context, a "unit" or "living unit" shall also be considered a "home". The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

2.13 "Individual Assessments" shall have the meaning set forth in Section 11, hereof.

2.14 "Lender" shall mean the holder of a first mortgage encumbering a Home or any portion of Kelly Greens.

2.15 "Lot" shall mean any platted residential lot shown on a Plat.

2.16 "Member or Owner" shall mean the record owner(s) of legal title of a Lot or Unit in Kelly Greens.

2.17 "Operating Costs" shall mean all costs and expenses of Association and the Common Areas including, without limitation, all costs of ownership; operation; administration; all amounts payable by Association; all amounts payable in connection with any private street lighting agreement between Association and FPL; any amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners; utilities; taxes; insurance; bonds; any gated access mechanism; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; and any and all costs relating to the discharge of the obligations hereunder, or as determined to be part of the Operating Costs by Association. By way of example, and not of limitation, Operating Costs shall include all of Association's legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration.

2.18 "Plat" shall mean any plat of any portion of Kelly Greens filed in the Public Records, as the same may be amended from to time to time.

2.19 "Public Records" shall mean the Public Records of Lee County, Florida.

2.20 "Rules and Regulations" shall mean, collectively, the Rules and Regulations governing Kelly Greens as adopted by the Board from time to time.

2.21 "Special Assessments" shall mean those Assessments more particularly described as Special Assessments in Section 11 hereof.

2.22 "Surface Water Management System" shall mean all infrastructure authorized for construction and operation by South Florida Water Management District Permit No. 36-00384-S, as amended, for Kelly Green including but not limited to retention or detention areas, ditches, pipes, swales, conveyances, weirs, conservation and mitigation areas.

2.23 "Tenant" shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any rental Home within Kelly Greens.

2.24 "Unit" or "Living Unit" shall mean and refer to a condominium parcel that is defined in Chapter 718 of Florida Statutes which is located within the Kelly Greens subdivision.

3. Membership.

3.1 Membership. Upon acceptance of title to a Home, and as more fully provided in the Articles and By-Laws, each Owner (or his or her Tenant, if applicable) shall be a member of Association. Membership rights and privileges are governed by the provisions of this Declaration, the deed to a Home, the Articles and the By-Laws. Membership shall be an appurtenance to, and may not be separated from, the ownership of a Home. Each Owner, by acceptance of title to a Home or to any portion of Kelly Greens, and any person claiming by, through or under such Owner, agrees to be subject to this Declaration and the provisions hereof. The provisions of this Declaration are equitable servitudes and run with the land. The term of this Declaration shall be perpetual.

3.2 Membership Privileges. Each of the 939 Lots or Units is entitled to one (1) membership. The word "membership," for purposes of determining use rights to the golf course and other facilities, shall mean one (1) person and spouse or two (2) persons who are not related by blood, marriage or adoption but who, in fact, live and reside together full-time as a single housekeeping unit and their children under the age of twenty-one (21) years who reside in the Lot or Unit Lot or Unit. Such Lot or Unit owned by more than one family shall be required to select one (1) family for the golf membership. Likewise, a corporation or other entity that owns a Lot or Unit shall designate, in writing, to the Master Association one (1) family that may use said golf membership. The Association may specifically limit or place restrictions on the use of the golf course and other facilities by member family, guests, tenants and invitees. Nothing in this paragraph shall be construed to limit or abridge the power of the Association to formulate, amend and enforce restrictions on the use of the Common Area.

3.3 Golf Course and Clubhouse. The Association shall operate, maintain and hold record title to the golf course, clubhouse and other common areas, including but not limited to the Surface Water Management System, located within Kelly Greens. There shall be a total of not more than 939 memberships for the golf course. The aforesaid golf memberships shall not be assignable and/or transferable, other than through the sale, conveyance, lease or occupancy of the unit to which they are appurtenant. A member may delegate use privileges to a tenant or guest in accordance with the procedures adopted by the Board of Directors and

upon payment of a reasonable transfer fee pursuant to the fee schedule promulgated by the Association. The Board of Directors shall have the right to promulgate reasonable Rules and Regulations pertaining to the golf course, clubhouse and all other common areas and their use by Owners, Owners' family members, tenants, guests and invitees.

3.4 Transfer. The transfer of the fee title to a Home, whether voluntary or by operation of law, terminating the Owner's title to that Home shall terminate the Owner's rights to the use of and enjoyment of the Common Areas, as it pertains to that Home, and shall terminate such Owner's membership in the Association. An Owner's rights and privileges under this Declaration are not assignable separately from a Home. The Owner of each Home is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Home shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon, its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessments accruing subsequent to the date of transfer. In the event that, upon the conveyance of a Home, an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Home, the transferring Owner shall remain liable for Assessments accruing on the Home from and after the date of conveyance.

3.5 Membership Initiation Fee.

3.5.1 For all non-exempt transfers or conveyances, there shall be an obligation imposed upon the transferee to pay to the Master Association a membership initiation fee in the amount of five thousand dollars ($5,000.00), which shall be due and payable upon the date of transfer. The Master Association Board is authorized to increase and further determine the amount of the membership initiation fee upon the condition that no increase shall be made more than one time in any given fiscal year and the increase shall not be more than ten percent (10%) of the previous set amount. Such initiation fee, upon payment, shall be placed in a Membership Initiation Fee Fund. Payment of the membership initiation fee shall be the legal obligation of the transferee and shall be secured by a continuing lien, as provided for Section 11 of this Declaration. For the purposes of this section, the term "conveyance" shall mean the transfer of record legal title to a Lot or Unit by Deed, or other authorized means of conveyance, with or without valuable consideration, and shall also refer to a transfer of possession and beneficial ownership by means of

an Agreement for Deed. The following conveyances shall be exempt from payment of the membership initiation fee: (1) between and among co-owners of the same Lot or Unit being transferred; (2) to the owner's estate, surviving spouse or other heirs, resulting from the death of an owner; (3) to a trustee or the owner's current spouse, solely for bona fide estate planning or tax reasons; and, (4) to a mortgagee or the Association pursuant to a Final Judgment of Foreclosure or Deed in Lieu of Foreclosure.

3.5.2 A transferee who is already a current member of the Kelly Greens Master Association, Inc., by reason of his/her/its pre-existing ownership of another Lot or Unit within Kelly Greens, shall still be required to pay the membership initiation fee, subject to the following: (1) the payment shall be held by the Association in escrow in an interest-bearing account; and, (2) upon subsequent conveyance of the pre-existing Lot or Unit owned by the member at the time of becoming a transferee subject to this section, and payment of a membership initiation fee by the incoming member, the funds in escrow, together with any accrued interest, shall be returned to the member, but only on the condition that the subsequent transfer of the pre-existing Lot or Unit occurs within one hundred and eighty (180) days from the date the member acquired title to the second Lot or Unit within Kelly Greens. If the subsequent transfer does not occur within one hundred and eighty (180) days from the acquisition of title, the amount in escrow, together with accrued interest, shall be transferred to the Membership Initiation Fee Fund.

3.5.3 The Membership Initiation Fee Fund must be maintained and accounted for separately from all other funds of the Association. Funds shall be used only for the repair, replacement, and renovation of pre-existing facilities and improvements. Funds may also be used to pay for new capital projects, but only upon the prior consent and approval of two-thirds (2/3) of those members present, in person or by proxy, at a duly called meeting of the Association.

3.5.4 Any question interpreting any of the provisions relating to the Membership Initiation Fee and its uses shall be determined by the Association's auditors.

3.6. Use and Possession. No Lot, Unit or Home may be divided, or any fractional portion sold, leased or otherwise transferred. Use of the Home is restricted to single-family residential purposes only. A Unit may be owned in a trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers of title. Homes owned in the name of the corporation, limited liability company, partnership or trust shall be treated as co-owned. Co-ownership of Homes is permitted. However, if the co-owners are other than husband and wife, the co-owners shall designate one (1) of the co-owners as the "primary occupant." The use of the Home by other co-owners shall be as though the primary occupant were the only actual owner. Those co-owner(s) whom have not been designated as the primary occupant shall be treated as guests

of the primary occupant. Both the initial approval and the continued approval of a trustee, corporation, or other entity as an owner, shall be conditioned upon designation of one (1) natural person to be the "primary occupant,"and the use of the Home by other persons shall be as though the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift. No more than one (1) such change shall be approved in any twelve (12) month period. The intent of this provision is to allow flexibility in estate, financial or tax planning and not to create circumstances in which the unit may be used as short-term accommodations for several families or individuals.

3.7. Voting Interests. Voting interests in the Association are governed by the provisions of the Articles and By-Laws.

3.8. Conflicts. In the event of any conflict among this Declaration, the Articles, the By-Laws or any of the other Association Documents, this Declaration shall control.

4. Amendment.

4.1. General Restrictions on Amendments. No amendment shall alter the provisions of this Declaration benefitting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to this Declaration, then the prior written consent of such entity or agency must also be obtained. Any amendment which affects the Surface Water Management System shall require the prior written approval of the South Florida Water Management District. No amendment shall be effective until it is recorded in the Public Records.

4.2. Amendments. Subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of the Board and sixty-six and two-thirds percent (66-2/3%) of those members present, in person or by proxy, at a duly called meeting of the membership.

5. Operation of Common Areas.

5.1. Operation of Common Areas. The Common Areas so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in Kelly Greens. Notwithstanding the foregoing, only subject to Association's right to grant easements and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without approval of the Board and sixty-six and 2/3 percent (66-2/3%) of those members voting in person or by proxy at a duly called meeting of the Association.

5.2. Delegation and Managers. Once conveyed or dedicated to Association, the Common Areas and facilities and improvements located thereon shall, subject to the provisions of this

Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Notwithstanding the foregoing Association may delegate all or a portion of its obligations hereunder to a licensed manager or professional management company. Association specifically shall have the right to pay for management services on any basis approved by the Board (including bonuses or special fee arrangements for meeting financial or other goals). Further, in the event that a Common Area is created by easement, Association's obligations and rights with respect to such Common Area may be limited by the terms of the document creating such easement.

5.3. Use.

5.3.1. General Public Use. The Common Areas shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of the Association) entitled to use those portions of the Common Areas. The Association has the right, from time to time, to further provide and make the Common Areas available to other individuals, persons, firms, or corporations, as it deems appropriate.

5.3.2. Right to Allow Use. Association may enter into easement agreements, or other use or possession agreements, whereby the Owners, Telecommunications Providers, and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be included as Operating Costs. Any such agreement shall require the approval of the majority of the Board of Directors.

5.3.3. Assumption of Risk. Without limiting any other provision herein, each person within any portion of Kelly Greens accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of Kelly Greens (e.g., the Common Areas) including, without limitation: (a) noise from maintenance equipment; (b) use of pesticides, herbicides and fertilizers; (c) view restrictions caused by maturation of trees and shrubbery; (d) the removal or pruning of shrubbery or trees within Kelly Greens; (e) design of any portion of Kelly Greens. Without limiting the foregoing, all persons using the Common Areas including, without limitation, any pool or area adjacent to a lake, do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMON AREAS MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, RACCOONS, DEER, SWINE, SNAKES, DUCKS, TURKEYS, IGUANAS, AND FOXES. ASSOCIATION AND ALL OTHER NEIGHBORHOOD ASSOCIATIONS SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND

HIS OR HER GUESTS AND INVITEES, ARE RESPONSIBLE FOR THEIR OWN SAFETY.

5.4 Rules and Regulations. The Association shall have the right, from time to time, to adopt, alter, amend, and rescind Rules and Regulations governing the use of the Common Areas and Kelly Greens. The Common Areas shall be used in accordance with this Declaration and Rules and Regulations promulgated hereunder.

5.5 Easements for Playing Golf. Non-specific, non-exclusive easements are hereby created for the benefit of users of the golf course over all Lots, Living Units, Neighborhood Common Areas, and Common Areas adjacent to the golf course, to permit every act necessary, incidental, or appropriate to the playing of golf. These acts include, without limitation, the recovery by golfers of errant golf balls, the flight of golf balls over and across such Lots, Living Units or Common Areas, the landing of errant golf balls upon the Lots, Living Units or Common Areas, the use of necessary and usual golf carts and maintenance equipment upon the golf course (and this golf course easement over and herein set out), the usual and common noises and other disturbances created by maintenance of the course and the playing of the game of golf, including occasional tournaments, together with all other common and usual occurrences normally associated with the existence and operation of a golf course.

5.6 Waiver and Disclaimer Regarding Golf Course. Each Owner of a Lot or Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is hereby deemed to acknowledge and accept the following inherent risks associated with the golf course:

5.6.1 Normal maintenance on the golf course could begin early in the morning and extend late into the evening;

5.6.2 During certain periods of the year, the golf course may be heavily fertilized;

5.6.3 The maintenance of the golf course may require the use of chemicals and pesticides;

5.6.4 The golf course may be watered with reclaimed water; and

5.6.5 Golf balls are not susceptible of being easily controlled and accordingly may enter Owner's airspace, strike Owner, Owner's guests, yard, walls, roof, windows, landscaping and personal property causing personal injury and property damage.

The Association and its members (in their capacity as members) and any successor in title to the golf course, and any agents, servants, employees, directors, officers, affiliates, representatives, receivers, subsidiaries, predecessors, successors and assigns of any such party ("Released Parties"), shall not in any way be responsible for any claims, damages,

losses, demands, liabilities, obligations, actions or causes of action whatsoever, including, without limitation, actions based on (1) any invasion of the Lot owner's use or enjoyment of the Lot; (2) improper design of the golf course; (3) the level of skill of any golfer (regardless of whether such golfer has the permission of management to use the golf course); or, (4) trespass by any golfer on the Lot which may result in property damage or personal injury from golf balls (regardless of number) hit on the Property or on adjacent roadways, or from the exercise by any golfer of the easements granted herein.

Furthermore, each Owner of Lot or Unit hereby assumes the risk inherent in owning property adjacent to or nearby a golf course, including, without limitation, the risk of personal injury and property damage from errant golf balls, and hereby indemnifies and agrees to hold the Released Parties harmless from any and all losses arising from claims by such Owner, or persons using or visiting such Owner's Lot, for any personal injury or property damage.

6. Maintenance Responsibility.

6.1. Common Areas. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times operate, maintain, repair, replace and insure the Common Areas, including all improvements placed thereon. The Owners have the right to enforce, by appropriate legal means, the Association's duty to operate, maintain, repair, replace and insure the Common Areas, including, without limitation, all improvements placed thereon, all easements and rights-of-way and, to the extent applicable to Association, the Surface Water Management System.

6.2. Lawn and Landscape Maintenance. Individual lot owners and condominium associations which administer and operate condominiums shall cut and edge all landscape areas and, further, will fertilize, weed and mulch the yard of each Home, and shall trim the bushes and trees to the pavement edge or curb. Each Owner is responsible for replacing any trees, shrubs, grass, sod or landscaping that requires replacement in the yard. The individual Lot Owners and respective condominium associations shall be responsible for the operation, maintenance, repair and replacement of all irrigation equipment, including lines, switches, timers and sprinkler heads. If the Board, the A&E Committee or management determines that a Home needs landscaping cleanup or improvements, Owners are required to respond to such directive within fifteen (15) days and complete the work at their own expense within a reasonable time.

6.3. Exterior Home and Condominium Repair and Maintenance. Owners are further required to regularly paint and repaint all home exteriors and to keep all home improvements in clean, presentable and good condition. If the Association determines that a Home needs to be repainted or its roof needs to be cleaned, Owners are required to respond to such directive within fifteen (15) days and complete the work at their own expense within a reasonable time.

6.4. Fencing. Fences shall be allowed only with the approval of the association. With the exception of those privacy fences, walls, etc. which pre-exist as of the date of this amendment, and which may be "grandfathered in" for the duration of their existence. No other walls, fences or hedges shall be erected or installed on any home or lot which abuts a lake or water body which, in the opinion of the A&E Committee, unduly interferes with any adjacent lot owner's view of such lake or water body. Owners are responsible for maintenance, repair and replacement of fence and hedges encompassed within Lots, as well as all landscaping, lawn and other features enclosed or otherwise determined to be an inaccessible area.

6.5. Adjoining Areas. Association may maintain those drainage areas, swales, lakes maintenance easements, driveways, and landscape areas that are within the Common Areas and immediately adjacent to a Home, provided that such areas are readily accessible to Association. Under no circumstances shall Association be responsible for maintaining any inaccessible areas.

6.6. Negligence. The expense of any maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner or persons utilizing the Common Areas through or under an Owner shall be borne solely by such Owner, and the Home owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Common Areas without the prior written approval of the Association.

6.7 Right of Easement. Association is granted a perpetual and irrevocable easement over, under and across Kelly Greens for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform.

6.8. Maintenance of Property Owned by Others. Association may by other notice or direction, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other area, or upon areas which are within or outside of Kelly Greens which are owned by, or dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity, so as to enhance the appearance of Kelly Greens. These areas may include (by way of example and not limitation) swale areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or features, community signage or other identification and/or areas within canal rights-of-ways or other abutting waterways.

6.9 Maintenance and Alteration of Common Areas. The Association is responsible for the maintenance, repair, replacement, insurance, protection and control of all Common Areas, in accordance with all applicable laws, land shall keep the same in good , safe, clean, attractive and sanitary condition, and in good working order at all times. There shall be no

material alterations of, or substantial additions to, the Common Areas, costing more than five percent (5%) of the total annual budget, unless first having the prior consent and approval of two-thirds (2/3) of those members present, in person or by proxy at a meeting of the Association duly called for this purpose. However, if work that is reasonably necessary to meet the Association's obligations under the first sentence of this Section 6.9 also constitutes a material alteration or substantial addition, no prior membership approval is required

7. Use Restrictions. Each Owner must comply with the following:

7.1. Units. Each unit shall, at any time, be occupied by only one family, its caregiver(s) and guests, as a residence, and for no other purpose. No business, commercial activity or profession may be conducted from any unit, nor may the name of the community or the address of any Unit be publicly advertised as the location of any business. This restriction shall further not be construed to prohibit any owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his unit. Such uses are expressly declared customarily incident to residential use. This Section 7.1. is, however, intended to prohibit commercial or business activity by a unit owner which would unreasonably disrupt the residential ambiance of the building, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the community by persons making deliveries or pick-ups, by employees or other business associates, or by customers and clients. No day care center or facility may be operated out of a Home.

7.2 Animals and Pets. Only common domesticated household pets may be kept on any Lot or in a Home, but in no event for the purpose of breeding or for any commercial purposes, whatsoever. In no event shall any home harbor or keep more than four (4) cats and two (2) dogs, or such fewer number as may be provided by the Lee County Code, as amended from time to time. Any owner or tenant who has more than four (4) cats as of the effective date of this amendment shall be entitled to keep those particular cats for the life of the cat. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Property. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board. Under no circumstances may a dog or any animal deemed to be vicious, be permitted to be kept or harbored in a home. Any pet must be carried or kept on a leash when outside of a Home. So-called "invisible fence" is not permitted. No pet shall be kept tied up outside of a Home. All pets outside the home must be under visual supervision at all times. No pet may be kept on a screened porch or patio, unless someone is present in the Home, and such pet shall be removed from such screened porch or patio in the event of any disturbance by such animal or complaint by neighbors or Declarant. An Owner shall immediately pick up and remove any solid animal waste deposited by his pet on the Property, other Owner's property, or common areas. An Owner is responsible for the cost of repair or replacement of any Association Property damaged by his pet. Each Owner who

determines to keep a pet thereby agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character, whatsoever, arising from or relating to owner maintaining any animal in the community. In all events, any neighborhood condominium or homeowners association within Kelly Greens may adopt and enforce more restrictive rules regarding animals and pets within their respective neighborhoods.

7.3 Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Home or Parcel, unless approved by the Association.

7.4 Commercial Activity. No solicitors of a commercial nature shall be allowed within Kelly Greens, without the prior written consent of the Association.

7.5 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto, as adopted from time to time), no person other than an Association officer and/or agent shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

7.6 Decorations. No decorative objects including, but not limited to, birdbaths, light fixtures, sculptures, statues, weather vanes, or flagpoles shall be installed or placed within or upon any portion of Kelly Greens without the prior written approval of the Association. No decorations of any type may be placed on the mailboxes or mailbox poles except during the December holiday season. Preexisting decorations and objects may be "grandfathered," and allowed to exist, but may not be replaced. Notwithstanding the foregoing, nothing shall impair any member from displaying a flag under the conditions expressly permitted under Chapter 720, Florida Statutes.

7.7 Disputes as to Use. If there is any dispute as to whether the use of any portion of Kelly Greens complies with this Declaration, such dispute shall be decided by the Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

7.8 Drainage System. The maintenance of any drainage facilities situated on any lot or home system and/or facilities thereafter shall be the responsibility of the Owner of the Home which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, water body slopes, or other improvements) is adversely affected by landscaping, structures, or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to Association approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Home. Likewise, if the roots

of a tree located within the Common Areas adversely affect an adjacent Home, the Association shall be responsible for the removal of the roots and the costs thereof shall be Operating Costs. Notwithstanding the foregoing, Association shall have no responsibility or liability for drainage problems of any type, whatsoever. Notwithstanding the foregoing, the provisions of this section are not intended to abrogate or diminish the Association's responsibilities for maintenance of the drainage system and the Surface Water Management System set out in this Declaration or otherwise provided for, including, without limitation, the Association's compliance with any maintenance requirements of the South Florida Water Management District.

7.9 Extended Absences. In the event a Home will be unoccupied for an extended period, the Home must be prepared prior to departure by: (1) removing all removable furniture, plants and other objects from outside the Home; and, (2) designating a responsible firm or individual to make periodic inspections of the Home and report any damage or potential hazard to the owner so that immediate corrective action can be taken. The Association shall have no responsibility, of any nature, relating to any unoccupied Home.

7.10 Garage and Estate Sales. No garage sales may be permitted other than those coordinated by the Board of Directors in accordance with this provision. Each garage sale may be one (1) day in duration and subject to rules and regulations adopted by the Board. Estate sales are subject to approval by the Master Board.

7.11 Garbage Cans. Trash collection and disposal procedures established by Association shall be observed. No outside burning of trash or garbage is permitted. No garbage cans, recycling containers, supplies or other similar articles shall be maintained on any Home so as to be visible from outside the Home or Lot. No garbage, to include vegetation, shall be placed in the street or on storm drains at any time. Garbage cans and/or vegetation may be placed at the curb no earlier than 6:00 p.m. on the day preceding garbage pickup and must be removed no later than 7:00 p.m. on the day of garbage pickup.

7.12 Holiday Lights and Other Lighting. Except for seasonal holiday lights, all newly installed exterior lighting shall require the approval of the Association as set forth in this Declaration. The Board of Directors may establish standards for holiday lights. The Board of Directors may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home). The holiday season shall extend from Thanksgiving to January 10th.

7.13 Lawful Use. No unlawful or obnoxious use shall be made in any portion of Kelly Greens. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of Kelly Greens shall be the same as the responsibility for maintenance and repair of the property concerned.

7.14 Mailboxes and Mailbox Lights. Each owner shall be responsible for the maintenance, upkeep, repair and replacement of his/her individual mailbox and mailbox post which must, in all events, conform to community standards or be approved by the Association. Notwithstanding, if the owner or the respective neighborhood condominium or homeowners association fails to maintain the mailbox and mailbox post, the Association shall be empowered, but not obligated, to replace mailboxes and mailbox posts at the owner's expense, and same shall constitute a service assessment collectible under Section 11 of this Declaration. No reflectors of any type may be attached to mailboxes or mailbox posts.

7.15 Use of Facilities. Members shall be responsible for all actions of their tenants, guests and invitees, and all family members of these parties, at all times, in and about Kelly Greens.

7.16 Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of Kelly Greens is permitted. No firearms shall be discharged within Kelly Greens. Nothing shall be done or kept within the Common Areas, or any other portion of Kelly Greens including a Home or Lot, which will increase the rate of insurance to be paid by Association.

7.17 Parking. All motor vehicles shall be parked in a garage or driveway or assigned parking areas. Under no circumstances will any vehicle be parked on or block any sidewalk or designated walkway. No vehicle which is not currently registered or cannot operate on its own power shall remain within Kelly Greens for more than twelve (12) hours, except in the garage of a Home. No repair, except emergency repair, of vehicles shall be made within Kelly Greens, except in the garage of a Home. No commercial vehicle, recreational vehicle, boat, trailer, including but not limited to boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept within Kelly Greens, except in the garage of a Home. The term "commercial vehicle" shall not be deemed to include recreational or sport utility vehicles up to 21'5" in length or clean "non-working" vehicles such as pick-up trucks, vans, or cars, if they are used by the Owner on a daily basis for normal transportation. Such vehicles shall not contain any commercial business names, written advertisements, or logos written on the outside of such vehicles. No jet ski, jet ski trailer, canoe, kayak, boat or boat trailer may be stored or parked on the property except within an enclosed garage. The Board or the Association's manager is authorized to tow any vehicle that is in violation of this Section at the vehicle owner's expense. No vehicle may be stored or kept anywhere within Kelly Greens by any person who is not otherwise a bona fide resident, tenant or guest within Kelly Greens unless the vehicle is stored within an enclosed garage. The purpose of this provision is to preclude nonresidents from storing vehicles within Kelly Greens when they are not living or otherwise residing there.

7.18 Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Lot or Home, or any other

portion of Kelly Greens, which is unsightly or which interferes with the comfort and convenience of others.

7.19 Pools. No above-ground pools shall be permitted. All in-ground pools and appurtenances installed shall require the approval of the Association as set forth in this Declaration. All pools and spas shall be properly maintained at all times in accordance with applicable Florida laws.

7.20 Removal of Soil and Additional Landscaping. Without the prior consent of the Association, no Owner shall remove soil from any portion of Kelly Greens, change the level of the land within Kelly Greens, or plant landscaping which results in any permanent change in the flow and drainage of surface water within Kelly Greens.

7.21 Pavement Pressure Cleaning. With the exception of the sidewalks adjacent to the road right-of-way, which shall be the responsibility of the Association and which will be cleaned by the Association, all pavement including, but not limited to, walks and drives, shall be cleaned and kept free of debris, grime and dirt by the Lot Owner or respective condominium association. Necessary cleaning must be performed within fifteen (15) days of notice by the Association.

7.22 Satellite Dishes and Antennae. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot or other portion of Kelly Greens without the prior written approval thereof being first had and obtained from the Association, as required by this Declaration. The Master Association may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others.

7.23 Signs. No signs, banners, billboards or advertisements of any kind including, without limitation, those of Realtors, politicians, contractors or subcontractors, shall be erected or displayed anywhere within or upon the community, including in windows and on motor vehicles, unless approved, in writing, in advance, by the Master Association's Manager. Notwithstanding the foregoing, one (1) "For Sale" and three (3) "Open House" signs that comply with the following are permitted without prior approval of the Master Association's Manager. Under no circumstances shall any sign be larger than 150 square inches.

7.23.1 General Provisions.

(a) Color specifications shall be available from the designated vendor.

(b) All signage must be removed from site within sixty (60) days of the signing of a Purchase and Sale Contract.

(c) No "Sale Pending," "Sold," "Under Contract," or signs of similar import shall be allowed.

(d) "Take One" sleeves and/or containers of similar import and "eye-catcher" material such as balloons, ribbons and/or banners indicating that the Lot or Unit is for sale or that there is an open house are prohibited.

(e) A fine of one hundred dollars ($100.00) a day and suspension of the violator's use privileges in the Common Areas may be levied in accordance with Florida law for violations of the signage rules.

(f) "Designated vendor." The Architectural and Engineering Committee may require that all signs installed or placed within or upon the community be manufactured and/or installed by a vendor designated from time to time by the Association in order to ensure conformity with these restrictions.

(g) Note: Notwithstanding the foregoing, the individual Neighborhood Associations may prevent, prohibit, or impose additional restrictions on the placement and display of signs in their respective neighborhoods.

7.23.2 "FOR SALE" Signs, Single Family and Villa Homes.

(a) No owner may erect or display, or permit to be erected or displayed, any signs in or upon any Lot, Unit or structure, except that one (1) "For Sale" sign no larger than twelve (12) inches in height and no more than eighteen (18) inches in width and three-quarters inch (3/4") in thickness is permitted.

(b) Only "For Sale" signs obtained from the Association's designated vendor and manufactured, according to the Association's specifications, shall be permitted.

(c) The sign shall only display "For Sale," the telephone number, and the name of either the homeowner or the Realtor and Real Estate company listing the property, if any.

(d) Telephone number letters shall not exceed four(4) inches in height and the lettering indicating the homeowner or the Realtor and Real Estate company shall not exceed two (2) inches in height.

(e) The sign shall be made of wood or PVC.

(f) The sign shall be mounted no more than eight (8) inches off the ground and installation shall be on two (2) inch by two (2) inch posts made of wood or PVC.

(g) The sign shall be placed parallel to the roadway in landscape bedding, or in the absence thereof, in the lawn, no less than thirty (30) feet from the roadway pavement.

(h) The installation posts shall be green and the sign shall have a Kelly Greens formula green background with white lettering.

(i) The expense incidental to the manufacture and purchase of such signs shall be borne by the homeowner or the real estate listing company, if any.

7.23.3 "FOR SALE" Signs, Condominiums.

(a) A sign framework ("framework") shall be installed directly under the existing condominium building identification sign by securing it to that sign's installation posts.

(b) The expense incidental to the manufacture and purchase of such framework shall be borne by the appropriate condominium association.

(c) The framework shall be of such dimensions so as to enable it to be installed directly under the building identification sign on its posts but shall not be more than thirty-six (36) inches in height or wider than the existing sign.

(d) The framework shall be headed "Units For Sale" in white.

(e) The framework shall be Kelly Greens formula green and shall be manufactured so as to enable the insertion of a maximum of eight (8) individual inserts, each designating one (1) unit for sale.

(f) The framework shall be made of wood or PVC.

(g) The inserts shall be white with Kelly Greens formula lettering and shall be made of plastic or similar material.

(h) Each insert shall only display the unit number for sale, the telephone number, and the name of either the homeowner or the Realtor and the Real Estate company listing the property, if any.

(i) The dimensions of each insert shall be thirty (30) inches wide by three (3) inches high and the size and design of the lettering shall be as determined by the designated vendor provided for hereinafter.

(j) Only inserts obtained from the Association's designated vendor and manufactured according to the Association's specifications shall be permitted.

(k) An additional sign shall be permitted in the event of eight (8) individual slots being insufficient at any time, subject to prior permission and design approval having been obtained from the Association.

(l) The expense incidental to the manufacture and purchase of the inserts shall be borne by the homeowner or the real estate company listing the property, if any.

7.23.4 "OPEN HOUSE" Signs.

(a) Realtor and "By Owner" or "Open House" signs may be displayed during daylight hours, only, on Wednesdays, Saturdays and Sundays and must be removed by no later than sunset on these permitted days. "Eye-catcher" materials such as balloons, ribbons and/or banners are prohibited.

(b) Only "Open House" signs obtained from the Association's designated vendor and manufactured according to the Association's specifications shall be permitted.

(c) Each Lot or Unit shall be allowed a maximum of three (3) signs on any one given day, all of which must be displayed within the gated areas of the community and are not permitted outside any of its five (5) sets of entrance gates.

(d) The expense incidental to the manufacture and purchase of the "Open House" signs shall be borne by the homeowner or the real estate company listing the property, if any.

7.23.5 Security and Pest Control Signs:

(a) Security company signs may be displayed in landscape bedding but may be no larger than 150 square inches.

(b) Pesticide warning signs shall be removed after twenty-four (24) hours.

7.24. Sports Equipment. No recreational, playground or sports equipment shall be installed or placed within or about any portion of Kelly Greens without prior written consent of the Association.

7.25. Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall be permitted, and no other structure or improvement shall be constructed, erected, altered, modified or maintained, without the prior approval of the Association, which approval shall conform to the requirements of this Declaration.

7.26 Subdivision and Regulation of Land. No portion of any Home or Lot shall be divided or subdivided, or its boundaries changed, without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to Kelly Greens, without the prior written approval of the Association, which may be granted or deemed in its sole discretion.

7.27 Substances. No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept within any Home or Lot, unless stored or kept in appropriate containers and used for normal household or normal hobby or recreational use.

7.28 Fishing Swimming and Boating. Fishing, swimming and boating in any part of a lake or other water body forming part of Kelly Greens is expressly prohibited.

7.29 Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

7.30 Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the Association and governmental agencies.

7.31 Wetlands and Mitigation Areas. It is anticipated that the Common Areas shall include one or more preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. If wetland mitigation or monitoring is required, the Association shall be responsible for carrying out this obligation.

7.32 Windows or Wall Units. No window or wall air conditioning unit may be installed which protrudes from any window or wall of a Home.

7.33 Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering. No newspaper, aluminum foil, sheets or other temporary window treatments are permitted. No other window treatments or coverings may be used without the express written approval of the Board of Directors.

7.34 Lake Lots and Condominium Property Bordered Water Bodies. For the purpose of this section, the term "Lake Lot" shall also refer to condominium property which abuts or

borders water bodies or lakes. Notwithstanding anything contained herein to the contrary, and subject to the rights and obligations of the Association to maintain the Lakes as aforesaid for water retention, stormwater management, landscape maintenance/irrigation and water management purposes for all of Kelly Greens and the right of the Association to adopt rules from time to time with respect to the use of the Lakes for such purposes, but only in accordance with this Declaration and subject to restrictions imposed by Lee County, the South Florida Water Management District and the requirements imposed by the South Florida Water Management District.

The Lakes are not specifically approved for fishing or swimming. Future rights to fishing will be allowed only if approved by all governmental agencies exercising authority over such water bodies including, but not limited to, the South Florida Water Management District. However, notwithstanding anything contained herein to the contrary, if fishing is allowed in the future, an Owner shall only access the Lakes from the "Lake Maintenance Access Easement" or "Lake Maintenance Easement" shown on the Plat or Additional Plat, if any, which immediately abuts his Lot if the Owner's Lot is a Lake Lot ("Lake Lot Owner"). If an Owner is not a Lake Lot Owner, or if a Lake Lot Owner wishes to access a different Lake or another area of the same Lake, access to the Lake shall be exclusive from the Lake Maintenance Access Easement abutting a Landscaped Area or Grassed Area {as defined in Section 2(4) hereof} and such access shall be limited to the portion of the Lake Maintenance Access Easement or Lake Maintenance Easement and lake bank abutting the Landscaped Area or Grassed Area. If no portion of the Lake Maintenance Access Easement or the Lake Maintenance Easement and lake bank abuts a Landscaped Area or Grassed Area, Owners other than Lake Lot Owners whose Lots abut the Lake shall not be permitted access to that Lake. In addition, no Owner shall be permitted access to or to fish in any Lake Maintenance Easement or lake bank area which immediately abuts a Lake Lot owned by another.

Neither Lake Lot Owners, their family members, guests, social and business invitees and tenants shall be permitted to operate motorized, non-motorized or any other personal electric watercraft in the Lakes. No planting, fencing, or other improvements or additions to the Landscaped Area or Grasses Area surrounding the Lake and outside the Lot is permitted other than the right of each Lake Lot Owner to construct a retaining wall on their respective Lake Lot at the high water mark of the lake edge against their Lot to the extent local Federal, State or Local government authority permits the owner to install said structure. No installation of sand or other materials intended to simulate a beach shall be permitted along the Lakes' banks or within the Lake Maintenance Easement or Lake Maintenance Access Easement or rear yards of the Lake Lots. Swimming and the operation of motorized watercraft in the Lakes are prohibited. No watercraft or trailers shall be stored on the Lake banks of the Lake Maintenance Easement. In addition, the use of any Lake Maintenance Easement by any Owner, as described above, is prohibited. The Lake Maintenance Easement is for the use of the Association, the County, the applicable water management district and any other governmental agency for access to the Lakes for maintenance of the

Lakes and littoral plantings and other proper purposes. No removal or damage to littoral or wetlands plantings is permitted.

8. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Developer, then an easement for such encroachment shall exist so long as the encroachment exists. It is contemplated that each Home shall contain an improvement with exterior walls, footings, and other protrusions which may pass over or underneath an adjacent Home. A perpetual non-exclusive easement is herein granted to allow the footers for such walls and other protrusions and to permit any natural water runoff from roof overhangs, eaves and other protrusions onto an adjacent Home.

9. Insurance. Association shall maintain the following insurance coverages:

9.1 Property and General Liability Insurance. Commercial general liability insurance and General Property Casualty coverage providing coverage and limits deemed appropriate.

9.2 Directors and Officers Liability Insurance. Each member of the Board shall be covered by directors and officers liability insurance in such amounts and with such provisions as approved by the Board.

9.3 Other Insurance. Such other insurance coverages as appropriate from time to time. All coverages obtained by Association shall cover all activities of Association and all properties maintained by Association, whether or not Association owns title thereto.

9.4 Homes.

9.4.1 Requirement to Maintain Insurance or Provide Proof of Financial Ability to Rebuild. Each Owner shall be required to obtain and maintain adequate insurance necessary to facilitate reconstruction of his or her Home, in accordance with normal building codes. Such insurance or other proof reasonably requested by the Board shall be sufficient for necessary repair or reconstruction work and related costs. Upon the request of the Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home or other proof which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of the Association, the Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

9.4.2 Required Repair. Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: (a) the Owner shall commence reconstruction and/or repair of the Home ("Required Repair"); or, (b) Owner shall tear the Home down, remove all debris, and re-sod and landscape the property comprising the Home, as required by the Association ("Required Demolition"). If an Owner elects to perform the

Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within three (3) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. The Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, the Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

9.4.3 Standard of Work. The standard for all demolition, reconstruction, and other work performed, as required by this Section shall be in accordance with the Community Guidelines and any other standards established by the Association with respect to any casualty that affects all or a portion of Kelly Greens.

9.4.4 Additional Rights of the Association. If an Owner refuses or fails, for any reason, to perform the Required Repair as herein provided, then the Association, in its sole and absolute discretion, by and through its Board, is hereby irrevocably authorized by such Owner to perform the Required Repair. All Required Repairs performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair performed by the Association.

9.4.5 Association Has No Liability. Notwithstanding anything to the contrary of this Section, the Association, its directors and officers, shall not be liable to any Owner should an Owner fail, for any reason whatsoever, to obtain insurance coverage on a Home. Moreover, the Association, its directors and officers, shall not be liable to any person if the Association does not enforce the rights given to the Association in this Section.

9.5 Fidelity Bonds. If available, a blanket fidelity bond 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. In the event the Association delegates some or all of the responsibility for the handling of the funds to a professional management

company or licensed manager, such bonds shall be required for its officers, employees and agents, handling or responsible for funds of, or administered on behalf of the Association. The amount of the fidelity bond shall be based upon reasonable business judgment. The fidelity bonds required herein must meet the following requirements (to the extent available at a reasonable premium):

9.5.1 The bonds shall name the Association as an obligee.

9.5.2 The bonds shall contain waivers, by the issuers of the bonds, of all defenses based upon the exclusion of persons serving without compensation from the definition of "employee" or similar terms or expressions.

9.5.3 The premiums on the bonds (except for premiums on fidelity bonds maintained by a professional management company, or its officers, employees and agents), shall be paid by the Association.

9.5.4 The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to the Association.

9.5.5 Association as Agent. The Association is irrevocably appointed agent for each Owner of any interest relating to the Common Areas to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

9.5.6 Casualty to Common Areas. In the event of damage to the Common Area or any portion thereof, the Association shall be responsible for reconstruction after casualty. In the event of damage to a Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

9.5.7 Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulation(s).

9.5.8 Additional Insured. The Association and its Lender(s) shall be named as additional insured on all policies obtained by the Association, as their interests may appear.

9.5.9 Cost of Payment of Premiums. The costs of all insurance maintained by the Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof, are Operating Costs.

10. Property Rights.

10.1 Owners' Easement of Enjoyment. Every Owner, and its immediate family, tenants, guests and invitees, and every owner of an interest in Kelly Greens, shall have a non-exclusive right and easement of enjoyment in and to those portions of the Common Areas which it is entitled to use for their intended purpose, subject to the following provisions:

10.1.1 The right of the Association to suspend the Common Area (including golf course) use rights of a member or a member's family, guests or invitees, or all, for nonpayment of assessments and club charges as long as such remain unpaid. The Association's right to suspend use privileges in the Association's Common Area shall apply to any member who is delinquent for more than ninety (90) days in the payment of assessments and/or club charges to the Association or to any neighborhood, homeowners, or condominium association situated within Kelly Green subdivision upon the Association receiving notice from the particular neighborhood or condominium association requesting that the member's use privileges in the Association's Common Area be suspended for the nonpayment of assessments.

10.1.2 Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

10.1.3 The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Section 720.305 of the Florida Statutes, as amended from time to time.

10.1.4 The right of Association to dedicate or transfer all or any part of the Common Areas or dedicate easements over the Common Areas.

10.1.5 The right of Association to modify the Common Areas, as set forth in this Declaration.

10.1.6 The rights of Association regarding Kelly Greens, as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

10.1.7 Rules and Regulations adopted, governing use and enjoyment of the Common Areas.

10.1.8 An Owner relinquishes use of the Common Areas at any time that a Home is leased to a Tenant unless the tenant waives the right to the same. At no time may

the Owner and Tenant of a leased Home both have use rights in the Common Areas of the Association.

10.1.9 Public Easements. Fire, police, school transportation, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within Kelly Greens.

10.1.10 Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Common Areas to occupants or lessees of that Owner's Home, subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

10.1.11 Easement for Encroachments. In the event that any improvement upon Common Areas, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

10.1.12 Permits, Licenses and Easements. The Association shall, in addition to the specific rights reserved to Association herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through Kelly Greens (including Homes) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Association an irrevocable power of attorney, coupled with interest, for the purposes herein expressed.

10.1.13 Support Easement and Maintenance Easement. An easement is hereby created for the existence and maintenance of supporting structures (and the replacement thereof) in favor of the entity required to maintain the same. An easement is hereby created for maintenance purposes (including access to perform such maintenance) over and across Kelly Greens (including Homes) for the reasonable and necessary maintenance of Common Areas, utilities, cables, wires and other similar facilities.

10.1.14 Drainage. A non-exclusive easement shall exist in favor of Association, and their designees, and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over Kelly Greens over, across and upon Kelly Greens for drainage, irrigation and water management purposes. An easement, or ingress, egress and access, shall exist for such parties to enter upon and over any portion of Kelly Greens (including Homes) in order to

construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of Kelly Greens, and/or installation or maintenance of utilities, or which may obstruct or retard the flow of water through Kelly Greens and/or water management areas and facilities, or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

10.1.15 Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

11. Assessments.

11.1 Assessments. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed), including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). All Owners shall pay Assessments.

11.2 Purpose and Type of Assessments. The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health, safety and welfare of the residents of Kelly Greens, and in particular, for the improvement and maintenance of the Common Areas, including but not limited to the Surface Water Management System, and any easement in favor of the Association, and for any obligations assumed by the Association, either contractually or otherwise, including, but not limited to, the following categories of Assessments as and when levied and deemed payable by the Board.

11.2.1 Any annual assessment (as determined by the Board) or charge for the purpose of operating the Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Operating Costs and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Annual Assessments").

11.2.2 Any special assessments for capital improvements, major repairs, emergencies, the repair or replacement of the Common Areas, or non-recurring expenses (hereinafter "Special Assessments"). However, any special assessment which is required to fund all or part of a material alteration or substantial addition, which requires membership approval pursuant to Section 6.9, must first be approved by two-thirds (2/3) of those members present, in person or by proxy at a meeting of the Association duly called for such purpose.

11.2.3 Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner or Home, for any special or personal use of the Common Areas, or to reimburse Association for the expenses incurred in connection with that service or use, including but not limited to, the purchase of food, drink or merchandise from the Club, tournament and cart fees, etc. (hereinafter "Service Fees").

11.2.4 Assessments for which one or more Owners (but less than all Owners) within Kelly Greens is subject ("Individual Assessments"), such as costs of special services provided to a Home or Owner, or cost relating to enforcement of the provisions of this Declaration, or the architectural provisions hereof as it relates to a particular Owner or Home. By way of example, and not of limitation, in the event an Owner fails to maintain the exterior of his Home (other than those portions of a Home maintained by Association) in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home and to repair, restore, and maintain the Home, as required by this Declaration. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment. The lien for an Individual Assessment may be foreclosed in the same manner as any other Assessment.

11.3 Designation. The designation of Assessment type shall be made by Association. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

11.4 Objection. Each Owner agrees that so long as it does not pay more than the required amount, it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

11.5 General Assessments Allocation. Except as hereinafter specified to the contrary, Annual Assessments and Special Assessments shall be allocated equally to each Owner per Home owned.

11.6 Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefitting from, or subject to, the special service or cost as specified by Association.

11.7 Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of a Home to an Owner.

11.8 Budgets. There shall be one (1) budget for the Association which is promulgated by the Board. The Association will contain nine hundred thirty-nine (939) Homes, with each Home obligated to pay its pro rata share of the assessments levied by the Association. The Board shall have the authority to adopt the annual budget.

11.9 Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

11.9.1 Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 720.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year, or in order to change the fiscal year of the Association.

11.9.2 Special Assessments, Service Fees and Individual Assessments against the Owner(s) may be established by Association, from time to time, and shall be payable at such time or time(s) as determined.

11.9.3 Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility, as determined by Association.

11.10 Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Home unless all sums due the Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within fifteen (15) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate, in writing setting forth whether the Assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate.

11.11 Payment of Home Real Estate Taxes. Each Owner shall pay all taxes and obligations relating to its Home which, if not paid, could become a lien against the Home, which is superior to the lien for Assessments created by this Declaration.

11.12 Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels of proceedings including appeals, collections and bankruptcy, shall be a charge and continuing lien in favor of Association encumbering the Home owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records stating the legal description of the Home, name of the Owner, and the amounts due as of that date, but shall relate back to the date that

this Declaration is recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

11.13 Subordination of the Lien to Mortgages. Notwithstanding anything to the contrary herein, if any first mortgagee or other person, persons, or entity obtains title to a Lot or Unit as a result of a foreclosure of a first mortgage or a deed is given in lieu of foreclosure of a first mortgage of record, such acquirer of title, shall be liable for the share of assessments pertaining to such Lot or Unit or chargeable to the former record owner of legal title, which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu of foreclosure of said first mortgage of record as provided in Section 720.3085, Florida Statutes (2008), as amended from time to time.

11.14 Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

11.15 Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of $25.00 (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or waiver of, the right to use the Common Areas or by abandonment of a Home.

11.15.1 The Association may suspend the rights of a member or a member's family, tenants, guests or invitees, or all, to use the Common Areas, including the golf course, for the non-payment of assessments and club charges, for so long as the assessments or charges remain delinquent. The suspension of common area use rights shall not require notice and opportunity for a hearing.

11.15.2 The Association may suspend the voting rights of a member for the non-payment of assessments and club charges which are delinquent in excess of ninety (90) days, for so long as the amounts remain delinquent.

11.15.3 A member who is delinquent in the payment of assessments and club charges in excess of ninety(90) days, in addition to having his or her voting rights suspended, shall not be eligible for the Board. Any director who becomes more than ninety (90) days delinquent in the payment of assessments shall be deemed to have resigned from the Board and the seat shall be declared vacant. The resulting open position shall be filled, pursuant to the Bylaws.

11.16 Exemption. The Board shall have the right to exempt any portion of Kelly Greens subject to this Declaration from the Assessments, provided that such part of Kelly Greens exempted is used (and as long as it is used) for any of the following purposes:

11.16.1 Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use.

11.16.2 Any real property interest held by a Telecommunications Provider.

11.16.3 Any property of Kelly Greens exempted from ad valorem taxation by the laws of the State of Florida.

11.17 Rights to Pay Assessments and Receive Reimbursement. Association and any Lender of a Home shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

11.18 Mortgagee Right. Each Lender may request, in writing, that Association notify such Lender of any default of the Owner of the Home subject to the Lender's Mortgage under the Association Documents, which default is not cured within thirty (30) days after Association learns of such default. Failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to Lender and the furnishing of such notice is not an obligation of Association to Lender.

12. Information to Lenders and Owners.

12.1 Availability. There shall be available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders, current copies of the Association Documents.

12.2 Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the documents referred to above.

12.3 Notice. Upon written request by Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

12.3.1 Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same.

12.3.2 Any delinquency in the payment of Assessments owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days.

12.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder.

12.3.5 Any proposed action, if any, which would require the consent of a specific mortgage holder.

13. Architectural Control. In addition to the architectural control provisions in the Master Declaration, the following provisions govern Kelly Greens.

13.1 Architectural and Engineering Committee. The A & E Committee shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to non-common areas (Homes, Lots and Living Units) in Kelly Greens. Members are approved by and can be replaced by the Board.

13.2 Membership. All members of the A & E Committee must be a member or owner as defined under Section 2.16 of the Declaration.

13.3 General Plan. It is the intent of this Declaration to create a general plan of approved Community Guidelines and scheme of development of Kelly Greens. The A & E Committee shall make recommendations to the Board of Directors, and the Board of Directors shall have the right to approve or disapprove, all architectural, landscaping, and improvements within Kelly Greens by Owners other than Association. The A & E Committee shall have the responsibility to make recommendations to the Board whether to approve or disapprove requests once the Community Guidelines have been created and approved by the Association. The A & E Committee shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by A & E Committee. The A & E Committee may implement those Community Guidelines adopted by the Board.

13.4 Community Guidelines. Each Owner, and its contractors and employees, shall observe and comply with the Community Guidelines which now or may hereafter be promulgated by the A & E Committee and approved by the Board from time to time. The Community Guidelines shall be effective from the date of adoption, shall be specifically enforceable by injunction or otherwise, and shall have the effect of covenants as set forth herein verbatim. The Community Guidelines shall not require any Owner to alter the improvements previously constructed.

13.5 Quorum. A majority of the A & E Committee shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the A & E Committee. In lieu of a meeting, the A & E Committee may act in writing.

13.6 Power and Duties of the A & E Committee. No improvements shall be constructed upon any Lot or Condominium Parcel; no exterior of a Home shall be repainted; no major landscaping, sign, or improvements erected, removed, planted, or maintained on any portion of Kelly Greens; nor shall any material addition to or any change, replacement, or alteration of the improvements as originally constructed (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme, and the location of same shall have been submitted to A & E Committee and are in compliance with the approved Community Guidelines or by the Board of Directors.

13.7 Procedure. In order to obtain the approval, each Owner shall observe the following:

13.7.1 Each applicant shall submit an approved application from their respective neighborhood or condominium association, which has been pre-approved as to form by the General Manager, to the A & E Committee with respect to any proposed improvement or material change in an improvement, together with the required application(s). The applications shall include such information as may be required by the application form adopted by the A & E Committee. The A & E Committee may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the A & E Committee, such site plans, plans and specifications for the proposed improvement. An approved application shall be in effect for one(1) year from the date of approval. If the project is not started within that time period, a new application must be submitted.

13.7.2 In the event the information submitted to the A & E Committee is, in the A & E Committee 's opinion, incomplete or insufficient in any manner, the A & E Committee may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

13.7.3 No later than forty-five (45) days after receipt of all information required by the A & E Committee for final review, the A & E Committee shall make

recommendation to the Board of Directors and the Board of Directors shall approve or deny the application, in writing. The Board shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the Board's sole discretion, for aesthetic or any other reasons, or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the Board shall consider the A & E Committee's recommendation, the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area, and the effect thereof on adjacent or neighboring property. In the event the A & E Committee and/or the Board fails to respond within said forty-five (45) day period, the plans and specifications shall be deemed approved.

13.7.4 Construction of all improvements shall be completed within the time period set forth in the application and approved by the Board.

13.7.5 In the event that the Board disapproves any plans and specifications, the applicant may request a re-hearing by the A & E Committee for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the A & E Committee, unless applicant waives this time requirement, in writing. The Board shall make a final written decision no later than thirty (30) days after such meeting. In the event the Board fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed approved.

13.8 Alterations. Any and all alterations, deletions, additions and changes of any type or nature, whatsoever, to then existing improvements, or the plans or specifications previously submitted to the A & E Committee and approved by the Board, shall be subject to the review and approval in the same manner as required for approval of original plans and specifications.

13.9 Variances. The Board of Directors shall have the power to grant variances from any requirements set forth in this Declaration or from the Community Guidelines, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Community Guidelines on any other occasion.

13.10 Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

13.11 Construction by Owners. The following provisions govern construction activities by Owner(s) after approval has been obtained:

13.11.1 Each construction site in Kelly Greens shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, work manlike, and continuous basis. Roadways, easements, swales, Common Areas and other such areas in Kelly Greens shall be kept clear of construction vehicles, construction materials and debris, at all times. No construction office shall be kept in Kelly Greens and no construction materials shall be stored in Kelly Greens subject, however, to such conditions and requirements as may be promulgated by the Board of Directors. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in any canal or waterway, or Common Areas, or other Homes in Kelly Greens or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Community Guidelines.

13.11.2 Each Owner is responsible for ensuring compliance with all terms and conditions of these provisions and of the Community Guidelines by all of its employees and contractors. In the event of any violation of any such terms or conditions by any employee or contractor, the General Manager may prohibit the violating employee, contractor or company from performing any further services in Kelly Greens.

13.11.3 The Board of Directors may, from time to time, adopt standards governing the performance or conduct of owners, contractors and their respective employees within Kelly Greens. Each Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The A & E Committee may also promulgate requirements to be inserted in all contracts relating to construction within Kelly Greens and each Owner shall include the same therein.

13.12 Violation. Without limiting any other provision herein, if any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association, cause such improvement to be removed or restored until approval is obtained, or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, incurred by Association. The costs shall be deemed an Individual Assessment and be enforceable pursuant to the provisions of this Declaration. The Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Community Guidelines, by any legal or equitable remedy.

13.13 Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association shall be entitled to recover court costs, expenses and reasonable attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

13.14 Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Community Guidelines, or other rules and regulations promulgated by the Board of Directors, the Association may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

13.15 Exculpation. Association, the directors or officers of Association, the A & E Committee, the members of the A & E Committee, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Association, A & E Committee or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns, by acquiring title to a Home, that it shall not bring any action or suit against Association or their respective directors or officers, the A & E Committee or the members of the A & E Committee, or their respective agents, in order to recover any damages caused by the actions of Association, or A & E Committee or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold the A & E Committee, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, A & E Committee or their members, officers and directors. Association, its directors or officers, the A & E Committee or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications, or the failure of same to comply with applicable laws or code, nor for any defects in any improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

14. Surface Water Management Systems, Lakes, and Wet Retention Ponds. The Association shall be responsible for operation and maintenance of the Surface Water Management System within Kelly Greens in accordance with South Florida Water Management District Permit No. 36-00384-S ("Permit"), attached hereto as Exhibit "D", and made a part hereof, and incorporating any and all future modifications and amendments thereto. Copies of the Permit and any future modification shall be maintained in the Association records. The Surface Water Management System within Kelly Greens which is accepted by or constructed by the Association, excluding those areas, if any, normally maintained by the county, will be the ultimate responsibility of the Association, which may enter any tract or common area and make whatever alterations, improvements or repairs that are

deemed necessary to provide or restore water management. The cost shall be an expense of the Association and shall be assessed as provided in Section 11 of this Declaration.

14.1 No structure of any kind, including docks, shall be constructed or erected in or on, nor shall any Owner in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in any portion of the Surface Water Management System including, but not limited to, lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Association.

14.2 No Owner or other person shall unreasonably deny or prevent access to the Surface Water Management System for maintenance, repair, or landscaping purposes by Declarant, the Association, or any appropriate governmental agency that may reasonably require access. Non-exclusive easements therefor are hereby specifically reserved and created.

14.3 No tract, parcel or Living Unit shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person shall fill, dike, rip-rap, block, divert or change any portion of the Surface Water Management System that has been or may be created without the prior written consent of the Association. No person other than the Declarant or the Association may withdraw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed, except in accordance with South Florida Water Management District, Water Use Permit No. 36-00455-W. ("Water Use Permit")

14.4 The Surface Water Management System, excluding those areas, if any, maintained by the County, will be the ultimate responsibility of the Association. The Association may enter any tract, parcel, or Common Area of the Community and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore surface water management. The cost shall be an expense of the Association.

14.5 Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter the Surface Water Management System, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including the South Florida Water Management District, and the Declarant, its successors and assigns, including the Association.

14.6 The South Florida Water Management District shall have the right to take enforcement action, including civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the Surface Water Management System or in mitigation or conservation areas under the control or responsibility of the Association.

14.7 All sub-associations within Kelly Greens shall have the right to utilize the Surface Water Management System and are hereby granted easements for drainage and ingress and

egress, for maintenance, upon and over the Common Areas to the extent necessary to effectively utilize the Surface Water Management System. The Association shall have the power to accept into the Association subsequent phases that will utilize the Surface Water Management System.

14.8 In the event the Association shall ever be dissolved, the property consisting of the Surface Water Management System will be conveyed to an appropriate agency of local government. If this is not accepted, then the Surface Water Management System will be dedicated to another non-profit corporation similar to the Association.

15. Owners Liability.

15.1 Right to Cure. Should any Owner do any of the following:

15.1.1 Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration.

15.1.2 Cause any damage to any improvement or Common Areas.

15.1.3 Impede Association from exercising its rights or performing its responsibilities hereunder.

15.1.4 Undertake unauthorized improvements or modifications to a Home or the Common Areas.

15.2 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, 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 fifteen (15) days after such written notice, the party entitled to enforce same may, at its option:

15.2.1 Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief, as may be necessary under the circumstances, including injunctive relief.

15.2.2 Commence an action to recover damages.

15.2.3 Take any and all action reasonably necessary to correct the violation or breach.

All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, shall be assessed against the

Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

15.3 No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

15.4 Rights Cumulative. All rights, remedies, and privileges granted to Association and/or the A & E Committee pursuant to any terms, provisions, covenants or conditions of this Declaration, or Community Guidelines, 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 any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

15.5 Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Community Standards may be enforced by Association, and/or Owners, where applicable, 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 or Community Guidelines 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 or the Community Guidelines.

15.6 Fines. Except to the extent prohibited by law, in the event of a violation of the provisions contained herein, by an Owner or a person acting by, through, or under an Owner, the Rules and Regulations, the Community Guidelines, or other rules and regulations promulgated by the A & E Committee, Association shall also have the right to levy reasonable fines or suspend the privileges of the Owner or any person acting by, through, or under an Owner. Each fine shall be an Individual Assessment and enforceable pursuant to the provisions of this Declaration and the By-Laws. Each day of an Owner's failure to comply with this Declaration, the Rules and Regulations, the Community Standards, or other rules and regulations promulgated by the A & E Committee shall be treated as a separate violation and be subject to a separate fine. The decisions of Association shall be final. Fines shall be in such reasonable and uniform amounts as Association shall determine. Suspensions and fines shall be imposed in the manner provided in Section 720.305 of the Florida Statutes, as amended from time to time. The Board shall have the authority to promulgate additional procedures from time to time.

16. Leasing of Units

16.1 Term of Lease and Frequency of Leasing. The minimum lease term is one (1) month or thirty (30) days.. No home may be leased or rented more than six (6) times in any twelve (12) month period. The Board is empowered to make an exception to the minimum lease

term, but only in the case of a hardship and only where written permission is requested and granted prior to any said occupancy. No subleasing or assignment of lease rights by the lessee is allowed.

16.2 Occupancy During Lease Term. No one other than the lessee and his family, as defined herein.

16.3 Use of Club Common Areas. To prevent overtaxing the facilities, a unit owner who has in fact transferred his or her membership to the lessee during the lease term may not use the recreational amenities or parking facilities during the lease term.

17. General Provisions.

17.1 Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

17.2 Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

17.3 Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

17.4 Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded, except to the extent provided otherwise as to any particular provision of the Florida Statutes.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand and seal, acknowledged and filed the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions, under the laws of the State of Florida, this 19th day of MAY, 2011.

Signed in the presence of:

Witness Signature

PENELOPE A. MONAGHAN
Printed Name of Witness

KELLY GREENS MASTER ASSOCIATION, INC.

By: _____
THOMAS D. CHAMBERS, President

Attest: Mary K Fontaine
MARY K. FONTAINE, Secretary

(CORPORATE SEAL)

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was executed before me this 19th day of MAY, ~~2009~~ 2011, by THOMAS D. CHAMBERS, as President of Kelly Greens Master Association, Inc., a Florida corporation, on behalf of the corporation. He/She is personally known to me, or did produce _____ as identification.

(SEAL)

EWA BEN
MY COMMISSION # DD 841495
EXPIRES: November 30, 2012
Bonded Thru Notary Public Underwriters

_____
Notary Public
EWA BEN
Printed Name of Notary Public

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