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MODIFIED AND RESTATED DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

FOR

CHEVAL WEST

COMMUNITY ASSOCIATION, INC.

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MODIFIED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CHEVAL WEST

THIS MODIFIED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made effective as of the 29th day of February, 2000, by LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation (hereinafter referred to as "**Declarant**");

W I T N E S S E T H:

Background Information

A. On or about March 14, 1991 CHEVAL ASSOCIATES PARTNERSHIP ("CAP") executed and placed of record that certain Declaration of Covenants, Conditions and Restrictions for Cheval West Community Association (the "**Original Declaration**"), dated March 7, 1991 and recorded in Official Records Book 6217, beginning at Page 1938, of the Public Records of Hillsborough County, Florida.

B. On or about March 14, 1991 CAP placed of record that certain Declaration of Covenants, Conditions, Restrictions and Easements for Cheval Communities Umbrella Association, Inc. (the "**Umbrella Declaration**") dated March 7, 1991 and recorded in Official Records Book 6217, beginning at Page 1890, Public Records of Hillsborough County, Florida. On or about December 4, 1995 CAP terminated the Umbrella Declaration by execution of that certain Declaration of Termination of Declaration of Covenants, Conditions, Restrictions and Easements for Cheval Communities Umbrella Association, Inc. recorded in Official Records Book 7974, beginning at Page 1826, Public Records of Hillsborough County, Florida.

C. Simultaneously with termination of the Umbrella Declaration, CAP amended the terms and provisions of the Original Declaration by execution of that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Cheval West Community Association dated December 4, 1995, recorded in Official Records Book 7974, beginning at page 1828, Public Records of Hillsborough County, Florida (the "**First Amendment**"). The Original Declaration as amended by the First Amendment is hereinafter sometimes referred to as the "**Cheval West Declaration**").

D. In accordance with Article XIII, Section 2 of the Cheval West Declaration, so long as the Declarant is a Class B Member, the Cheval West Declaration may be amended in the sole discretion of the Declarant, unless otherwise prohibited by law.

E. Lumbermen's Investment Corporation ("**Lumbermen's**") is the Declarant as successor in interest to CAP by virtue of that certain Assignment of Class "B" Member Votes and Other Declarant Rights dated effective as of December 5, 1995 and recorded in Official Records Book 9196, beginning at Page 403, Public Records of Hillsborough County, Florida. Lumbermen's desires to further modify the Cheval West Declaration by execution and delivery of this Modified and Restated Declaration of Covenants, Conditions and Restrictions for Cheval West Community Association.

### Operative Provisions

NOW, THEREFORE, Declarant hereby declares that all of the Cheval West Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the Cheval West Properties or any part thereof, their heirs, successors in title and assigns, and shall inure to the benefit of each owner thereof.

### ARTICLE I DEFINITIONS

Section 1. "Architectural Review Committee" shall mean and refer to the Cheval West Architectural Review Committee established pursuant to Article XI hereof.

Section 2. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which, by contract or agreement with Hillsborough County, any similar unit of government (including, without limitation, the Cheval West CDD), or with any residential or homeowners association or with any Parcel committee within the Cheval West Project, become the responsibility of the Cheval West Association.

Section 3. "Assessment or Assessments, General" shall mean the annual charge against each Owner and his Parcel, Estate Lot, Lot, Condominium Unit or Club Facility, representing a portion of the total Common Expenses for the Cheval West Properties which are to be paid by the Owner to the Cheval West Association as provided herein.

Section 4. "Assessment or Assessments, Individual" shall mean a charge against a particular Owner and his Parcel, Estate Lot, Lot, Condominium Unit or Club Facility, directly attributable to or reimbursable by the Owner.

Section 5. "Assessment or Assessments, Special" shall mean a charge against each Owner and his Parcel, Estate Lot, Lot, Condominium Unit or Club Facility, representing a portion of the costs to the Cheval West Association for installation, construction and/or reconstruction of any improvements on any portion of the Cheval West Properties or the Common Area.

Section 6. "Assessment Unit or Units" shall mean the measure used to determine the way in which assessments are apportioned among the Parcels, Estate Lots, Lots, Condominium Units and Club Facilities in the Cheval West Properties, as further described in Article X of this Declaration.

Section 7. "Board" or "Board of Directors" shall mean the Board of Directors of the Cheval West Association.

Section 8. "Cheval West Association" shall mean and refer to the Cheval West Community Association, Inc., a Florida non-profit, non-stock corporation, and its successors and assigns.

Section 9. "Cheval West Association Property" shall mean all the real and personal property and improvements, if any, (a) which are owned at any time by the Cheval West Association, or (b) over which the Cheval West Association has an easement for the use, care or maintenance thereof, for the common benefit, use and enjoyment of all of the Owners, (c) are dedicated rights-of-way the Cheval West Association is required to maintain, or (d) are declared by Declarant to be Cheval West Association Property in a Supplementary Declaration.

Section 10. "Cheval West CDD" shall mean and refer to the Cheval West Community Development District, a local unit of special purpose government created pursuant to Florida Statutes, Chapter 190, formerly known as the TPC Community Development District.

Section 11. "Cheval West Project" shall mean all real property (including, but not limited to, the Cheval West Properties, as such term is defined in Article I, Section 11) owned or which may be (but is not required to be) acquired by Declarant and held for development under a common plan from time to time, whether commercial or residential. As of the execution hereof, the Cheval West Project consists of all that real property described in **Exhibit "A"** attached hereto and incorporated herein by reference.

Section 12. "Cheval West Properties" shall mean and refer to the real property described in **Exhibit "A"** attached hereto and shall further refer to such additional real property as may hereafter be annexed by Supplementary Declaration to this Declaration in accordance with Article VIII of this Declaration.

Section 13. "Club" shall mean and refer to an organization (corporation, partnership or otherwise) which shall be deemed to act on behalf of its members in exercising, delegating and assigning the powers of maintaining, operating and administering golf, tennis, equestrian or similar recreational facilities on the Properties, as well as collecting and disbursing dues and other fees to be paid by its members.

Section 14. "Club Facilities" or "Facility" shall mean and refer to those plots of land within the Cheval West Properties improved for use as and designated as "Golf Club Facilities", "Golf Course", "Tennis Facilities", "Tennis Courts", or similar recreational facilities, together with all



improvements thereon and fixtures, improvements and appurtenances located thereon or thereunder and personalty used in connection therewith.

Section 15. "Common Area" shall mean all real and personal property (1) now or hereafter owned or leased by the Cheval West Association or otherwise held for the common use and enjoyment of the Owners, and/or (2) now or hereafter owned in common undivided ownership interests by all Owners.

Section 16. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Cheval West Association in connection with the use, maintenance and operation of the Common Area, the Cheval West Association Properties and the Cheval West Association. Common Expenses shall include amounts necessary to establish and maintain any reserve fund determined to be necessary and appropriate by the Board of Directors.

Section 17. "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Cheval West Project. Such standard may be more specifically determined and set forth by the Architectural Review Committee (as such terms are hereinafter defined in Article XI).

Section 18. "Condominium Property" or "Condominium Properties" shall mean and refer to condominium property, as that term is defined in Chapter 718, Florida Statutes (1990), pursuant to a recorded declaration of condominium.

Section 19. "Condominium Unit" or "Units" shall mean and refer to a condominium parcel, as that term is defined in Chapter 718, Florida Statutes (1990), pursuant to a recorded declaration of condominium.

Section 20. "Country Club" shall mean the real property and improvements, including but not limited to the golf course and country club facility currently known as the Tournament Players Club at Tampa Bay, and which is located on portions of the Cheval West Properties and which is currently operated by Tournament Players Club at Cheval, Inc., a Florida corporation.

Section 21. "Declarant" shall mean and refer to Lumbermen's Investment Corporation, a Delaware corporation, and its successors and assigns to whom any or all of the special rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred in writing.

Section 22. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Cheval West as it may be amended from time to time.

Section 23. "Estate Lot" or "Estate Lots" shall mean and refer to any plot of land, consisting of 20,000 square feet or more, shown upon any recorded subdivision plat of the Cheval West Properties or any part thereof which is used or intended for the construction of a Residence. Specific

exceptions include, but are not limited to, the Common Area, Club Facilities and the Cheval West Association Property.

Section 24. "Lawn and Garden Areas" shall mean and refer to those portions of the Cheval West Properties, other than the Common Area, which are appurtenant to the Estate Lots, Lots, Condominium Units, or Club Facilities upon which grasses, shrubs, trees, flowers or plant material have been or are intended to be planted.

Section 25. "Lot" or "Lots" shall mean and refer to any plot of land, consisting of less than 20,000 square feet, shown upon any recorded subdivision plat of the Cheval West Properties or any part thereof which is used or intended for the construction of a Residence, including those Residences described as patio homes, villas, or townhouses. Specific exceptions include, but are not limited to, the Common Area, Club Facilities and the Cheval West Association Property.

Section 26. "Member" shall mean and refer to a Person entitled to membership in the Cheval West Association, as provided herein.

Section 27. "Mortgage" shall mean any recorded instrument encumbering a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility which is intended to secure the performance of an obligation.

Section 28. "Mortgagee" shall mean the holder of any recorded Mortgage and shall also include a beneficiary, or party secured by a Mortgage.

Section 29. "Mortgagor" shall mean the grantor of a Mortgage.

Section 30. "Owner" or "Owners" shall mean and refer to one or more Persons who hold the record title to any Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility, including Declarant, but shall not include any party holding an interest merely as security for the performance of an obligation.

Section 31. "Parcel" or "Parcels" shall mean and refer to any part of the Cheval West Properties, other than the Common Area, Estate Lots, Lots, Condominium Units, Club Facilities, dedicated streets and roads, and land owned by a governmental body (including, without limitation, the Cheval West CDD) or agency or public utility company, whether or not such Parcel is developed or undeveloped, and without regard to the use or proposed use of such Parcel. Any Parcel, or part thereof, however, for which a subdivision plat has been filed of record or for which a declaration of condominium has been filed of record shall, as to such portion, cease being a Parcel, or part thereof, and shall become Estate Lots, Lots, Condominium Units, or Club Facilities, as appropriate.

Section 32. "Person" means a natural individual, a corporation, a partnership, trustee or other legal entity, with the right to hold title to real property.

Section 33. "Protective Land Use Standards" shall mean and refer to that certain "Declaration of Protective Land Use Standards Cheval West" and any amendments made thereto from time to time. A copy of the Protective Land Use Standards in effect as of the date of recording of this Declaration is attached hereto and is incorporated herein by reference as **Exhibit "B"**.

Section 34. "Residence" shall mean a dwelling intended for use and occupancy by a single family and located on or within a Estate Lot, Lot, Parcel or Condominium Property.

Section 35. "Restrictions" shall mean this Declaration, the Articles of Incorporation ("Articles"), Bylaws ("Bylaws"), and rules and regulations of the Cheval West Association, as amended from time to time.

Section 36. "Supplementary Declaration" shall mean and refer to a supplement to this Declaration which, in accordance with Article VIII of this Declaration, adds additional real property to the real property encumbered by this Declaration. Such Supplementary Declaration may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Supplementary Declaration to the provisions of this Declaration.

Section 37. "Vacant Lot" shall mean Parcels, Estate Lots, Lots, and/or Condominium Properties, which have been conveyed by the Declarant, its successors or assigns, but which have not been improved with a Residence or Residences.

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment, in common with others, in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Parcel, Estate Lot, Lot, Condominium Unit, and Club Facility subject to the following provisions:

(a) the right of the Cheval West Association to charge reasonable and uniform admission and other fees for the use of any Common Area;

(b) the right of the Cheval West Association, in accordance with the procedure specified in the By-Laws, to (i) suspend the rights of a Member, or a Member's tenants, guests or invitees, or both, to use of the Common Area, and (ii) levy reasonable fines, not to exceed \$100 per violation, against any Member or any tenant, guest or invitee, for each and any infraction of the published rules and regulations, and the Protective Land Use Standards of the Cheval West Association;

(d) the right of the Cheval West Association, in accordance with the procedure specified in the By-Laws, to suspend the voting rights of a Member for any period during which any

annual assessment against his Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility remains unpaid for a period in excess of ninety (90) days;

(e) the right of the Cheval West Association to dedicate or transfer all or any part of the Common Area to any public agency, district, authority, or utility for such purposes as are consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless two-thirds (2/3) of each class of the then Members consent to such dedication or transfer, at any special meeting of the Members duly called for such purpose; provided, that any such dedication or transfer shall also be subject to the limitations provided for in Article XIII, Section 13, and Article XIV of this Declaration;

(f) the right of the Cheval West Association to establish and enforce uniform rules and regulations pertaining to the use of the Common Area and to reasonably limit the number of guests of Members who use such Common Area;

(g) the rights of the Cheval West Association, the Declarant, utility companies and other Owners with respect to the easements established in Article XIII hereof;

(h) the right of the Cheval West Association, in accordance with its Articles of Incorporation and Bylaws, and with the consent of a majority of each class of the Members, voting separately, to borrow money for the purpose of improving the Common Area in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Area;

(i) the right of the Cheval West Association to take such steps as are reasonably necessary to protect the Common Area against mortgage default and foreclosures; provided, however, that such steps are in conformity with the other provisions of this Declaration; and

(h) the right of the Cheval West Association, acting by and through its Board of Directors, to grant easements, licenses or other rights of use of the Common Area to persons or entities who are not Members for such consideration, if any, and on such terms and conditions as the Board of Directors may from time to time consider appropriate; provided, however, that no such easements, licenses or other rights of use of the Common Area shall be unreasonably and permanently inconsistent with the rights of Members to the use and enjoyment of the Common Area.

Section 2. Limitations. Any other provision of this Declaration to the contrary notwithstanding, the Cheval West Association shall have no right to suspend the right of any Owner to use the Common Area for necessary, ordinary and reasonable pedestrian ingress and egress to and from his Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility, or to suspend any easement over the Common Area for storm water drainage, electrical energy, water, sanitary sewer, natural gas, CATV or similar service, telephone service or similar utilities and services to the Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Restrictions, his right of enjoyment to the Common Area to the members of his Family, his tenants, or contract purchasers who reside in his Residence, subject to reasonable regulation by the Board, and in the case of Club(s), to the officers, directors, employees, agents, guests, invitees and Club members (both resident and non-resident), also subject to reasonable regulation by the Board. An Owner who does not reside in his Residence and who has delegated his right of enjoyment of Common Area to a tenant or contract purchaser who occupies the Residence shall not be entitled to the use and enjoyment of the Common Area, if any, during the term of such delegation, except to the extent provided in such lease or contract.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Members of the Cheval West Association shall be (i) Declarant (irrespective of whether Declarant is the Owner of a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility), for so long as Declarant is entitled to cast a Class B vote pursuant to Section 2(b), and (ii) each Owner of a Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility. Membership in the Cheval West Association shall be subject to the Restrictions. All memberships in the Cheval West Association held by Owners (except the Class B Membership) shall be appurtenant to the Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility owned by each Owner and memberships in the Cheval West Association held by Owners shall not be assignable, except to the Person to whom title to the Parcel, Estate Lot, Lot, Condominium Unit or Club Facility has been transferred. Ownership of a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility shall be the sole qualification for an Owner's membership in the Cheval West Association. An Owner's membership in the Cheval West Association shall not be transferred, pledged or alienated in any way, except upon the transfer of title to the Owner's Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility and then only to the purchaser or Mortgagee of such Parcel, Estate Lot, Lot, Condominium Unit or Club Facility.

Section 2. Voting. The Cheval West Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Members shall be all of the Owners, with the exception of the Class "B" Members, if any.

Class "A" Members shall be entitled on all issues to cast the number of votes equal to the aggregate Assessment Units (or portion thereof) of each Parcel, Estate Lot, Lot, Condominium Unit and/or Club Facility in which they hold the interest required for membership by Section 1 hereof. Each Parcel, Estate Lot, Lot, Condominium Unit and/or Club Facility shall have the Assessment Units (or portion thereof) assigned to it as provided in Article X, Section 2. When more than one person or entity holds title to any Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility the vote for the Assessment Unit(s) (or portion thereof) allocated thereto shall be exercised as all of those persons or entities themselves determine and advise the Secretary of the Cheval West Association prior to any meeting. In the absence of such advice, the vote of such Assessment Unit

(or portion thereof) shall be suspended in the event more than one person or entity seeks to exercise it.

Any Owner of a Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility which is leased may, in the lease or other written instrument, assign the voting right appurtenant to that Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility to the lessee, provided that a copy of such lease or other written instrument is furnished to the Secretary prior to any meeting.

(b) Class "B". Class "B" Members shall be the Declarant and any successor of the Declarant who acquires title to two or more Estate Lots for the purpose of development and sale and who is designated as a successor of the Declarant in a written instrument executed by Declarant. The Class "B" Members shall originally be entitled to one thousand five hundred sixty-four (1,564) votes; this number shall be decreased by one (1) vote for each Class "A" Member existing at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earliest of the following:

(i) when the total outstanding Class "A" votes equal or exceed seven hundred eighty-two (782);

(ii) the passage of fifteen (15) years from March 14, 1991, the original date of recording of this Declaration;

(iii) when, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs earliest, the Class "B" Members shall each be deemed to be a Class "A" Member entitled to cast one (1) vote for each Assessment Unit allocated to any Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility in which it holds the interest required for membership under Section 1 hereof. At such time, the Declarant may call a meeting, as provided in the Bylaws of the Cheval West Association for special meetings, to advise the membership of the termination of Class "B" status.

ARTICLE IV  
MAINTENANCE

Section 1. Cheval West Association's Responsibility. Unless maintained by the Cheval West CDD, the Cheval West Association shall maintain and keep in good order the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. In addition, unless maintained by the Cheval West CDD, the Cheval West Association shall maintain and keep in good repair rights-of-way and entry strips, whether owned as part of a Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility or dedicated for public use, so long as the rights-of-way or entry strips are within or appurtenant to the Cheval West Project. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures and improvements situated upon such areas. Nothing contained herein shall be construed to obligate the Cheval West Association or the Cheval West CDD to mow any grass or to plant or maintain any grass or landscaping on that part of any Parcel, Estate Lot, Lot, Condominium Property or Club Facility encumbered by an easement in favor of the Cheval West Association and/or the Cheval West CDD, which obligation shall be the responsibility of the Owner of such Parcel, Estate Lot, Lot, Condominium Property or Club Facility.

The Cheval West Association may, in the discretion of the Board of Directors, assume additional maintenance responsibilities upon all or any portion of the Cheval West Properties, including maintenance and care of Vacant Lots. This assumption of responsibility may take place either (i) by contract with the Owner(s) or (ii) because, in the opinion of the Board of Directors, the level and quality of service then being provided by the Owner(s) are not consistent with the Community-Wide Standard of the Cheval West Project, as provided in Section 2 of this Article IV. The provision of services in accordance with this Article IV shall not constitute discrimination within a class. In such event, all costs of such maintenance shall be assessed as an Individual Assessment against those Owner(s).

Section 2. Owner's Responsibility. Except as otherwise provided in this Declaration, all maintenance of the Parcels, Estate Lots, Lots (including Vacant Lots), Condominium Units and Club Facilities and all improvements, structures, parking areas, and other improvements thereon shall be the sole responsibility of the Owner thereof who shall perform such maintenance in a manner consistent with the Community-Wide Standard of the Cheval West Project, the Protective Land Use Standards and this Declaration. If such maintenance is not properly performed by the Owner, the Cheval West Association may perform, or cause to be performed, such maintenance and assess the Owner for the cost thereof as an Individual Assessment. Except in the case of an emergency, the Cheval West Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to undertaking such maintenance.

In addition, the Owner of each Parcel, Estate Lot, Lot, Condominium Unit and Club Facility shall maintain and keep in good order its Lawn and Garden Areas. Without limiting the generality of the foregoing, and except as otherwise provided herein, the Owners shall be responsible for mowing, fertilizing, trimming and otherwise caring for the lawns, as well as planting, pruning, fertilizing and otherwise maintaining flowers, trees, shrubs and other plant materials which are

appurtenant to the Parcels, Estate Lots, Lots, Condominium Units and the Club Facilities. All such maintenance and care of the Lawn and Garden Areas shall be in conformity with the Community-Wide Standard.

Section 3. Cheval West CDD. In addition to the Restrictions, the Parcels, Estate Lots, Lots, Condominium Units and Club Facilities located in the Cheval West Project are located within the Cheval West CDD. The Cheval West CDD will be performing and/or providing certain services to the Cheval West Project as permitted pursuant to Chapter 190, Florida Statutes, some of which services pursuant to this Declaration are the responsibility of and would otherwise be performed or provided by the Cheval West Association. Notwithstanding any other provisions of this Declaration, the following shall govern:

(a) Cooperation with Cheval West CDD. The Cheval West Association shall have the power and is hereby authorized to contract with and to cooperate with the Cheval West CDD in the discharge of their mutual responsibilities. The Cheval West Association is further authorized to act on its Members behalf in ensuring that the Cheval West CDD level of services is consistent with the Community-Wide Standard.

(b) Cheval West CDD in Existence and Providing Services. So long as the Cheval West CDD is providing or performing services which the Cheval West Association would otherwise provide if the Cheval West CDD were not in existence, the Owners within the Cheval West Project shall not be assessed by the Cheval West Association for any such services provided by the Cheval West CDD and for which they are being assessed by the Cheval West CDD.

(c) Services Not Provided by Cheval West CDD. The costs and expenses incurred by the Cheval West Association in providing services which it is obligated to provide pursuant to this Declaration and which are not being provided by the Cheval West CDD shall be Common Expenses and assessed against the Owners of Parcels, Estate Lots, Lots, Condominium Units and Club Facilities located with the Cheval West CDD in accordance with Article X hereof.

(d) Cheval West CDD Not in Existence. In the event that the Cheval West CDD shall cease to exist, the Association shall thereafter provide any services which it is obligated to provide under this Declaration and which had previously been performed or provided by the Cheval West CDD, and shall thereafter assess the costs and expenses incurred with respect thereto as a Common Expense in accordance with Article X hereof.



ARTICLE V  
INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Cheval West Association's Board of Directors, or its duly authorized agent, shall have the authority to and may obtain insurance for loss or damage by fire or other hazards for all insurable improvements within the Area of Common Responsibility, unless such insurance is being obtained by the Cheval West CDD, in which event such authority may be delegated to the Cheval West CDD upon the approval of the Board of Directors. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors or its duly authorized agent may, but shall not be obligated to, by written agreement with any representative body of Owners, assume the insurance responsibility for such Owners.

The Board of Directors shall have the authority to, and may also obtain, to the extent reasonably feasible, a public liability policy covering the Area of Common Responsibility, public ways of the Cheval West Project and other areas that are under the supervision of the Cheval West Association unless such public liability coverage is being obtained by the Cheval West CDD, in which event such authority may be delegated to the Cheval West CDD upon the approval of the Board of Directors. Any such public liability policy shall be for such amount as deemed reasonable by the Board of Directors but shall, at a minimum, have at least a Five Hundred Thousand Dollars (\$500,000.00) single person limit as respects bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, and a Two Hundred Fifty Thousand Dollar (\$250,000.00) minimum property damage limit.

Premiums for all insurance obtained by the Board of Directors or its duly authorized agent (with the exception of premiums for insurance obtained on behalf of specific Owners at the request of such Owners) shall be a Common Expense. Premiums for insurance provided for specific Owners shall be charged as an Individual Assessment to such Owners. All policies obtained by the Board of Directors or its duly authorized agent may contain a reasonable deductible. The deductible shall be paid by the Person who would be responsible for the repair in the absence of insurance, and in the event of multiple Persons shall be allocated in relation to the amount each Person's loss bears to the total loss of all Persons. Deductibles on damage caused by errant golf balls shall be allocated either to the Owner or golfer as provided by law, but under no circumstances shall the Cheval West Association be responsible.

All insurance policies obtained by the Board of Directors or its duly authorized agent shall be written in the name of the Cheval West Association as trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall, if reasonably feasible, be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Florida and holding a rating of "XI" or better in the Financial Category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies obtained by the Board of Directors or its duly authorized agent (with the exception of premiums for insurance obtained on behalf of and at the request of specific Owners) shall be for the benefit of the Owners and their Mortgagees as their interests may appear. All policies secured at the request of the specific Owners shall be for the benefit of such Owners and their Mortgagees.

(c) Exclusive authority to adjust losses under policies obtained by the Board of Directors or its duly authorized agent shall be vested in the Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiation, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Board of Directors or its duly authorized agent hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement with an annual review by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the Hillsborough County, Florida area.

(f) The Board of Directors or its duly authorized agent shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

(ii) that no policy may be canceled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Cheval West Association or its duly authorized agent or on account of any one or more Owners without prior demand in writing delivered to the Board of Directors to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Board of Directors, its duly authorized agent, any Owner or Mortgagee;

(iii) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(iv) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Board of Directors.

In addition to the other insurance required by this Section V, the Board of Directors may obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Cheval West Association's funds. The amount of fidelity coverage shall be in an amount

deemed sufficient by the Board of Directors, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Board of Directors.

Section 2. Individual Insurance. By virtue of taking title to a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility each Owner covenants and agrees with all other Owners and with the Cheval West Association that each individual Owner shall carry blanket all-risk casualty insurance on the Residence or other improvements and structures constructed on the Parcel, Estate Lot, Lot, Condominium Unit or Club Facility, such insurance to be in accordance with the standards set forth in Section 1 of this Article V, unless the Cheval West Association (on behalf of and at the request of Owners), carries such insurance, which it is not obligated to do. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction to the Residences or other improvements and other structures constructed on the Parcel, Estate Lot, Lot, Condominium Unit or Club Facility, such Owner shall proceed promptly to repair or to reconstruct the damaged structures in a manner consistent with the original construction. In the event that a detached single-family dwelling is totally destroyed and the Owner determines not to rebuild or to reconstruct, the Owner shall clear the Parcel, Estate Lot or Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction of the Residence. Each individual Owner of a Parcel, Estate Lot, Lot or Condominium Unit containing a townhouse or other attached dwelling covenants and agrees that in the event that such dwelling is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the dwelling in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Architectural Review Committee in accordance with Article XI, Section 2. The Board of Directors may impose more stringent requirements regarding (i) the standards for rebuilding or reconstructing structures on a Parcel, Estate Lot, Lot or Condominium Property; and (ii) the standard for returning a Parcel, Estate Lot, Lot or Condominium Property to its natural state in the event the Owner decides not to rebuild or reconstruct.

Section 3. Disbursement of Proceeds. If the damage or destruction to the improvements within the Area of Common Responsibility for which the insurance proceeds are paid is to be repaired or reconstructed, the insurance proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any insurance proceeds remaining after defraying such costs of repairs or reconstruction (or if no repair or reconstruction is made) shall be retained by and for the benefit of the Cheval West Association.

Section 4. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the improvements within the Area of Common Responsibility covered by insurance written in the name of the Cheval West Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements.

(b) Any damage or destruction to the improvements to the Area of Common Responsibility shall be repaired or reconstructed unless at least seventy-five percent (75%) of each class of Members shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Members within sixty (60) days after the casualty, then the period during which the Members may elect not to repair or reconstruct shall be extended until such information shall be made available. In no event shall such extension exceed sixty (60) days.

(c) In the event that it should be determined by the Members in the manner described above that the damage or destruction of the improvements to the Area of Common Responsibility shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property upon which the improvements were situated shall be restored to their natural state and maintained as an undeveloped portion of the Area of Common Responsibility, as applicable, by the Cheval West Association in a neat and attractive condition.

(d) All repairs or reconstruction which are accomplished in accordance with this Article V, Section 4, shall be of substantially the same type and quality as existed prior to the fire or other casualty, unless a majority of each class of Members elects otherwise.

Section 5. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a uniform Special Assessment against all Owners, unless the damage or destruction is limited to improvements insured for the benefit of specific Owners, in which event the Special Assessment shall be levied only against such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VI  
NO PARTITION

Except as is permitted in this Declaration, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in any portion of the Cheval West Properties seek any such judicial partition unless the Cheval West Properties have been removed from

the provisions of this Declaration. This Article VI shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

## ARTICLE VII CONDEMNATION

Whenever all or any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain (or conveyed in lieu of or under threat of condemnation), each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Cheval West Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five percent (75%) of the Class "A" Members of the Cheval West Association shall otherwise agree, the Cheval West Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Cheval West Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Cheval West Association and used for such purposes as the Board of Directors of the Cheval West Association shall determine.

## ARTICLE VIII ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Annexation With Approval of Class "A" Membership. Subject to the consent of the owner thereof, upon the written consent or affirmative vote of (i) a majority of the Class "A" Members (present or represented by proxy at a meeting duly called for such purpose), and (ii) the Declarant (so long as Declarant owns property subject to this Declaration), the Cheval West Association may annex to the provisions of this Declaration any real property other than that shown on **Exhibit "A"**. Any real property may be so annexed upon the written consent of the owner of such real property written consent or affirmative vote of a majority of the Class "A" Members and the Declarant (so long as Declarant owns property subject to this Declaration) by filing of record in the Public Records of Hillsborough County, Florida, a Supplementary Declaration in respect to the real property being annexed. Any such Supplementary Declaration shall be signed by the President and the Secretary of the Cheval West Association, and the owner of the real property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The time

within which, and the manner in which, notice of any such meeting of the Class "A" Members of the Cheval West Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the Bylaws of the Cheval West Association for regular or special meetings, as the case may be.

Section 2. Acquisition of Additional Common Area. Declarant may convey or dedicate additional real property, improved or unimproved, which upon conveyance or dedication to the Cheval West Association shall be accepted by the Cheval West Association and thereafter shall be deemed to be a part of the Common Area and shall be maintained by the Cheval West Association as a Common Expense.

Section 3. Amendment. This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property subject to this Declaration.

## ARTICLE IX RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Area of Common Responsibility. The Cheval West Association, subject to the rights of the Owners set forth in this Declaration, and subject to the rights and responsibilities of the Cheval West CDD, shall be responsible for the management and control of the Area of Common Responsibility and all improvements thereon (including, without limitation, furnishings and equipment related thereto, private drainage facilities and common landscaped areas), and shall keep the Area of Common Responsibility in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

Section 2. Personal Property and Real Property for Common Use. The Cheval West Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property, subject to the requirements of this Declaration. The Board of Directors, acting on behalf of the Cheval West Association, will accept any real or personal property, leasehold, or other property interests within the Cheval West Properties conveyed to it by the Declarant.

Section 3. Enforcement. The Cheval West Association, through action of its Board of Directors, shall be responsible for enforcement of the provisions of this Declaration, including any rules and regulations established hereunder, the Design & Development Standards and Procedures (as hereinafter defined) and the Protective Land Use Standards. The Cheval West Association shall have the power to seek relief in any court for violations of this Declaration, including any rules and regulations established hereunder, the Design & Development Standards and Procedures, and the Protective Land Use Standards.

Section 4. Implied Rights. The Cheval West Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws of the Cheval West Association, and

every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE X ASSESSMENTS

Section 1. Creation of General Assessments. There are hereby created annual General Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors to be commenced at the time and in the manner set forth in Article X, Section 6. General Assessments for Parcels, Estate Lots, Lots, Condominium Units, and Club Facilities shall be allocated among all Estate Lots, Lots, Condominium Units, Parcels and Club Facilities within the Cheval West Association in accordance with Article X, Section 2. and shall be for those expenses determined by the Board of Directors to be for the benefit of all Estate Lots, Lots, Condominium Units, Parcels and Club Facilities. Each Owner, by acceptance of his or her deed or recorded contract of sale, is deemed to covenant and agree to pay the General Assessments which are levied against his or her Estate Lot, Lot, Condominium Unit, Parcel or Club Facility. All such General Assessments, together with interest at the maximum rate permitted by law, costs, and reasonable attorneys' fees, shall be a charge on, and shall be a continuing lien upon the Estate Lot, Lot, Condominium Unit, Parcel or Club Facility against which each such assessment is made.

Each General Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance to the extent expressly assumed, except no first Mortgagee who obtains title to a Estate Lot, Lot, Condominium Unit, Parcel or Club Facility pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. General Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual General Assessment for any Owner who is more than thirty (30) days delinquent in the payment of any General Assessments. Unless the Board of Directors otherwise provides, the General Assessments shall be paid in annual installments. The Board of Directors shall also have the right to impose reasonable late fees, not to exceed the greater of \$15.00 or ten percent (10%) of the amount past due, against any Owner who is more than fifteen (15) days delinquent in the payment of any installment for General Assessments. Upon imposition, such late fee shall become collectible in the same manner as the General Assessments.

Section 2. Computation of General Assessments. It shall be the duty of the Board of Directors, at least sixty (60) days before the beginning of the fiscal year to prepare an annual budget covering the estimated revenues and expenses of operating the Cheval West Association during the coming year, and the estimated surplus or deficit as of the end of the current year. The budget shall include an amount sufficient to establish and maintain a reserve fund in accordance with a reserve fund budget separately prepared by the Board of Directors pursuant to Section 5 of this Article X. Sums sufficient to pay Common Expenses shall be determined by the Board of Directors and assessed against all of the Owners by first determining the dollar amount attributable to one (1) Assessment

Unit, which amount shall equal the annual budget divided by the sum of all of the Assessment Units in the Cheval West Properties, such Assessment Units being assigned in the manner specified in Subsections (a) through (e) below. The sum of all of the Assessment Units in the Cheval West Properties shall be the sum of the number of Assessment Units assigned to and attributable to the Parcels, Estate Lots, Lots, Condominium Units and Club Facilities in the Cheval West Properties. Assessment Units shall be apportioned and assigned as follows:

(a) Estate Lots. Each Estate Lot shall be assigned one Assessment Unit and assessed one hundred percent (100%) of the sum attributable to one Assessment Unit.

(b) Lots. Each Lot shall be assigned one-half of an Assessment Unit and assessed fifty percent (50%) of the sum attributable to one Assessment Unit.

(c) Condominium Unit. Each Condominium Unit shall be assigned one-third of an Assessment Unit and assessed thirty-three and one-third percent (33-1/3%) of the sum attributable to one Assessment Unit.

(d) Parcels. Assessment Units for Parcels shall be initially assigned at a rate of one (1) Assessment Unit per acre or fraction thereof. As all or a portion of a Parcel is subdivided by a recorded plat map, Assessment Units attributable to the subdivided land shall be reassigned based upon the number of Estate Lots, Lots, Condominium Units, or Club Facilities contained therein. Any unsubdivided land shall be assigned Assessment Units at a rate of one (1) Assessment Unit per acre. Each Assessment Unit within a Parcel shall be assessed 100% of the sum attributable to one Assessment Unit.

(e) Club Facilities. Assessment Units for each Club Facility shall be assigned at a rate of one Assessment Unit for each acre or fraction thereof contained within the Club Facility. Each Assessment Unit within each Club Facility shall be assessed 100% of the sum attributable to one Assessment Unit.

Notice of the Board meeting at which the budget and General Assessments will be considered and adopted will include a statement that the budget and General Assessments will be considered and the nature of such General Assessments.

Once the annual budget is adopted, the Board of Directors shall provide each member with written notice of the amount of the General Assessments to be levied against each Parcel, Estate Lot, Lot, Condominium Unit, and Club Facility for the upcoming year, together with a copy of the annual budget or a written notice that a copy of the budget is available, upon written request, at no charge to the Member. A copy of the budget will be provided to any Member requesting same within ten (10) business days after receipt by the Board of written request for same.

Notwithstanding the foregoing, however, in the event the Board of Directors fails for any reason to so determine the budget for the succeeding year, then and until such time as a budget shall



have been determined and adopted as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 3. Special and Individual Assessments. In addition to the General Assessments authorized in Section 1, the Cheval West Association may levy a Special Assessment or Special Assessments in any year applicable to that year; provided, however, such Special Assessment shall have the vote or written assent of fifty-one percent (51%) of each class of Members. After the conversion of the Class "B" membership, any such Special Assessment shall have the vote or written assent of fifty-one percent (51%) of the total votes of the Cheval West Association. The Cheval West Association may also levy an Individual Assessment against any Owner to reimburse the Cheval West Association for costs incurred in bringing an Owner or his Parcel, Estate Lot, Lot, Condominium Unit, and Club Facility into compliance with the provisions of the Declaration, the Supplementary Declarations, the Articles of Incorporation, the Bylaws, or the Rules and Regulations of the Cheval West Association, which Individual Assessment may be levied upon the vote of the Board of Directors after notice to the Owner and an opportunity for a hearing.

Section 4. Lien for Assessments. When the failure to pay any assessment has resulted in a lien being recorded, such assessment shall constitute a perfected lien on the Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility of the delinquent Owner prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage as provided in Section 7 of this Article X. Such lien for unpaid assessments may be enforced by foreclosure against the Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility by the Cheval West Association. Suits to recover a money judgment for unpaid assessments, together with interest, costs and reasonable attorneys' fees, shall be maintainable without proceeding with foreclosure or waiving the lien securing the same. After notice and hearing, the Board of Directors may temporarily suspend the voting rights of a Member who is in default of payment of any assessment.

The Cheval West Association, acting on behalf of the Owners, shall have the power to bid for the Parcel, Estate Lot, Lot, Condominium Unit or Club Facility upon which a lien has been recorded at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period owned by the Cheval West Association following foreclosure: (a) no right to vote shall be exercised on behalf of any Parcel, Estate Lot, Lot, Condominium Unit or Club Facility owned by the Cheval West Association; (b) no assessment shall be assessed or levied on any Parcel, Estate Lot, Lot, Condominium Unit or Club Facility owned by the Cheval West Association; and (c) each other Parcel, Estate Lot, Lot, Condominium Unit and Club Facility shall be charged, in addition to its usual assessment, its equal pro-rata share of the assessment that would have been charged such Parcel, Estate Lot, Lot, Condominium Unit or Club Facility had it not been acquired by the Cheval West Association as a result of foreclosure.

Section 5. Reserve Fund Budget and Contribution. The Board of Directors shall annually prepare a reserve fund budget which shall take into account the number and nature of replaceable assets of the Cheval West Association, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board of Directors shall set the required reserve fund

contribution, if any, in an amount sufficient to meet the projected reserve needs of the Cheval West Association, as shown on the reserve fund budget, with respect both to amount and timing by the imposition of annual assessments over the period of the budget. The reserve fund contribution shall be fixed by the Board of Directors and included within the budget and assessment, as provided in Section 2 of this Article X. Such reserve fund contribution shall be payable as part of the General Assessment.

Section 6. Date of Commencement of Annual Assessments. Notwithstanding anything contained herein to the contrary, the Declarant may annually elect in writing either of the following alternatives as a method of paying its General Assessments:

- (a). pay the General Assessments as provided in this Article X, or
- (b). pay to the Cheval West Association in the form of a subsidy the difference between the amount received in General Assessments from all Owners other than Declarant and the amount of the actual expenditures required to operate the Cheval West Association for the year.

Payment under either of the foregoing options shall constitute full payment of all General Assessments owed by Declarant hereunder.

General Assessments shall commence as to each Parcel, Estate Lot, Lot, Condominium Unit or Club Facility on the first day of the month following recordation of this Declaration. General Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual General Assessment shall be adjusted according to the number of months then remaining in that fiscal year.

Section 7. Subordination of the Lien to First Mortgages. The lien of the assessments, including interest, late charges and costs (including reasonable attorneys' fees) provided for herein shall be subordinate to the lien of any first mortgage upon any Parcel, Estate Lot, Lot, Condominium Unit or Club Facility. The sale or transfer of any Parcel, Estate Lot, Lot, Condominium Unit or Club Facility shall not affect the assessment lien. However, the sale or transfer of any Parcel, Estate Lot, Lot, Condominium Unit or Club Facility pursuant to judicial or nonjudicial foreclosure of a first Mortgage (or deed in lieu of foreclosure) shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Parcel, Estate Lot, Lot, Condominium Unit or Club Facility from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage on a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility obtains title, his successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Cheval West Association chargeable to such Parcel, Estate Lot, Lot, Condominium Unit or Club Facility which became due prior to the acquisition of title to such Parcel, Estate Lot, Lot, Condominium Unit or Club Facility by such Mortgagee. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses payable as a General Assessment on a pro-rata basis from all of the Owners, including such Mortgagee, his successors and assigns.

ARTICLE XI  
ARCHITECTURAL STANDARDS

The Board of Directors shall have the authority and standing on behalf of the Cheval West Association to enforce in courts of competent jurisdictions decisions of any committee established in Sections 1, 2 and 3 of this Article XI. This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any property subject to this Declaration or subject to annexation pursuant to Article VIII.

It shall be prohibited for any Owner to undertake (i) any construction, which term shall include, in addition to the actual erection of a Residence and its appurtenances, any staking, clearing, excavation, grading, or other site work, (ii) any landscaping, plantings or removal of plants, trees or shrubs, or (iii) any modification, change or alteration to the exterior of any improvements on a Parcel, Estate Lot, Lot, Condominium Property (including a Condominium Unit) or Club Facility, or the Lawn and Garden Areas appurtenant thereto, whether functional or decorative, except in strict compliance with this Article XI, and until the approval of the Cheval West Architectural Review Committee (the "**Architectural Review Committee**") has been obtained. The Board of Directors may establish reasonable fees to be charged by the Architectural Review Committee for review of applications for approval hereunder, and may require such fees to be paid prior to review of any such application.

Section 1. Architectural Review Committee. As long as the Declarant is a Class B member of the Cheval West Association, the Declarant retains the right to appoint all members of the Architectural Review Committee, which shall consist of at least three (3), but no more than five (5) persons. There shall be no surrender of this right prior to such time except by a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board of Directors shall appoint all members of the Architectural Review Committee.

Section 2. New Construction. The Architectural Review Committee shall have exclusive jurisdiction over all original construction and landscaping on any portion of the Cheval West Properties. The Board of Directors may prepare and promulgate Design and Development Standards and Requirements ("**Design & Development Standards**") and Application and Review Procedures ("**Procedures**"), which Design & Development Standards and Procedures shall be those of the Cheval West Association. The Board of Directors shall have sole and full authority to prepare, amend and enforce the Design & Development Standards and Procedures. The Architectural Review Committee shall make the Design & Development Standards and the Procedures available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Cheval West Properties; however, failure to make such Design & Development Standards and Procedures available shall not be a bar to nor preclude enforcement thereof. All original construction and landscaping within the Cheval West Properties shall be performed strictly in accordance with this Article XI as well as the Design & Development Standards and Procedures. Any reasonable costs incurred by the Architectural Review Committee in reviewing applications

submitted to it shall be the responsibility of the applicant, in addition to the fees established by the Board as provided herein.

Section 3. Modifications. The Architectural Review Committee shall have exclusive jurisdiction over modifications, additions, or alterations made on or to the exterior of any existing Residence and the Lawn and Garden Areas appurtenant to such Residence. The Board of Directors may promulgate and amend Modification Standards as well as Application and Review Procedures with respect thereto. Such Modification Standards shall be in addition to, and not in lieu of, the Design & Development Standards established by the Board of Directors in accordance with Section 2 above. All reasonable costs incurred by the Architectural Review Committee in reviewing applications for modifications submitted to it shall be the responsibility of the applicant, in addition to the fees established by the Board as provided herein.

Section 4. Appeals of Architectural Review Committee Decisions. Any Member who feels aggrieved by a decision of the Architectural Review Committee shall have the right to appeal such decision to the Board of Directors in accordance with procedures established by the Board. All such appeals shall be in writing, shall specify the decision of the Architectural Review Committee which the Member is appealing, and shall be filed with the Board of Directors not later than fifteen (15) days following the action of the Architectural Review Committee. The Board of Directors may establish reasonable fees to be charged for review of applications for appeals, and may require such fees to be paid prior to review of any such application. All reasonable costs incurred by the Board in reviewing applications for appeals of decisions of the Architectural Review Committee shall be the responsibility of the applicant, in addition to the fees established by the Board as provided herein.

Section 5. No Liability. Review and approval of any application for approval pursuant to this Article shall be made on the basis of aesthetic considerations only and the Architectural Review Committee shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Cheval West Association, the Board of Directors, the Architectural Review Committee, or member of any of the foregoing shall be held liable for any injury, damage or loss arising out of the manner or quality of approved construction on or modifications to any portion of the Cheval West Properties.

## ARTICLE XII USE RESTRICTIONS

The Cheval West Properties shall be used only for residential, recreational and related purposes as may more particularly be set forth in this Declaration or subsequently recorded Supplementary Declarations. The Cheval West Association, acting through the Board of Directors (or any committee appointed to act on behalf of the Board of Directors), shall have standing and the power to enforce use restrictions contained in this Declaration, the Design & Development Standards and Procedures and in any such Supplementary Declaration as if such provisions were originally contained within this Declaration.

The Cheval West Association, acting through its Board of Directors (or any committee appointed to act on behalf of the Board of Directors), shall have authority to make and to enforce standards and restrictions governing the use of Parcels, Estate Lots, Lots, Condominium Units, Club Facilities and Common Area, including the imposition of reasonable user fees for facilities now or hereafter located within the Area of Common Responsibility.

The Protective Land Use Standards, attached hereto as **Exhibit "B"** and incorporated herein by reference, shall be applicable throughout the Cheval West Properties. The various provisions contained within the Protective Land Use Standards may be amended or modified from time to time as provided in Article XIII of this Declaration. No amendment or modification may be made in any event, to those portions of Paragraph D of the Protective Land Use Standards without the written consent of the owners and operators of the Country Club or their successors in interest.

### ARTICLE XIII GENERAL PROVISIONS

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Cheval West Properties, and shall inure to the benefit of and shall be enforceable by the Cheval West Association and the Owners, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of the next successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 2. Amendment. As long as the Declarant is a Class B Member, this Declaration may be amended in the sole discretion of the Declarant. Thereafter, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of at least seventy-five percent (75%) of the Class "A" members and the Declarant, as long as the Declarant owns any property subject to this Declaration. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded in the Public Records of Hillsborough County, Florida.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Notwithstanding the foregoing, the provisions of this Declaration may not be amended in any respect which would have any effect on the Country Club without the prior written consent of the owner and the operator of the Country Club, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 3. Indemnification. The Cheval West Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Cheval West Association (except to the extent that such officers or directors may also be Owners), and the Cheval West Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Cheval West Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements for Encroachment and Maintenance Easements. There shall be reciprocal appurtenant easements of encroachment as between each Parcel, Estate Lot, Lot, Condominium Property, Condominium Unit or Club Facility and such portion or portions of the Common Area adjacent thereto, or as between adjacent Parcels, Estate Lots, Lots, Condominium Properties, Condominium Units or Club Facilities due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one foot (1'), as measured from any point on the common boundary between each Parcel, Estate Lot, Lot, Condominium Property, Condominium Unit or Club Facility and the adjacent portion of the Common Area or as between said adjacent Parcels, Estate Lots, Lots, Condominium Properties, Condominium Units or Club Facilities as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of any Owner, tenant, or the Cheval West Association. There shall also be easements for the maintenance of said encroachments so long as they shall exist.

With respect to Parcels, Estate Lots, Lots, Condominium Properties and Club Facilities within the Cheval West Properties, there is hereby created for the benefit of the Owners of each such Parcel, Estate Lot, Lot, Condominium Unit within such Condominium Property or Club Facility as well as the Cheval West Association and the Cheval West CDD, a maintenance easement of not more than ten feet (10'), as measured from any point on the common boundary between adjacent Parcels, Estate Lots, Lots, Condominium Properties or Club Facilities or between each Parcel, Estate Lot, Lot, Condominium Property and Club Facility and the adjacent Common Area, as the case may be. The purpose of this easement is to allow the Cheval West Association and the Cheval West CDD, and/or the Owner of a Parcel, Estate Lot, Lot, Condominium Unit, or Club Facility, as the case may be, to properly maintain the portion of the Residence which is situated upon the aforesaid common boundary. Any Owner of a Parcel, Estate Lot, Lot, Condominium Unit or Club Facility utilizing the easement set forth herein, or the Cheval West Association and the Cheval West CDD, to the extent it utilizes such easement, shall be responsible for correcting any damage to

the Parcel, Estate Lot, Lot, Condominium Property or Club Facility subject to this easement to the extent such damage was occasioned through the exercise of this easement.

Section 5. Easements for Utilities, Etc. Declarant hereby reserves for itself and its designees (including, without limitation, the County of Hillsborough, Cheval West CDD, and any utility) blanket easements upon, across, over, and under all of the Area of Common Responsibility and to the extent reasonably necessary over any other part of the Cheval West Properties, including without limitation, the Parcels, Estate Lots, Lots, Condominium Properties and Club Facilities, for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity. Declarant also reserves for itself and its designees the right to utilize the Area of Common Responsibility and any other part of the Cheval West Properties, including without limitation, the Parcels, Estate Lots, Lots, Condominium Properties and Club Facilities, for the purpose of maintaining such facilities and performing such operations as in the sole opinion of the Declarant or its designees, may be reasonably required, convenient or incidental to the construction and sale of Residences, including, without limitation, business offices, sales offices, storage areas, construction yards, signs, displays and model units and for any and all purposes reasonably related to the completion of the Cheval West Project. Without limiting the foregoing, such right shall include the right to enter the Area of Common Responsibility and Parcels, Estate Lots, Lots, Condominium Properties (including Condominium Units) and Club Facilities, for the purpose of carrying out any obligations it may have or assume, or to cure any defects in workmanship or materials in the Area of Common Responsibility or any other part of the Cheval West Properties, including without limitation, Parcels, Estate Lots, Lots, Condominium Properties and Club Facilities and shall also include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action deemed reasonably necessary by the Declarant. These reserved easements may be assigned by Declarant by written instrument to the Cheval West Association, and the Cheval West Association shall accept the assignment upon such terms and conditions as are acceptable to Declarant. If these reserved easements are assigned to the Cheval West Association, the Board of Directors shall, upon written request, grant such easements as may be reasonably necessary for the development of any property described in Exhibit "A" or that may be annexed in accordance with Article VIII of this Declaration.

In addition to the easements described above, there is hereby reserved for the installation and maintenance of utilities and drainage facilities, a specific easement ten feet (10') in width extending along the rear of each Estate Lot, Lot, or Condominium Property and an easement five feet (5') in width extending along the side yards of each Estate Lot, Lot, or Condominium Property. Estate Lots, Lots or Condominium Property which do not have side yards of five feet (5') or more shall not be subject to such side yard easements. All Owners shall cooperate with the installation of all utilities in and through the Cheval West Project, and agree to promptly execute such documents as Declarant shall deem necessary to effectuate the easements established herein.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on any portion of the Cheval West Properties, except as may be approved by the Cheval West Association's Board of Directors

or as provided in the development and sale of portions of the Cheval West Properties by Declarant. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easements within the Cheval West Properties.

A mutual right and easement for utility services is hereby established for the benefit of all Owners, such that no Owner shall take any action which would in any way interfere with utility services being provided to other Owners within the Cheval West Project. If a Parcel, Estate Lot, Lot, Condominium Property (including Condominium Unit) or Club Facility contains any utility pipes, ducts, conduits, wires or the like which are for the benefit, in whole or in part, of other Owners within the Cheval West Project, then the Owner who damages or interferes with such utility services shall promptly, at his expense, repair or correct any such utility services.

In addition to and concurrent with any other easements within the Cheval West Project, there is hereby reserved a specific easement ten feet (10') in width extending along the boundary of any Parcel, Estate Lot, Lot, Condominium Property or Club Facility appurtenant to any private or public street within the Cheval West Project. Such easement shall be for the installation and maintenance of plantings and landscaping by the Declarant or the Cheval West Association.

Section 6. Easements for Maintenance. The Cheval West Association, its agents and employees, shall have an irrevocable right and an easement to enter the Parcels, Estate Lots, Lots, Condominium Properties and the Club Facilities for the purpose of exercising the rights and fulfilling the obligations established by this Declaration and any Supplementary Declarations recorded hereafter, including, without limitation, the right to maintain and care for Lawn and Garden Areas in accordance with this Declaration.

Each Estate Lot, Lot, or Condominium Property upon which two or more mailboxes have been placed or constructed, shall be subject to an easement for the benefit of the Owner(s) served by such mailboxes. This easement shall be for the placement of such mailboxes and the Owner(s) served by such mailboxes shall have an irrevocable right of reasonable ingress and egress to and from such mailboxes. The Cheval West Association shall also have an irrevocable right and an easement to enter the Estate Lots, Lots, or Condominium Properties upon which any mailboxes are located for the purpose of maintaining such mailboxes.

Section 7. Construction and Sale. Notwithstanding any provisions contained in this Declaration to the contrary, so long as the construction and sale of Estate Lots, Lots, Condominium Units and Residences shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Area of Common Responsibility such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Parcels, Estate Lots, Lots, Condominium Properties, Condominium Units, or Club Facilities (and memberships therein), or dwellings, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such



facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Residences owned by the Declarant or builders designated by Declarant and the community center, if any, which may be owned by the Cheval West Association, as models and sales offices. The rights of the Declarant contained herein shall extend to anyone purchasing (a) five (5) or more Estate Lots or Lots, or (b) Condominium Property which is intended to contain five (5) or more Condominium Units from the Declarant, or its successors and assigns; provided, however, that the right to exercise the privileges contained in this Section 7 shall be subject to such rules, regulations and conditions established by the Declarant from time to time. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section 7 shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

Section 8. Party Walls and Party Fences. The rights and duties of Owners and with respect to party walls and party fences shall be governed by the following:

(a) General Rules of Law to Apply. Each wall or fence which is constructed as a part of the original construction on the Cheval West Properties, any part of which is placed on the dividing line between Estate Lots, Lots, Condominium Properties or Condominium Units shall constitute a party wall or party fence, and with respect to such wall or fence, each of the adjoining Owners shall assume the burdens and be subject to an easement for that portion of a party wall or fence within his Estate Lot, Lot, Condominium Property or Condominium Unit boundary and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls and party fences and regarding liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall or fence is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners his agents, guests, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, and equally pay for such cost of rebuilding or repair.

(c) Repairs of Damage Caused by One Residential Unit Owner. If any such party wall or fence is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall or fence, then the Owner responsible for such damage shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

(d) Other Changes. In addition to meeting the other requirements of this Declaration and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Residence in any manner which requires the extension or

other alteration of any party wall or fence shall first obtain the written consent of the adjoining Owner.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to the successors in title of such Owner.

(f) Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or fence or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Cheval West Association, the matter shall be submitted to the Board of Directors, who shall decide the dispute, and the decision of the Board of Directors shall be final and conclusive upon the parties.

Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10. Right of Entry. The Cheval West Association shall have the right, but shall not be obligated, to enter onto any Estate Lot, Lot, Condominium Property, Parcel or Club Facility and into any Residence constructed thereupon, for emergency, security, and safety, which right may be exercised by the Cheval West Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Section 11. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Karl XVI Gustav, King of Sweden.

Section 12. Golf Balls. Each Estate Lot, Lot, Condominium Property, Parcel, Club Facility and the Area of Common Responsibility is burdened with an easement permitting golf balls unintentionally to come upon the Estate Lot, Lot, Condominium Property, Parcel, Club Facility or Area of Common Responsibility and for golfers at reasonable times and in a reasonable manner to come upon the Estate Lots, Lots, Condominium Properties, Area of Common Responsibility and the exterior portions of a Residence or Condominium Unit to retrieve errant golf balls.

Section 13. Rights of the Declarant. Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Cheval West Association to the contrary notwithstanding, so long as the construction and sale of Estate Lots, Lots, Condominium Units, Parcels or Club Facilities by the Declarant shall continue, neither the Members, the Board of Directors nor the Cheval West Association shall, by act or omission, take any of the following actions without the prior written consent of the Declarant:

(a) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Area; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by the Members of the Cheval West Association shall not be considered a transfer within the meaning of this Section; or

(b) abandon or terminate the Declaration; or

(c) modify or amend any material or substantive provision of this Declaration, or the Bylaws or the Articles of Incorporation of the Cheval West Association; or

(d) merge or consolidate the Cheval West Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Cheval West Association to any other entity; or

(e) substantially modify the method of determining and collecting assessments as provided in this Declaration.

The Declarant shall have the right to bring action for any legal or equitable relief necessary to enforce the rights and powers granted to the Declarant hereunder.

#### ARTICLE XIV MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on portions of the Cheval West Properties. To the extent applicable, necessary, or proper, the provisions of this Article XIV apply both to this Declaration and to the Bylaws of the Cheval West Community Association, Inc. Where indicated, these provisions apply only to "eligible holders," as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Cheval West Association (such request to state the name and address of such holder, insurer, or guarantor and the unit number) shall become an "eligible holder", will be entitled to timely written notice of:

(a) any proposed termination of the Cheval West Association;

(b) any condemnation loss or any casualty loss which affects a material portion of the Cheval West Properties or which affects any Estate Lot, Lot, Condominium Property, Parcel, or Club Facility on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(c) any delinquency in the payment of assessments or charges owed by Owner of property subject to the Mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;

(d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Cheval West Association; or

(e) any proposed action which would require the consent of eligible holders, as required in Sections 2 and 3 of this Article.

Section 2. Other Provisions for First Lien Holders. To the extent possible under Florida law:

(a) Any restoration or repair of the Cheval West Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of: (1) the Class B Member, if any, and (2) the eligible holders of first Mortgages on Estate Lots, Lots, and Condominium Units to which at least fifty-one percent (51%) of the Class A votes of Estate Lots, Lots, and Condominium Units, subject to Mortgages held by such eligible holders are allocated, is obtained.

(b) Any election to terminate the Cheval West Association after substantial destruction or a substantial taking in condemnation must require the approval of: (1) the Class B Member, if any, and (2) the eligible holders of first Mortgages on Estate Lots, Lots, Condominium Units, Parcels or Club Facilities to which at least fifty-one percent (51%) of the Class A votes of Estate Lots, Lots, Condominium Units, Parcels or Club Facilities subject to Mortgages held by such eligible holders, are allocated.

Section 3. Payment of Common Expenses by Mortgagees. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Area of Common Responsibility and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for the Area of Common Responsibility, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Cheval West Association.

## ARTICLE XV THE COUNTRY CLUB

Section 1. Conveyance of Country Club. All persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant or any other person or entity with regard to the continuing ownership or operation of the Country Club to be developed as part of the Cheval West Project, and no purported representation or warranty in such regard shall ever be effective without an amendment hereto executed or joined into by the Declarant. Further, the ownership or operational duties of and as to the Country Club may change at any time and from time to time by virtue of, but without limitation, (a) the sale or assumption of operations

of the Country Club by or to an independent person or entity, (b) the conversion of the Country Club membership structure to an "equity" club or similar arrangement whereby the members of the Country Club or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Country Club, (c) the conveyance, pursuant to contract, option, or otherwise, of the Country Club to one or more affiliates, shareholders, employees, or independent contractors of Declarant or the operators of the Country Club, or (d) the conveyance of the Country Club to the Cheval West Association with or without consideration and subject or not subject to a mortgage(s) or other encumbrance. As to any of the foregoing or any other alternative, no consent of the Cheval West Association, any sub-association, or any Owner shall be required to effectuate such transfer, even in the case of a conveyance of the Country Club to the Cheval West Association, with or without consideration, and subject to or not subject to any mortgage, covenant, lien or other encumbrance on the applicable land and other property.

Section 2. Rights of Access and Parking. The Country Club and its members (regardless of whether such members are Owners hereunder), employees, agents, contractors, and designers shall at all times have a right and non-exclusive easement of access and use over all roadways located within the Cheval West Properties reasonably necessary to travel from and to the entrance within the Cheval West Properties to and from the Country Club and, further, over those portions of the Cheval West Properties (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Country Club and its facilities. Without limiting the generality of the foregoing, members of the Country Club and permitted members of the public shall have the right to park their vehicles on the roadways located within the Common Areas at reasonable times before, during, and after golf tournaments and other approved functions held by the owner(s) or operator(s) of the Country Club.

Section 3. Assessments. Subject to the restrictions set forth in Section 8 below, the Country Club shall be assessed in accordance with Article X, Section 2(e) of this Declaration.

Section 4. Architectural Control. Neither the Cheval West Association, the Architectural Review Committee, nor any sub-association or similar committee or board thereof, shall approve or permit any construction, addition, alteration, change, or installation on or to any portion of the Cheval West Properties which is adjacent to, or otherwise in the direct line of sight from the Country Club for the depth of one (1) Estate Lot, without giving the Country Club and the Person operating it at least fifteen (15) days' prior notice of its intent to approve or permit same, together with copies of the request therefor, and all other documents and information finally submitted in such regard. The Country Club and the Person operating it shall then have fifteen (15) days in which to voice its approval or disapproval, which opinion shall be given great weight in the final decision. The failure of the Country Club and the Person operating it to respond to the aforesaid notice within the fifteen (15) day period shall constitute a waiver of the Country Club's right and the right of the Person operating it to object to the matter so submitted. This Section shall also apply to any work on the Common Areas hereunder or any common areas or elements of an association, if any.

Section 5. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Country Club, no amendment to this Article, and no amendment in

derogation hereof to any other provision of this Declaration, may be made without the written approval thereof by the owner(s) of the Country Club and the Person operating it or in the case of a corporate owner or operator, by its board of directors.

Section 6. Jurisdiction and Cooperation. It is Declarant's intention that the Cheval West Association and the owner(s) and operator(s) of the Country Club shall cooperate to the maximum extent possible in the operation of the Cheval West Properties and the Country Club. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Protective Land Use Standards.

Section 7. Applicability. The Cheval West Association and the owners and/or the operators of the Country Club shall have all enforcement powers afforded by this Declaration and at law to enforce the provisions of this Article XV.

Section 8. Exclusion of Country Club. Notwithstanding any other provision of this Declaration to the contrary, as long as the real property constituting the Country Club is being used as a golf course and related facilities, such real property shall specifically be excluded from the covenants, restrictions, conditions, assessments, charges and liens set forth in this Declaration and in the Protective Land Use Standards, and the owner(s) of the Country Club shall not be an "Owner" as defined herein nor entitled to membership in the Cheval West Association and shall have none of the rights provided to such members, other than those rights specifically provided in this Article XV and in Paragraph D of the Protective Land Use Standards. Any portion of the real property currently constituting the Country Club which becomes used for any purpose other than as a golf course or related facilities, shall immediately upon such use be subjected to all the covenants, restrictions, conditions, assessments, charges and liens set forth in this Declaration without any further action or proceeding.

## ARTICLE XVI

Intentionally Omitted.

ARTICLE XVII  
DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that no such transfer shall be effective unless it is in a written instrument signed by the Declarant.

"DECLARANT"

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

LUMBERMEN'S INVESTMENT  
CORPORATION

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

By: \_\_\_\_\_  
Name(print): \_\_\_\_\_  
Title(print): \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by \_\_\_\_\_ as \_\_\_\_\_ President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of the corporation. Such officer 9 is personally known to me or 9 produced \_\_\_\_\_ as identification.

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

NOTARY PUBLIC

My commission expires:

85920.5