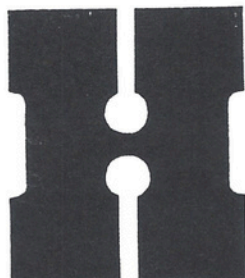


# **DOCUMENT BOOK FOR**

**Falcon's Lea Patio  
Homeowners Association, Inc.**



**Heftler**  
Realty Co.

9450 Sunset Drive  
Miami, Florida 33173  
305/274-2400



FALCON'S LEA PATIO HOMES

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION,

MADE on the date hereinafter set forth by HEFTLER REALTY CO., a Florida corporation, and IVANHOE LAND INVESTMENTS, INC., a Florida corporation, hereinafter referred to as "Developer".

W I T N E S S E T H:

WHEREAS, Developer is the owner in fee simple of all the property described on Exhibit "A" attached hereto; and

WHEREAS, Developer will convey Lots, as the term is hereinafter defined, in the said property, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW THEREFORE, Developer hereby declares that all of the above described property is hereby made subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Articles of Incorporation" shall mean and refer to the Charter of Falcon's Lea Patio Homeowners Association, Inc., all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof. Said Articles of Incorporation are attached hereto and made a part hereof as Exhibit "C".

Section 2. "Association" shall mean and refer to Falcon's Lea Patio Homeowners Association, Inc., a non-profit Florida corporation, its successors and assigns.

Section 3. "By-Laws" shall mean and refer to the By-Laws of Falcon's Lea Patio Homeowners Association, Inc., all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof. Said By-Laws are attached and made a part hereof as Exhibit "D".

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association, and specifically excludes the Lots as such term is hereinafter defined.

Section 5. "Declaration" shall mean and refer to the within instrument, together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms hereof. The within Declaration may be referred to in any other document as



Falcon's Lea Patio Homes Declaration of Covenants, Conditions and Restrictions.

Section 6. "Developer" shall mean and refer to Heftler Realty Co., a Florida corporation, and Ivanhoe Land Investments, Inc., a Florida corporation, their respective successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Developer or either of them for the purpose of development. Developer is a Developer as defined in Section 1.02 D of the Subdivision Declaration.

Section 7. "Development Period" shall be that period of time until the Subdivision Declarant and/or the Developer have sold the last Lot as shown on the site plan attached hereto as Exhibit "B" and the last Subdivision Lot as shown on the Plat to the consuming public and shall have the same meaning as set forth in Section 2.01 of the Subdivision Declaration attached hereto as Exhibit "G".

Section 8. "Home" shall mean and refer to the single family dwelling constructed upon a Lot.

Section 9. "Institutional First Mortgage" means a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Home.

Section 10. "Institutional First Mortgagee" means a bank, savings and loan association, any insurance company, pension fund, real estate trust, the Federal National Mortgage Association or its assigns, the Federal Home Loan Mortgage Company or its assigns, or any other party which is engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

Section 11. "Ivanhoe - Falcon's Lea Association" shall mean and refer to Ivanhoe Falcon's Lea Homeowner's Association, Inc., a non-profit Florida corporation, its successors and assigns.

Section 12. "Lot" shall mean and refer to a designated plot of land within the Property described on Exhibit "A" attached hereto and made a part hereof, conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a single family home. Each Lot within the Property is shown upon the site plan of the Property attached hereto and made a part hereof as Exhibit "B". It is contemplated that as many as 135 Lots will be located on the Property.

Section 13. "Management Agreement" shall mean and refer to that agreement for services to be rendered in connection with the management of the Property. Said Management Agreement and all exhibits attached thereto and made a part thereof, is attached to this Declaration and made a part hereof as Exhibit "E". Said Management Agreement shall also include such addenda, if any, that the parties thereto shall agree upon in writing.

Section 14. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligations.

Section 16. "Plat" shall mean and refer to the plat of Falcon's Lea which contains the Property and the Subdivision Lots and which plat is recorded in Plat Book 128, Page 6 of the Public Records of Broward County, Florida.

Section 17. "Property" shall mean and refer to that certain real property described on Exhibit "A", and such additions



thereto as may hereafter be brought within the jurisdiction of the Association.

Section 18. "Subdivision Declarant" shall mean and refer to Ivanhoe Land Investments, Inc., a Florida corporation, its successors or assigns, who is the Declarant of the Subdivision Declaration attached hereto and made a part hereof as Exhibit "G".

Section 19. "Subdivision Declaration" shall mean and refer to that certain Declaration of Covenants of Falcon's Lea Subdivision as recorded September 10, 1986, under Clerk's File No. 86-339304 in Official Records Book 3719, Page 568, of the Public Records of Broward County, Florida, as the same may be amended from time to time. Said Subdivision Declaration contains covenants and restrictions that encumber the Property and the ownership of the Lots and all Lots within the Property shall be subject to the applicable terms and conditions of said Subdivision Declaration as specified therein. A copy of the Subdivision Declaration is attached hereto as Exhibit "G".

Section 20. "Subdivision Lots" shall mean and refer to the lots numbered "1" through "224" inclusive as designated and shown on the plat of Falcon's Lea as recorded in Plat Book 128, Page 6, of the Public Records of Broward County, Florida.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any lawful amendments hereto and subject to the applicable terms and conditions of the Subdivision Declaration as specified therein, and any lawful amendments thereto. The filing of this Declaration and the subjecting of the Property to the conditions, restrictions and easements contained herein shall not be construed in any way and shall never inhibit or prohibit the Developer from conveying the Lots or improvements within the Property to third parties free and clear of any conditions, restrictions or easements except for those specifically provided for in this Declaration and the Subdivision Declaration. Lots so conveyed by the Developer to third parties shall be used and held in fee simple title by said third parties in accordance with this Declaration and the Subdivision Declaration.

## ARTICLE III

### MEMBERSHIP

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the covenants of this Declaration, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to a Lot and may not be separated from ownership of the Lot. Ownership of a Lot shall be the sole qualification for membership. The Owner of record of each Lot shall be subject to assessment by the Association as hereinafter provided, and shall be subject to enforcement by the Association of the terms and provisions of this Declaration and the applicable terms and provisions of the Subdivision Declaration.



ARTICLE IV  
VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners as defined in Article III with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Developer, its successors and assigns. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, PROVIDED that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1992.

ARTICLE V  
PROPERTY RIGHTS

Section 1. Members Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said Common Area and the rights of such mortgagee in said Common Area shall be subordinate to the rights of the Owners hereunder; the right to mortgage the Common Area provided herein shall not become effective until a Home has been constructed upon each Lot within the Property and each Lot has been conveyed from the Developer to a purchaser;
- (b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance of the duly called meeting at which the vote on such dedication or transfer is held;
- (c) The right of the Developer or the Association to establish, from time to time, certain easements over the Common Area for utilities and common services purposes.



(d) Existing easements and agreements of record.

(e) Easements referred to in Article X hereof.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property. However, it is the responsibility of the Member to insure that all such persons comply with the terms and covenants of this Declaration, the applicable terms and covenants of the Subdivision Declaration and all rules and regulations pertaining to the Property adopted by the Association or the Ivanhoe-Falcon's Lea Association.

Section 3. Title to the Common Area. The Developer hereby covenants for itself, its successors and assigns that: the fee simple title to that portion of the Common Area located on Parcel A of the Property will be conveyed to the Association free and clear of all encumbrances and liens prior to the conveyance of the first Lot located on Parcel A of the Property to a third party; the fee simple title to that portion of the Common Area located on Parcel D of the Property will be conveyed to the Association free and clear of all encumbrances and liens prior to the conveyance of the first Lot located on Parcel D to a third party; and the fee simple title to that portion of the Common Area located on Parcel E of the Property will be conveyed to the Association free and clear of all encumbrances and liens prior to the conveyance of the first Lot on parcel E to a third party. Parcels A, D and E of the Property are shown on the site plan attached hereto as Exhibit "B".

Section 4. Developer's Reserved Rights. Notwithstanding any provision herein to the contrary the Property Rights under this Article V shall be subject to:

- (a) The right of the Developer to execute all documents and take such actions and do such acts affecting the Property which, in the Developer's sole discretion, are desirable or necessary to facilitate the Developer's actual construction or development of the Property. However, nothing contained herein shall authorize the Developer to take any action that would diminish the rights of any lienholder or the holder of any mortgage on any Lot or on the Common Area; or take any action that will affect title to any of the Lots after conveyance to third parties;
- (b) Easements of record on the date hereof and any easements which may hereafter be granted by Developer to any public or private utilities or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lines, sewers or water pipes, or any other utilities or services to any Lots within the Property or any portion of the Common Area or such easements as Developer may determine are necessary or beneficial for the maintenance or preservation of the Property;
- (c) The Developer shall have full rights of ingress and egress to and through, over and about the Property, including the Common Area, during the Development Period and such additional period of time as the Developer is engaged in any construction or improvement work on or within the Property, and Developer shall further have an easement thereon for the purpose of the storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction and for the use and maintenance of signs, banners, and the like being used in connection with the sale or promotion of the Property. No Owner, his guests, employees or invitees shall in any way interfere or hamper Developer, its agents, employees, successors or assigns in



connection with such construction, development, promotion or sales activity; and

- (d) The Developer shall have full right to assign all of its right, title and interest in the Property both as Developer and as a Member of the Association to another party by the execution and recording of a proper instrument in the Public Records of Broward County, Florida.

Section 5. No Dedication to Public Use. Nothing contained in the within Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

Section 6. Incorporation of Easements by Reference. Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments to be Paid To The Association. The Developer for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, or to fund any deficits between the amount collected for annual assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Property; and (3) annual assessments or charges to effect payment of property taxes which may be assessed against the personal property which may in the future be located on, or contained in, the Common Area. Such assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments and annual assessments for payment of the personal property taxes, together with such interest thereon and costs of collection thereof, including interest, costs and attorney's fees, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made, and said lien may be enforced in the same manner in which mortgages are enforced. Each such assessment, together with such interest, costs, and reasonable attorney's fees for its collection, including attorneys fees involved at all appellate levels, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments to be levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Property and shall specifically include, but not be limited to: the maintenance and operation of the private roads servicing the Property; maintenance and operation of the entrance features to the Property; the payment of taxes and insurance for the Common Area; payment for the improvement and maintenance of the Property, services, and facilities related to the use and enjoyment of the Common Area and of the Homes situated upon the Property.



Section 3. Basis of Annual Assessments. Until December 31, 1988, the monthly assessments shall be the amount as set forth in the initial budget of the Association for its initial year of operation, which budget is attached hereto and made a part hereof as Exhibit "F". From and after January 1, 1989, the annual assessment shall be determined in accordance with the Articles of Incorporation attached as Exhibit "C" and By-Laws of the Association attached as Exhibit "D" taking into account current maintenance costs and future needs of the Association. The maintenance costs shall include and shall mean all operating costs of the Association, maintenance costs of the Common Area, payment of insurance premiums for the Common Area, payment of any personal property taxes on the Common Area, and obligations with respect to the Homes. The annual assessment shall also include a sum required to provide an adequate reserve fund for the maintenance, repair and replacement of the Common Area and improvements thereon, if any, or any personal property owned by the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction or unexpected repair or replacement of a described capital improvement upon the Common Area, including, but not limited to the privately owned streets, any recreational facilities and the necessary fixtures and personal property related thereto, PROVIDED that any such special assessment in excess of 25% of the regular annual assessments shall have the assent of two-thirds (2/3) of the votes of each class of the Members present and voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Notwithstanding the foregoing sentence, or any other provision in this Declaration to the contrary, during the period while Developer is guaranteeing the budget as more particularly described in the notes to the budget, which budget is attached hereto and made a part hereof as Exhibit "F", Developer will not be required to pay Association assessments on the Lots it owns in the Property. During said guarantee period the Developer will collect all assessments and pay all expenses for the operation of the Common Area and shall not be obligated to, and shall not account for monies collected or expended or any surplus or deficit incurred.

Section 6. Quorum for Any Action Authorized Under Section 4. At each meeting called, as provided in Section 4 hereof, the presence at the meeting of Members or of proxies entitled to cast one third (1/3) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Section 4 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner except that the Lots owned by Developer shall not be subject to such assessments during the guarantee period as provided in Section 5 above. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall



be sent to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within five (5) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the assessment is levied, and interest, costs and reasonable attorney's fees, including at all appellate levels, of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Special Assessment Against a Particular Owner of Lot. In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in accordance with the requirements of this Declaration or the Subdivision Declaration or a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance, restoration or repair shall be added to and become part of the annual assessment to which such Lot is subject; and shall be immediately due and payable by the Owner upon notification by the Association of the amount due, and said assessment shall be enforced in the same manner as provided for in Section 8 above.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be superior to all other liens save and except tax liens and the liens of any bonafide institutional first mortgage to an institutional first mortgagee, provided, however, that said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness which are amortized in monthly or quarterly-annual payments over a period of not less than 10 years.

Section 11. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments created herein: (a) any portion of the Property dedicated to and accepted by a local public authority; (b) the Common Area; (c) any portion of the Property which is designated and/or reserved for easements; and (d) any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE VII

### CAPITAL CONTRIBUTION

At the time of the closing of a Home pursuant to an original sale by the Developer, purchaser shall pay to the Developer on behalf of the Association a sum equal to two (2) months of the monthly maintenance assessment defined in Article VI, Section 3, herein. These monies (hereinafter called "capital contribution fund") shall be the Association's property and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles of Incorporation attached as



Exhibit "C" and By-Laws of the Association attached as Exhibit "D", for purposes of meeting budgetary deficiencies, in lieu of special assessments, and for payment of any Federal or State Income taxes on the earnings of this fund. This capital contribution remains with the Home on the books of the Association, and while the asset amount may be affected by the actions of the Board of Directors, no refund of capital contribution will be forthcoming on resale. Therefore, purchaser should consider this item as an asset in his renegotiation for resale of his Home.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

During the Development Period no building, fence, wall, other structure or any improvements, landscaping, screened enclosure, drain system or any item visible from the exterior shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made upon any Lot until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to the harmony of exterior design and location in relation to surrounding structures and topography by the Subdivision Declarant in accordance with the provisions of the Subdivision Declaration. After the expiration of the Development Period, any changes, additions or alterations as described in the preceding sentence must be first submitted to and approved in writing as to the harmony of exterior design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the Board of Directors, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Similarly no change in the exterior color of any structure erected or maintained upon any Lot shall be made unless approved by the Subdivision Declarant during the Development Period and by the Board of Directors of the Association or its architectural committee after the expiration of the Development Period.

## ARTICLE IX

### USE RESTRICTIONS

Section 1. Subdivision Restrictions. The use restrictions set forth in Sections 4.01 through 4.13 inclusive of the Subdivision Declaration are hereby incorporated and made a part hereof by reference as fully and completely as if set forth herein in their entirety. In addition, the items set forth in this Article IX shall also constitute use restrictions on the Property.

Section 2. Residential Community. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than a one-family dwelling.

Section 3. No Temporary Structure. No structure of a temporary character, trailer, shed, basement, tent, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence or appendage to such residence, either temporary or permanent, nor shall the same be permitted on any Lot.

Section 4. Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or Owners or occupants of the Lots.



Section 5. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose. Pets shall not be permitted to run at large within the Property.

Section 6. Signs. No sign of any kind shall be displayed to the public view on any Lot, except one sign of not more than one square foot advertising that property for sale or rent, or signs used by the Developer to advertise the Property during the construction and sale of the Homes. The Developer's signs shall not be subject to the size limitations set forth herein.

Section 7. Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 8. No Unsightly Uses. No garments, rugs or any other materials may be hung, exposed or dusted from the windows or from the front facade of any Home.

Section 9. Sewage Disposal. No septic tanks or individual wells will be permitted on any Lot.

Section 10. Fences and Walls. No Owner shall relocate, heighten, lower or otherwise move or change any fence or wall provided by Developer. However, this restriction shall not prevent Owner from maintenance and repair of the fence or wall, as the case may be, as hereinafter required by Article XI.

Section 11. Water Supply. No individual water supply system will be permitted upon any Lot except for sprinkler system, swimming pools and/or air conditioners.

Section 12. Rules and Regulations. The Board of Directors of the Association shall adopt such other rules and regulations from time to time governing the use and enjoyment of the Common Area as the Board of Directors in its sole discretion deems appropriate or necessary, provided that such additional rules and regulations shall be consistent with the provisions contained in this Declaration and the Subdivision Declaration.

Section 13. Vehicles. There shall not be parked upon any of the parking spaces set aside for general use within the Common Area, any trailer, abandoned vehicle nor a vehicle in excess of 20 feet in length, or in excess of 5000 pounds of weight, commercial-type van, commercial vehicle, boat or boat trailer. This restriction shall not be deemed to limit the use of such parking facilities for service vehicles whose purpose is to perform maintenance and delivery services to the Lot Owners or the Association during normal working hours.

## ARTICLE X

### EASEMENTS

Section 1. Ingress and Egress and Utility Easements. Easements for ingress and egress and for the installation and maintenance of all utilities and drainage facilities are reserved on and over each Lot and the Common Areas. The right is also reserved to the Developer and the Association to create additional utility easements by separate instrument as may be required from time to time.

Section 2. Encroachment Easements. Notwithstanding any other provisions contained in this Declaration, in the event that any Home as constructed on a Lot encroaches upon any portion of the Common Area or adjoining Lot, then a perpetual easement



appurtenant to such Lot shall exist for the continuance of any such encroachment on the Common Area or adjoining Lot. In the event any fence, roof, overhanging roof, or portion of the Home, as constructed upon any Lot encroaches or overlaps upon any other Lot or the Common Area, then, in such event, a perpetual easement appurtenant to the Lot upon which the fence, roof, overhanging roof, or Home is constructed shall exist for the continuation of any such encroachment or overlapping upon the adjoining Lots and Common Area.

Section 3. Maintenance Easements. Easements for ingress and egress for purposes of maintenance and repair of a Home constructed upon a Lot, or maintenance and repair of a fence or wall constructed upon a Lot are hereby reserved on and over each Lot and the Common Area. Each Lot Owner may exercise this easement in order to properly maintain and repair his Home and the fence or wall constructed upon his Lot. This easement shall be exercised in a careful and prudent manner to avoid damage or inconvenience to the adjoining Lots, and any damage caused to another Lot by an Owner or Owner's agents while exercising this easement shall be repaired by and at the expense of the Owner causing the damage.

## ARTICLE XI

### PROVISIONS RESPECTING HOMES

Section 1. House Maintenance. Each Lot Owner shall be responsible for maintaining and repairing the Home and all other improvements situated on his Lot in a clean, sanitary, neat, safe and orderly condition. Each Lot Owner shall be responsible for the maintenance, replacement or repair of all doors, windows, screens, roofs, exterior walls and all other portions of his Home and shall also be responsible to keep the paint on the exterior walls of the Home and the roof in a good state of repair. It will also be the duty of each Lot Owner to maintain in good repair the driveway servicing his Lot. If any Lot Owner breaches these covenants, the Association or the Ivanhoe-Falcon's Lea Association may enforce this covenant in accordance with the provisions of Article XV below.

Section 2. Lawn Maintenance. No underbrush or other unsightly growth shall be permitted to grow on any Lot, nor shall any refuse or unsightly objects be permitted to remain thereon. Each Lot Owner shall maintain his Lot in a neat and attractive manner, including, without limitation, having grass, weeds and undergrowth and other vegetation cut no less than once per month, and the shrubbery and trees located upon the Lot trimmed periodically in accordance with good husbandry practices, including the removal of any dead trees, shrubs or plants. In addition to maintaining his Lot as herein provided, each Lot Owner shall be responsible and shall maintain that portion of the Common Area or public area located between the front property line of his Lot and the street in front of his Lot. If any Lot Owner breaches these covenants, the Association or the Ivanhoe-Waterford Association may enforce this covenant against that Lot Owner in accordance with the provisions of Article XV below.

Section 3. Fence or Wall Maintenance. Each Lot has located thereon a fence or wall constructed by Developer. Maintenance and repair of the fence or wall as the case may be, shall be the responsibility of the Lot Owner. Maintenance shall include but not be limited to maintaining all paint on the fence or wall in a good state of repair and keeping the fence or wall in a good state of repair. No Owner shall alter, remove or relocate any fence or wall provided on his Lot or the Property. In the case of a common fence or wall shared by adjoining Lot Owners the cost of maintenance and repair shall be borne equally by the Lot Owners with each Lot Owner being responsible for payment of one-half of all such costs. Each Lot Owner sharing a common fence or wall



with an adjoining Lot Owner shall maintain that portion of the fence or wall, as the case may be, facing the interior of his Lot, at his own expense, except that, in the event repair or replacement becomes necessary, then the adjoining Lot Owners sharing the common fence or wall shall act together to properly replace or repair said wall or fence and the costs of such repair or replacement shall be borne equally by them. Any wall or fence on a Lot which is not a common wall or fence that is shared by an adjoining Lot shall be maintained and repaired at the sole expense of the Lot Owner where it is located. Notwithstanding the foregoing sentence, the Association will paint the outside surface and top of the perimeter wall of the Property in order to maintain a consistent appearance. Such painting shall be common expense of the Association. The inside of such perimeter wall shall be painted by the Lot Owner adjacent to the wall. Maintenance and repair of damage to the perimeter wall (whether on the inside or outside of the wall) shall be performed by the Lot Owner adjacent to the wall at the point where the damage occurred at the Lot Owner's expense. If a Lot Owner shall breach these covenants, then the Association or the Ivanhoe-Falcon's Lea Association may enforce these covenants against the Lot Owner in accordance with the provisions of Article XV below.

Section 4. Common Area Maintenance. Except as specified above in this Article XI with respect to fences, walls and the area between the front Lot line and the street, the Association shall maintain the Common Area of the Property, including any recreational facilities that may be constructed upon the Common Area. The cost of such maintenance shall be a common expense of the Association. No Owner shall plant any trees, shrubs or other plant materials outside his Lot without the express written consent of the Association. No Owner shall place any obstruction, fence, tree, shrubbery, foliage or any other item on the Common Area without the express written consent of the Association. The Association shall maintain the entrance feature to the Property, the cost of which shall be a common expense of the Association.

## ARTICLE XII

### PROVISIONS RELATING TO FIRST MORTGAGEES

Section 1. The following actions will require the prior written approval of two-thirds (2/3) of the holders of record of Institutional First Mortgages on Lots within the Property, (based upon one vote for each Institutional First Mortgage holder): the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area by the Association, other than the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area; the material change in the method of determining the assessments or other charges that may be levied against an Owner; the waiver or abandonment of any scheme of regulation or the enforcement thereof, pertaining to the architectural design or control of the exterior appearance of the Homes constructed upon the Property, or pertaining to the maintenance of the Common Area and any fences, walls, driveways or lawns located thereon; the failure of the Association to maintain fire and extended coverage on the Common Area and any insurable improvements thereon in an amount that shall not be less than one hundred percent (100%) of the insurable value, based on the current replacement costs; the use of the insurance proceeds paid to the Association for any loss to the Common Area, or the improvements thereon, for any purpose other than the repair, replacement or reconstruction of such Common Area and the improvements thereon; the amendment of the Declaration in any manner which materially affects or impairs the rights of an Institutional First Mortgagee; the conveyance, encumbrance or hypothecation in any manner of the Common Area.

Section 2. The holder of record of an Institutional First Mortgage on any Lot in the Property may singly or jointly with the



Institutional First Mortgagees: pay the taxes or other charges which are in default, and which may or have become a charge against the Common Area; pay overdue premiums on hazard insurance policies for the Common Area; or secure new hazard insurance coverage for the Common Area after lapse of the existing coverage. In the event any Institutional First Mortgagee makes any of the aforementioned payments, such Institutional First Mortgagee shall be entitled to immediate reimbursement from the Association for the payments advanced, and such Mortgagee shall be subrogated to the assessment and lien rights of the Association against the Owners for the repayment of such advance, and the expense of making such reimbursement to the Institutional First Mortgagee shall be deemed a common expense of the Association.

Section 3. No provision of this Declaration shall be interpreted to give an Owner, or any other party, priority over the rights of any Institutional First Mortgagee pursuant to the terms of its Mortgage on any Lot on the Property in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Any institutional First Mortgagee of a Lot on the Property who obtains title to a Lot pursuant to the remedies provided in said Mortgagee's Institutional First Mortgage on that Lot, or obtains title by deed in lieu of foreclosure, shall not be liable for any unpaid assessment or charges accrued against said Lot prior to the acquisition of title to said Lot by such Mortgagee.

Section 5. The Institutional First Mortgagee of any Lot on the Property is entitled, upon request, to written notification from the Association of any default in the performance by the Institutional First Mortgagor, of any of such Owner's obligations pursuant to the terms of this Declaration, which default is not cured after sixty (60) days notice to such Owner.

Section 6. Any Institutional First Mortgagee who succeeds the Developer in title to any portion of the Property, or acquires title to any portion of the Property by way of foreclosure, deed in lieu of foreclosure, or otherwise, shall be entitled to any exemption from the terms or restrictions of the Declaration to the same extent that Developer would be exempt from such terms or restrictions.

Section 7. Any agreement for professional management, or any other contract providing for services of the Developer may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and payment of termination fee on ninety (90) days or less written notice.

### ARTICLE XIII

#### DEVELOPMENT AREA

Section 1. Development of the Property. The plan of development of Falcon's Lea Patio Homes contemplates the development of 157 single family homes on the Property. The Developer will construct a swimming pool site on the Common Area during the Development Period. Maintenance of the swimming pool site shall become a common expense of the Association and shall be included as a component of the annual assessment when the pool is completed and operational.

Section 2. Development Area. The Property is a part of a development area known as Falcon's Lea, which area is shown on the Plat. That portion of Falcon's Lea as shown on the Plat that is not included within the Property is being developed by the Subdivision Declarant and contemplates the construction of 224 single family homes on the Subdivision Lots depicted on the Plat. In order to provide for the preservation of the values and



amenities of the improvements to be constructed upon all the property in the Plat, including the Property and the Subdivision Lots, the Subdivision Declaration filed by the Subdivision Declarant provides for certain limitations and restrictions for all such property. The ownership of the Lots within the Property shall be subject to, among other things, the terms and conditions of this Declaration and the terms and conditions of the Subdivision Declaration.

#### ARTICLE XIV

##### GENERAL PROVISIONS

Section 1. Covenants Run With Land. All restrictions, reservations, covenants, conditions and easements contained in this Declaration shall constitute covenants running with the land, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of (a) this Declaration of Covenants, Conditions and Restrictions, and (b) the Articles of Incorporation and By-Laws of the Association. The Association shall be the entity responsible for the operation and maintenance of the Common Area.

Section 2. Enforcement. The Subdivision Declarant, the Developer, the Association or any Owner shall have the right during the Development Period to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or the Subdivision Declaration by proceedings at law or in equity. After the Development Period, the Association or any Lot Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or the Subdivision Declaration. In any such proceedings, whether during or after the Development Period, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees, including at all appellate levels, incurred in connection with such enforcement action.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. During the Development Period, Developer reserves the right to amend this Declaration without the consent of the Lot Owners. Such amendments shall not require the consent of the Institutional Mortgagee Lenders and shall become effective when signed by Developer and recorded in the Public Records of Broward County,



Florida. After the Development Period the covenants and restrictions of this Declaration may be amended by an instrument signed by not less than fifty-one percent (51%) of the Lot Owners. Any amendments must be properly recorded.

Section 5. Remedy for Violation. For violation of a breach of any of the provisions of this Declaration, or the provisions of the Articles of Incorporation attached as Exhibit "C" or By-Laws of the Association attached as Exhibit "D" by any person claiming by, through or under the Developer and/or the Association, or by virtue of any judicial proceedings, the Owner, the Association, the Developer, an Institutional First Mortgagee, or any of them, severally, shall have the right to proceed at law for damages or in equity to compel compliance of any of such provisions, or for such other relief as may be appropriate. In addition to the foregoing right, whenever there shall have been built within the Property any structure which is in violation of this Declaration, duly authorized representatives of the Association may enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the Owner, provided, however, that the Association shall then make the necessary repairs, construction, etc., to insure that the property and improvements where such violation occurred is restored to the same condition in which it existed prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass.

Section 6. Effect of Waiver of Violation. No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles of Incorporation or By-Laws of the Association, attached hereto and made a part hereof as Exhibits "C" and "D" respectively, shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles of Incorporation and By-Laws of the Association.

Section 7. Instruments Governing Common Area and Owners of Lots. This Declaration and the Articles of Incorporation and By-Laws of the Association, attached hereto and made a part hereof, as Exhibit "C" and "D" respectively, and any lawful amendments thereto shall govern the Common Area and the rights, duties and responsibilities of the Owners of Lots.

Section 8. Notice to Owners. Whenever notices are required to be given hereunder, the same shall be sent to the Owners by United States First Class Mail postage prepaid at the address of the Home situated upon the Lot. Such notices shall be deemed given when deposited in the United States Mail. Any Owner may change his mailing address by written notice given to the Developer at:

9450 Sunset Drive  
Miami, Fla. 33173  
(or the official address of the Association as  
may be designated from time to time.)

Section 9. Grammatical Construction. Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.



IN WITNESS WHEREOF, HEFTLER REALTY CO., a Florida corporation and Ivanhoe Land Investments, Inc., a Florida corporation, have caused these presents to be signed in their names by their corporate officers and their corporate seals affixed, this 31st day of March, 1987.

Signed, sealed and delivered in the presence of:

Candace Sharpsteen  
Mysa Lopez

HEFTLER REALTY CO. (SEAL)

By: Thomas Iglesias  
Thomas Iglesias, Vice Pres.

Attest: Roger Heftler  
Roger Heftler, Secretary

Ronald E. Corbitt, Jr.  
William J. Hilley

IVANHOE LAND INVESTMENTS, INC.

By: Ronald E. Corbitt, Jr.  
Ronald E. Corbitt, Jr.  
Vice President

Attest: William J. Hilley  
William J. Hilley  
Asst. Secretary

STATE OF FLORIDA )  
COUNTY OF DADE ) ss.

BEFORE ME personally appeared THOMAS IGLESIAS and ROGER HEFTLER known to me to be the individuals described in and who executed the foregoing Declaration of Covenants, Conditions and Restrictions as Vice President and Secretary of HEFTLER REALTY CO., a Florida corporation, and severally acknowledged to and before me that they executed such Declaration as such Vice President and Secretary, respectively, of said corporation, and that the seal affixed to the foregoing Declaration is the corporate seal of said corporation and that it was affixed to said Declaration by due and regular corporate authority and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal at Miami, Dade County, Florida this 31st day of March, 1987.

Candace Sharpsteen  
Notary Public, State of Florida at Large.

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. JAN. 1, 1990  
BONDED THRU GENERAL INV. UND.

STATE OF FLORIDA )  
COUNTY OF DADE ) ss.

BEFORE ME personally appeared RONALD E. CORBITT, JR. and WILLIAM J. HILLEY, known to me to be the individuals described in and who executed the foregoing Declaration of Covenants, Conditions and Restrictions as Vice President and Assistant Secretary of IVANHOE LAND INVESTMENT, INC., a Florida corporation, and severally acknowledged to and before me that they executed such Declaration as such Vice President and Assistant Secretary, respectively, of said corporation, and that the seal affixed to the foregoing Declaration is the corporate seal of said corporation and that it was affixed to said Declaration by due and regular corporate authority and that said instrument is the free act and deed of said corporation.



WITNESS my hand and official seal at Miami, Dade County,  
Florida this 8<sup>th</sup> day of June, 1987.

  
Notary Public, State of Florida  
at Large.

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA  
- MY COMMISSION EXP SEPT 17, 1990  
BONDED THRU GENERAL INS. UND.