

THIS INSTRUMENT PREPARED BY AND
UPON RECORDATION RETURN TO:

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SOLOMON & FURSHMAN, LLP
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NORTH BAY VILLAGE, FLORIDA 33141

**THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
HERITAGE BAY GOLF & COUNTRY CLUB**

THIS THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE BAY GOLF & COUNTRY CLUB (this "**Third Amendment**") is made by LENNAR HOMES, LLC, a Florida limited liability company, ("**Developer**"), and joined in by the HERITAGE BAY GOLF AND COUNTRY CLUB, INC., a Florida not-for-profit corporation ("**Club**").

RECITALS

A. Club recorded that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club on May 1, 2008 in Official Records Book 4355, at Page 1839 of the Public Records of Collier County, Florida (the "**Amended and Restated Declaration**") respecting the community known as Heritage Bay Golf & Country Club (the "**Club Property**"). On May 28, 2008, Developer recorded that certain Certificate of Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club in Official Records Book 4364, at Page 2095 of the Public Records of Collier County, Florida (the "**First Amendment**"). On April 1, 2009, Developer recorded that certain Certificate of Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club in Official Records Book 4440, at Page 367 of the Public Records of Collier County, Florida (the "**Second Amendment**"). The Amended and Restated Declaration, the First Amendment and the Second Amendment shall hereinafter collectively be referred to as the "**Declaration**".

B. Pursuant to Section 15.10 of the Declaration, so long as the Developer holds any property for sale in the ordinary course of business within the Club Property (as defined in the Declaration), Developer may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of the Declaration.

C. The Developer is currently holding property for sale in the ordinary course of business and has not turned over control of the Club to the owners.

D. Developer wishes to amend the Declaration to modify the same as set forth herein.

NOW THEREFORE, Developer hereby declares that every portion of the Club Property is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

1. **Recitals.** The foregoing Recitals are true and correct and are incorporated into and form a part of this Third Amendment.

2. **Conflicts.** In the event that there is a conflict between this Third Amendment and the Declaration, this Third Amendment shall control. Whenever possible, this Third Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.

3. **Definitions.** All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration except for the following which is hereby added to the Declaration:

“**Fannie Mae**” shall mean Federal National Mortgage Association.

4. **Foreclosure of Lien.** The first sentence of Section 9.10 of the Declaration is hereby modified as follows:

9.10 **Foreclosure of Lien.** Unless a different method is required by Florida law, as amended from time to time, the Club’s lien may be foreclosed by the procedures and in the manner provided in Section ~~718.116 of the Florida Condominium Act~~ 720.3085 of the Florida Statutes, as it may be amended from time to time, for the foreclosure of a lien upon a ~~condominium parcel~~ Living Unit for unpaid assessments.

5. **Priority of Lien.** The first sentence of Section 9.11 of the Declaration is hereby modified as follows:

9.11 **Priority of Lien.** Unless otherwise provided by Florida law as amended from time to time, the Club’s lien for unpaid assessments and charges shall have the same priority with respect to first mortgagees holding mortgages on Lots and Living Units as the lien of a condominium homeowners’ association for unpaid assessments under Section 718.116-720.3085, Florida Statutes, as amended from time to time, has with respect to first mortgagees or other acquirers of title through the first mortgage.

6. **Assessments.** The following language is hereby added to the Declaration as Section 9.16

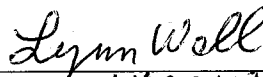
9.16 **Fannie Mae.** Notwithstanding anything in this Declaration to the contrary and to the extent permitted by applicable law, with respect solely to Fannie Mae approved financing of a Living Unit, any Institutional Mortgagee who obtains title to a Living Unit pursuant to the remedies in the mortgage or through foreclosure will not be liable for more than six (6) months of the Living Unit’s unpaid assessments accrued before acquisition of the title to the Living Unit by the Institutional Mortgagee.

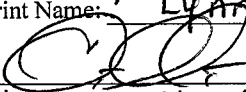
7. **Covenant.** This Third Amendment shall be a covenant running with the land.

IN WITNESS WHEREOF, the undersigned, being Developer under the Declaration, has hereunto set its hand and seal this 25th day of June, 2009.

WITNESSES:

LENNAR HOMES, LLC, a Florida limited liability company


Print Name: Lynn Wells

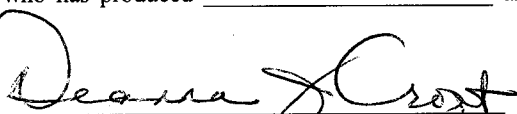

Print Name: CLINT SCHEUERMAN

By: _____
Name: Darin McMurray
Title: Vice President

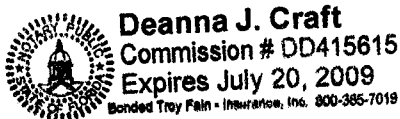
STATE OF FLORIDA)
) SS.:
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 25th day of June, 2009, by Darin McMurray, as Vice President of LENNAR HOMES, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification on behalf of the company.

My commission expires:


NOTARY PUBLIC, State of Florida at Large

Print Name: Deanna J. Craft



JOINDER

HERITAGE BAY GOLF & COUNTRY CLUB, INC.

HERITAGE BAY GOLF AND COUNTRY CLUB, INC. does hereby join in the Third Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf and Country Club, to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 25th day of June, 2009.

WITNESSES:

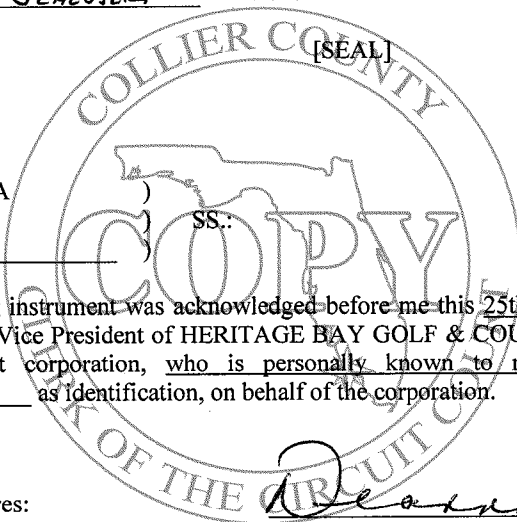
HERITAGE BAY GOLF AND COUNTRY CLUB, INC., a Florida not-for-profit corporation

Lynn Wells

Print Name: Lynn Wells
Clim Scheuber

Print Name: Clim Scheuber

By: _____
Name: Darin McMurray
Title: Vice President



STATE OF FLORIDA)
) SS.:
COUNTY OF Lee)

The foregoing instrument was acknowledged before me this 25th day of June, 2009 by Darin McMurray, as Vice President of HERITAGE BAY GOLF & COUNTRY CLUB, INC., a Florida not-for-profit corporation, who is personally known to me or who produced _____ as identification, on behalf of the corporation.

My commission expires: _____
Deanna J. Craft
NOTARY PUBLIC, State of Florida at Large
Print Name: Deanna J. Craft

 **Deanna J. Craft**
Commission # **DD415615**
Expires **July 20, 2009**
Bonded Troy Pain - Insurance, Inc. 800-365-7011