

INSTR # 5294206

OR BK 03528 PG 2046

This Instrument prepared by:
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**AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
ROYAL-TEE HOMEOWNERS ASSOCIATION, INC.**

This Amendment to Declaration of Covenants, Conditions and Restrictions for Royal-Tee Homeowners Association, Inc. (the "Amendment") was adopted and approved by Realmark Cape Royal, L.L.C., a Florida limited liability company (referred to herein as "Realmark"), as the Declarant, as of the 16 day of November, 2001.

Preliminary Statements

- A. B.P. Development Southwest, Inc., a Florida corporation (referred to herein as "B.P.") executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for Royal-Tee Homeowners Association, Inc., dated September 21, 1990, which was recorded in Official Records Book 2176 at Page 4645 of the Public Records of Lee County, Florida (referred to herein as the "Declaration").
- B. The Declaration encumbers certain real property situated in Lee County, Florida, as more specifically described therein (referred to herein as the "Property").
- C. B.P. assigned to Realmark all rights, duties and obligations as Declarant or Developer under the Declaration, pursuant to the Assignment of Declarant's Rights, executed between B.P. and Realmark on June 6, 2001, which was recorded in Official Records Book 3435 at Page 4810 of the Public Records of Lee County, Florida.
- D. Realmark, as Declarant, desires to amend the use restrictions set forth in the Declaration pursuant to the authority set forth in Section 10.3 of the Declaration.

NOW THEREFORE, Realmark hereby amends the Declaration, as follows:

1. **Definitions.** Unless otherwise defined herein, all terms shall have the meanings set forth in the Declaration. Any and all references in the Declaration to Declarant shall mean and refer to Realmark Cape Royal, L.L.C., a Florida limited liability company, its successor or assigns.
2. **Article 9. Use Restrictions:**

- (a) Section 9.4 of the Declaration is hereby amended, in its entirety, to read, as follows:

"No business of any kind shall be conducted in any residence with the exception of the business of Declarant, and as set forth below, in the sale of all of the Lots and homes as provided in Section 10.8.

For so long as Declarant retains any membership interest in the Association, the Declarant shall have the right to transact business within the Development, and may authorize Approved Builders to transact business within the Development, including, but not limited to, the right to maintain model units, construction, sales and operations offices, construction and sales trailers, and to post signs on the Property, use the Common Areas for construction and sales purposes, and to display Lots and Units. Sales offices, signs, and all sales and promotional items shall remain the property of Declarant or the Approved Builder. These rights are assignable by Declarant, in whole or in part, which assignment(s) shall be in writing and recorded among the Public Records of Lee County, Florida."

- (b) Section 9.6 of the Declaration is hereby amended, in its entirety, to read, as follows:

"No sign of any kind, including political or campaign signs or posters, shall be displayed to the public view from any Lot or Unit or any portion of the Development, with the exception of two (2) "for sale" or "for rent" signs to be no larger than 9" x 6". Signs used by Declarant, or by Approved Builders, to advertise the Property during construction and/or sales period or by the owners of the golf course, shall not be subject to the provisions of this section."

- (c) New Section 9.17, is hereby added to the Declaration as follows:

"The Declarant may authorize Approved Builders to maintain model units display signs and banners and to otherwise conduct sales activities within the Development. With the exception of the Approved Builders, or real estate brokers approved by Declarant, no other contractor, builder, real estate broker or other third party

shall be authorized to maintain model units or to otherwise conduct sales activities within the Development, except that nothing herein shall preclude a licensed real estate broker from accepting listings within the Development and nothing herein shall preclude a Builder who is not an Approved Builder from constructing a Homes or Units within the development on behalf of owners or for speculative use, but not as model units. The Approved Builders shall be independent contractors, and Declarant shall have no liability whatsoever for any acts or omissions of an Approved Builder, including any principal, officer, director, partner, agent or subcontractor of an Approved Builder.

For purposes of this Article "Approved Builder(s)" shall mean a home builder who has been approved by Declarant to build Homes or Units on Lots owned by or acquired from Declarant within the Development; provided, however, that Declarant's designation of an Approved Builder shall not constitute a guaranty of the builder's performance or the quality of the builder's construction.

- 3. Ratification. All other terms and provisions of the Declaration are hereby ratified and confirmed and shall remain in full force and effect, except to the extent amended hereby. In the event of any inconsistency between the terms of this Amendment and the terms of the Declaration, the terms of this Amendment shall control.

In Witness Whereof the undersigned Declarant has affixed its signature as of the date as set forth below.

Witnesses:

Realmark Cape Royal, LLC,
a Florida limited liability company

William J. Stout
Print Name:

By: [Signature]
William J. Stout, Manager

[Signature]
Print Name:
Charlotte B. Ford
Charlotte B. Ford

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 16th day of October, 2001, by William J. Stout, as Manager of Realmark Cape Royal, L.L.C., a Florida limited liability company, who is () personally known to me or () has produced _____ as identification.


Signature of Notary Public
State of Florida

My Commission Expires:

