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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

CYPRESS COVE OF JUPITER

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this 7th
day of JUNE, 1990 by CYPRESS COVE OF JUPITER, INC., a
Florida corporation (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, the Developer is the owner of certain real property described
in Section 2 of this Declaration and desires to create thereon a general plan
and scheme for development of a residential community; and

WHEREAS, Developer desires to provide for the preservation and
enhancement of the property values, amenities and opportunities in the
community and for specified maintenance of the properties and improvements
thereon, and to this end desires to subject the real property described in
Section 2 of this Declaration to the covenants, restrictions, easements,
charges and liens hereinafter set forth, each and all of which is and are for
the benefit of this property and each Owner thereof; and

WHEREAS, Developer has deemed it advisable, for the efficient
preservation of the values and amenities in said community, to create an
agency to which should be delegated and assigned the powers of owning,
maintaining and administering the community properties and facilities and
administering and enforcing the covenants and restrictions and collecting and
disbursing the assessments as created in this Declaration, and promoting the
recreation, health, safety and welfare of the owners and occupants of each Lot
in the community; and

WHEREAS, the CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., a
not-for-profit Florida Corporation has been previously or shall be
incorporated for the purpose of exercising the functions mentioned above; and

WHEREAS, some of the functions mentioned above shall be delegated and
assigned to the Northern Palm Beach County Water Control District.

NOW THEREFORE, the Developer hereby declares that the real property
described in Section 2 below is and shall be held, transferred, sold, conveyed
and occupied subject to the covenants, restrictions, easements, charges and
liens (sometimes referred to as "covenants and restrictions") set forth in
this Declaration, all of which are perpetual covenants which run with the
land.

THIS INSTRUMENT PREPARED BY:

LEVINE AND FRANK, P.A.
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Section 1. DEFINITIONS. The following definitions shall apply in this Declaration and in the Articles of Incorporation and By-Laws, unless the context otherwise requires:

1.1 "Articles" means the Articles of incorporation as amended from time to time.

1.2 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the Lots.

1.3 "Association" means CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, its successors, assigns and legal representatives.

1.4 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs.

1.5 "By-Laws" mean the By-Laws as amended from time to time.

1.6 "Common Area" or "Common Areas" means and refers to those Properties which are intended to be devoted to the common use and the enjoyment of the Owners and occupants, in this Declaration and as stated in the Subdivision Plat, as well as all personal property owned, leased by or dedicated to the Association for the common use and enjoyment of the Owners and occupants, and Lake Eileen and the Preserve, title to which is being conveyed to the District.

1.7 "Community" means Cypress Cove of Jupiter as it may be expanded from time to time.

1.8 "Declaration" means this instrument as amended from time to time.

1.9 "Developer" means CYPRESS COVE OF JUPITER, INC., a Florida corporation, its successors, assigns and legal representatives, and shall also mean any successor or assign so designated by the Developer to any or all of its interests in the development of CYPRESS COVE OF JUPITER.

1.10 "District" means the Northern Palm Beach County Water Control District, and its successors, assigns and legal representatives.

1.11 "Dwelling Structure" means a residential single family home situated on a Lot, including all improvements associated with the home on the Lot. Unless the context specifically provides otherwise, reference to the term "Dwelling Structure" shall not include the Lot.

1.12 "General Plan of Development" means that plan as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of land in the Properties, as it may be amended from time to time.

1.13 "Governing Documents" means and includes this Declaration and all Exhibits hereto, including the Articles of Incorporation and By-Laws, as amended from time to time.

1.14 "Guest" means any person who is not a member of the family occupying a Lot, and who is physically present in, or occupies the Lot at the invitation of the Owner or other legally permitted occupant, without requirement to contribute money, perform any services or provide any other consideration to the Owner or Lessee in connection with occupancy of the Lot. A permanent occupant of a Lot shall not be considered as a Guest. Furthermore, an Owner of a Lot shall never be considered a Guest on the Lot he owns, unless the Owner is visiting a Lessee on the Lot.

1.15 "Institutional Mortgagee" means the holder (or its assignee) of a mortgage against a Lot, which mortgagee is a bank, savings and loan association, mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Lot which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. "Institutional First Mortgagee" means the foregoing, but is limited to the holder of a first mortgage.

1.16 "Lease" means the grant by an Owner of a temporary right of use of the Owner's Dwelling Structure and Lot for valuable consideration.

1.17 "Lot" means a platted lot referred to as such on the Subdivision Plat, and intended for residential occupancy. Unless the context specifically provides otherwise, reference to the term "Lot" shall include the Dwelling Structure and all other improvements situated on the Lot.

1.18 "Member" or "Member of the Association" means a record Owner of a Lot.

1.19 "Occupy" shall mean and refer to the act of being physically present on a Lot for two (2) or more consecutive days, including staying overnight. "Occupant" is a person who occupies a Lot. A "permanent occupant" means a person who is occupying a Lot other than as a Guest or for a vacation.

1.20 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interests merely as security for the performance of an obligation.

1.21 "Primary Institutional Mortgagee" means that institutional mortgagee which, at the time a determination is made, holds first mortgages on more Lots in the Community than any other institutional mortgagee, such determination to be made by reference to the number of Lots encumbered, and not by the dollar amount of such mortgages.

1.22 "Properties" means all real property, including improvements thereon, which are now or hereafter made subject to this Declaration.

1.23 "Rules and Regulations" means those rules and regulations promulgated from time to time by the Board of Directors, governing the use of the Properties, including the Lots, and the operation of the Association.

This

1.24 "Subdivision Plat" means the plat of Cypress Cove of Jupiter, as recorded in Plat Book 65, Pages 156-160, Public Records of Palm Beach County, Florida.

1.25 "Voting Interest" means and refers to the arrangement established in the Governing Documents by which the Owners of each Lot collectively are entitled to one vote in Association matters.

1.26 "Water Management Plan" means that plan created pursuant to an agreement between the Developer and the District relating to the water management system ("WMS") with respect to the Properties, as is recorded elsewhere in the Public Records of Palm Beach County, Florida.

Section 2. PROPERTY SUBJECT TO THIS DECLARATION.

2.1 Legal Description. The real property which is and shall be transferred, sold, conveyed and occupied subject to this Declaration, is legally described as the plat of Cypress Cove of Jupiter as recorded in Plat Book 65, Pages 156-160, Public Records of Palm Beach County, Florida.

2.2 Additional Property. The Developer shall be entitled at any time, and from time to time, to plat and/or submit additional properties to become part of the Community and subject to this Declaration. The Developer shall be entitled to add property to the Jurisdiction of the Declaration, by the filing of a Supplemental Declaration, without the consent or joinder of the Association and/or any Owner.

Section 3. EASEMENTS; PROPERTY RIGHTS IN THE COMMON AREA.

3.1 Easements. Each of the easements and easement rights referred to in this Section 3.1, is reserved through the Properties and is a covenant running with the land in the Community, and notwithstanding any other provisions of this Declaration, shall survive the removal of any of the Properties from the Community. None of the easements specified in this Section 3.1 may be encumbered by any leasehold or lien other than those on the Lots. Any lien encumbering these easements shall automatically be subordinate to the rights of Owners with respect to such easements.

A. Utility Service and Drainage Easements.

1. In addition to that shown on the Subdivision Plat, there is hereby created a blanket easement upon, across, over, through and under the Properties for the installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to electric, gas, water, sewer, telephone, electric, cable television, security, and surveillance or communication lines and systems. By virtue of this easement it shall be expressly permissible for the Developer or the providing utility or service company to install and maintain facilities and equipment on the Properties, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on the Lots and on, in and under the roofs and

exterior walls of the Dwelling Structures, providing the disturbed areas are restored to the condition in which they were found and that an easement does not prevent or unreasonably interfere with the use of the Lots. Except as otherwise provided in Section 3.1.A.2 below, no sewer, electrical lines, water lines, or other utility service lines or facilities for such utilities and no cable or communication lines and systems may be installed or relocated on the Properties except as are approved by the Developer. The Developer may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. Utility as referred to herein means a public or private utility. This power to create easements shall also include the power to modify or relocate easements which are created.

2. Once the Developer closes upon the sale of the last Lot in the Community, the powers vested in the Developer under Article 3.1.A.1 above shall terminate, and shall then vest in the Association. Such powers shall be exercised by the Board of Directors in its reasonable discretion without the need for joinder of any Owner.
3. In addition to the foregoing, the following shall apply with respect to easements for drainage: There is hereby reserved an easement for drainage from each Lot onto an adjoining Lot and the Common Area. It shall be the responsibility of the Owner of the Lot for whose benefit this easement has been created, to insure that the drainage flow from his Lot remains open and free. It shall be the responsibility of the Association to insure that the drainage flow from the Common Area, remains open and free.
4. The Developer under Section 3.1.A.1 and the Association under Section 3.1.A.2 above, or its designee, shall have a right to remove any improvements interfering with or impairing such facilities or easements herein reserved. No Owner shall do anything anywhere on his Lot that interferes with or impairs or may interfere with or impair the provision of such utility or other services or drainage facilities or the use of these easements.

- B. Maintenance.** There is hereby reserved to the Developer and to the Association an easement over the Common Area for the Association's maintenance obligations pursuant to this Declaration. This easement shall also apply over, on, across, under and through each Lot for the Association's maintenance obligations under Section 6.1 of this Declaration.
- C. Encroachments.** If any Lot encroaches upon any of the Common Area for any reason other than the intentional act of an Owner, or if any Common Area encroaches upon any Lot, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- D. Ingress and Egress.** A non-exclusive easement shall exist in favor of each Owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Lots or Common Area as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Common Area as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.
- (1) Speed bumps shall be permitted and shall be deemed not to violate any rights of any person in whose favor the easement for ingress and egress lies.

3.2 Common Area.

- A. Purposes Intended.** Common Area shall be used for the purposes intended.
- B. Title.** The Developer shall convey legal title to the Common Area to the Association, free and clear of all liens and financial encumbrances, on or before the Developer's transfer of title to the first Lot within the Community. Excluded from this conveyance, however, shall be any portion of the Common Area which the District requires to be dedicated and/or conveyed to the District pursuant to the Water Management Plan.
- C. Use Fees.** The Association, through its Board of Directors, is empowered to charge fees for the use of the Common Area, unless and to the extent prohibited by other provisions in the Governing Documents.

Section 4. ASSOCIATION. The operation of the Community is by the CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, which shall perform its functions pursuant to this Declaration, and the following:

4.1 Articles of Incorporation. The Articles of Incorporation of the Association shall be the Articles of Incorporation attached as Exhibit "A", as amended from time to time.

4.2 By-Laws. The By-Laws of the Association shall be the By-Laws attached as Exhibit "B", as amended from time to time.

Section 5. ASSESSMENTS AND LIENS; CHARGES. The Association has the power to levy and collect assessments against each Lot and Owner in order to provide the necessary funds for proper operation and management of the Community and for the operation of the Association, including both annual assessments for each Lot's share of the common expenses as set forth in the annual budget, and special assessments for any proper common expenses. The Association may also levy Charges against individual Lot(s) and Owner(s) for any amounts, other than for common expenses, which are properly chargeable against such Lot and Owner under the Governing Documents.

5.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the Common Area, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Community, including any amounts budgeted for the purpose of funding reserve accounts.

5.2 Share of Common Expenses. All Lots shall be assessed equally.

5.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot. No Owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided in the Governing Documents or by law.

5.4 Who is Liable for Assessments. The Owner of each Lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as otherwise provided in Section 5.8.A and 12.6 below, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

5.5 No Waiver or Excuse From Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Area, by abandonment of the Lot on which the assessments are made, by interruption in the availability of the Lot or the Common Area for any reason whatsoever, or by dissatisfaction with the Association and/or its operation and policies. No Owner may be excused from payment of his share of the common expenses unless all Owners are likewise proportionately excused from payment, except as otherwise provided in Section 5.8.A as to certain mortgagees.

This

5.6 Application of Payments; Failure to Pay; Interest; Late Fees;

Acceleration. Assessments and installments thereon paid on or before thirty (30) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law on open accounts at the particular time, calculated from the date due until paid. In addition, any assessments or installments not paid on or before thirty (30) days after the date due shall result in the imposition of a late fee equal to the higher of \$25.00 or five (5%) percent of the late payment. Assessments and installments thereon shall become due, and the Owner shall become liable for the assessments or installments on the date established in the By-Laws or otherwise set by the Board of Directors of the Association for payment. All payments on account shall be applied to interest, late fees, costs and attorneys' fees, and annual and/or special assessments, in such manner and amounts as the Board of Directors may determine. The Association may refuse to accept a partial or insufficient payment.

- A. No payment by check is deemed received until the check has cleared. If any special assessment or annual assessment installment as to a Lot becomes more than thirty (30) days past due, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Lot's annual assessment for that fiscal year, or special assessment, as applicable. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's (last) known address, and shall be deemed given upon mailing of the notice, postpaid. The accelerated assessments shall be due and payable within ten (10) days after the Association mails notice to the Owner.

5.7 Liens. The Association has a lien on each Lot securing payment of past due assessments, including late fees, interest and attorneys' and paralegal fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien is perfected upon recording a Claim of Lien in the Public Records of Palm Beach County, Florida, stating the legal description of the Lot, the name of the record Owner, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

5.8 Priority of Lien.

- A. Rights of Certain Mortgagees. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage or any institutional mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the mortgage was recorded.

- (1) With respect to any such mortgage which has superiority over the Association's Claim of Lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for any delinquent assessments due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These unpaid assessments shall be deemed to be a common expense collectible from all of the Owners, including such acquirer of title, and his successors and assigns.

- B. Leases. Any Lease of a Lot shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

5.9 Foreclosure of Lien; Action at Law. The Association may bring an action in its name to foreclose its Lien for unpaid assessments in the same manner in which mortgages are foreclosed in the State of Florida and may also bring an action to recover a money judgment for unpaid assessments without waiving any lien rights. In addition to any assessments due, the Association shall be entitled to recover interest, late fees, and all costs of collection, including Court costs and paralegal and attorneys' fees. Whenever the Association shall bring a lien foreclosure action, the Association shall be entitled to receive a reasonable rental from the Owner, pending litigation, for that time period during which the Owner is in possession of the Lot either by himself, or tenants, guests or other occupants; the Association is entitled to an appointment of a Receiver, which may be the Association, to collect the rent.

5.10 Certificate As To Assessments. The Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the Owner with respect to the Lot have been paid, within fifteen (15) days after request by an Owner or mortgagee. Any person other than the Owner who relies upon such certificate shall be protected thereby.

5.11 Charges.

- A. Defined. Each Lot and Owner shall be liable for Charges levied by the Association against the Lot and Owner. Charges shall be deemed to include but not be limited to: maintenance or other services furnished by the Association for the benefit of an Owner; damages; fines; attorneys' fees incurred by the Association incident to enforcement of the Governing Documents and/or Rules and Regulations of the Association; and any other sums other than assessments which are referred to as Charges in the Governing Documents.

B. Who is Liable for Charges. The Owner of each Lot, regardless of how title was acquired, is liable for all Charges coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Sections 5.11.E and 12.6 below, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid Charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

C. Application of Payments; Failure to Pay; Late Fees; Interest. Any Charges paid on or before thirty (30) days after the date due as specified in the notice of Charge from the Association shall not bear interest, but all Charges not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. In addition, any Charges or installments not paid on or before thirty (30) days after the date due shall result in the imposition of a late fee of the higher of \$25.00 or five (5%) percent of the late payment. All payments on account shall be applied to interest, late fees, costs and attorneys' fees, and Charges, in such manner and amounts as the Board of Directors may determine. The Association may refuse to accept a partial or insufficient payment. No payment by check is deemed received until the check has cleared.

D. Liens. The Association has a lien on each Lot securing payment of past due Charges, including interest, late fees and attorneys' and paralegal fees and costs incurred by the Association incident to the collection of the Charges or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien is perfected upon recording a Claim of Lien in the Public Records of Palm Beach County, Florida, stating the legal description of the Lot, the name of the record Owner, the Charges past due and the due dates. The lien is in effect until barred by law. Upon full payment of all sums secured by the Claim of Lien, the person making the payment is entitled to a satisfaction of the lien.

E. Priority of Lien.

- (1) **Rights of Certain Mortgagees.** The Association's lien for Charges shall be subordinate and inferior to any recorded first mortgage or any institutional mortgage, unless the Association's Claim of Lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the

mortgage was recorded.

- (a) With respect to any such mortgage which has superiority over the Association's Claim of Lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for any delinquent Charges due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These unpaid Charges shall be deemed to be a common expense collectible from all of the Owners, including such acquirer of title, and his successors and assigns.

- (2) Leases. Any Lease of a Lot shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

- F. Foreclosure of Lien; Action at Law. The Association may bring an action in its name to foreclose its lien for unpaid Charges in the same manner that mortgages are foreclosed in the State of Florida, and may also bring an action to recover a money judgment for the unpaid Charges without waiving any Lien rights, and shall be entitled to recover interest, late fees, and all costs of collection, including Court costs and paralegal and attorneys' fees.

5.12 Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments, Charges and Liens created under this Declaration:

- A. All Properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- B. All Common Area exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

Notwithstanding any provision in this Section 5.12, no land or improvements devoted to Lot or dwelling use shall be exempt from Assessments, Charges or Liens, except as provided for in Sections 5.8.A and 5.11.E.1 above and Section 12.6 below.

This

5.13 Working Capital Contributions. Working capital contributions may be required from each purchaser from the Developer. Such contributions, if made, may be used to reimburse the Developer for start-up expenses, or otherwise as the Board of Directors shall determine from time to time. Working Capital Contributions need not be restricted or accumulated.

5.14 Developer Provisions. Special provisions regarding the Developer and the Developer's Lots are contained in Section 12.6 below.

Section 6. MAINTENANCE, REPAIR AND REPLACEMENT. Responsibility for the protection, maintenance, repair and replacement of the Properties shall be as follows:

6.1 Association Maintenance. In addition to other provisions contained elsewhere in this Declaration, the following Properties shall be protected, maintained, repaired and replaced by the Association at the expense of the Association, as an item of common expense:

- A. All Common Areas, except for those portions of the Common Area which are the responsibility of the District or other governmental authority, and except for those portions of the Common Area provided in Section 6.2.B to be the responsibility of the Owners.
- B. Where reasonably possible, the Association shall also maintain the vegetation, landscaping and irrigation system, if any, upon areas which are not within the Properties but abut same, and are owned by a utility or governmental authority, so as to enhance the appearance of the Properties.
- C. All incidental damage caused to a Lot or Dwelling Structure by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its original condition prior to the damage.
- D. Special Provisions Regarding Lots 1, 34 and 35: The wall situated on the rear portions of Lots 1, 34 and 35 shall be maintained, repaired and replaced by the Association; except, however, that the Owner of the particular Lot shall paint/stain and otherwise perform the maintenance of the interior surface of the wall (that is, the portion of the wall which faces the Lot). The Association shall also maintain, repair and replace those portions of Lots 1, 34 and 35 situated outside of the wall. The maintenance, repair and replacement of all portions of Lots 1, 34 and 35 not referred to in this Section 6.1.D of the Declaration, shall be performed by the Owner of each Lot concerned.

6.2 Maintenance by Owners. Each Owner is responsible, at his own expense, for the maintenance, repair and replacement of the following Properties:

A. The entirety of his Lot and Dwelling Structure, with the exception of those portions of the Lot referred to in Section 6.1.D above.

B. The following portions of the Common Area:

- (1) All swale areas abutting his Lot and located between the Lot and a roadway within the Community, inclusive of landscaping and irrigation system and all portions of any sidewalks, situated in said swale areas.
- (2) All driveway approaches situated in the Common Area.
- (3) The Owner of each Lot lying adjacent to Lake Elisen shall be responsible for the landscaping and other maintenance of that portion of the Common Area located between the Owner's Lot line and the shoreline of the Lake. The Owner shall maintain this area free of weeds, rubbish, flotsam and any unsightly growth.
- (4) The Owner of each Lot lying adjacent to the Preserve shall be responsible for the landscape and other maintenance of that portion of the Common Area located between the Owner's Lot line and the Preserve. The Owner shall maintain this area free of weeds, rubbish, flotsam and any unsightly growth. The natural state of the Preserve shall not be disturbed.

C. Each Owner shall also have the following responsibilities/limitations.

- (1) Each Owner must perform promptly all maintenance, repairs and replacement for which the Owner is responsible, which are necessary to ensure good and quality condition, and/or which if not performed would affect any of the Properties, including any Lot(s) belonging to any other Owner(s).
- (2) Each Owner shall promptly report to the Association or its agents any defect or need for repair on the Properties for which the Association is responsible to maintain, repair and replace under this Declaration.
- (3) No Owner shall make any alteration, addition or improvement to any portion of the Common Area, except as is specifically permitted by this Declaration.

- (4) No Owner shall do anything which shall adversely affect the safety or soundness of the Common Area; the opinion of the Board of Directors shall control in determining whether the safety or soundness of the Common Area is adversely affected.

6.3 Level of Maintenance. The Association is hereby empowered, by and through the Board of Directors, to determine the level of maintenance to be effected by the Owners.

Section 7. CONSTRUCTION, ALTERATIONS AND IMPROVEMENTS: ARCHITECTURAL REVIEW BOARD.

7.1 Scope; Review by Architectural Review Board. No structure (whether part of a residence) fences, walls, swimming pools, exterior lighting, or any other improvement shall be constructed or maintained upon any Lot; no alteration, addition, changing or remodeling to the exteriors of any Dwelling Structure or other structure on a Lot shall be made; and no landscaping, removal of landscaping or modification to the Irrigation system shall be added or altered on a Lot; without the Owner first obtaining the prior written approval of the Architectural Review Board ("ARB") and fully and strictly complying with this Section 7.

7.2 Submission of Plans to the ARB. Prior to any modification, alteration or improvement referred to in Section 7.1 above, the Owner must submit three (3) complete sets of plans and specifications and plot plans to the ARB, sealed by an architect or residential designer licensed to practice in the State of Florida. The plans and specification and plot plans must show to the extent applicable, the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, with front, side and rear elevation and floor plans, with reference to the street side and rear lines of the Lot, the general plan of landscaping, fence, walls and wind breaks, and a grading plan and any other details of the modification, alteration or improvements. In a form which would be acceptable to obtain a building permit or in the event a permit is not required, then in a form that would be required if a permit was in fact required.

7.3 Function of the ARB. The ARB shall be a permanent committee of the Association and shall administer and perform the architectural review and control functions of the Association. The ARB shall exercise its best judgment to see that all alterations, improvements, construction and landscaping conform to and harmonize with existing surroundings and structures. The ARB may also assist and advise the Board of Directors of the Association in enforcing the Declaration and in adopting rules, regulations and guidelines, and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors.

7.4 Composition of the ARB. The ARB shall be composed of two (2) or more persons appointed by the Developer so long as the Developer owns any Lot within the Community; and thereafter by the Board of Directors of the Association. ARB members appointed by the Developer need not be members of the Association. After the Developer no longer has the power to appoint ARB members, all such members must be members of the Board of Directors. All members of the ARB shall be subject to removal, with or without cause, by the

entity (Developer or Board of Directors) that appointed the particular ARB member. A majority of the ARB shall constitute a quorum to transact business at any meeting, and the action of a majority of ARB Members present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB due to the death, resignation or removal of any member thereof shall be filled by the entity (Developer or Board of Directors) that appointed the vacating ARB member.

7.5 Powers of the ARB. The ARB shall have the following powers:

- A. The ARB may require submission of samples of building materials and colors proposed to be used, and may also require such additional information as may be reasonably necessary to evaluate the proposed construction, alteration or improvement. The ARB shall retain one (1) complete set of the plans and specifications delivered to the ARB by the Owner, and return two (2) sets to the Owner.
- B. To institute and require a reasonable filing fee to accompany the submission of plans and specifications, as a means of defraying its expenses.
- C. To approve or disapprove all plans and specifications within thirty (30) days after the Owner submits all fees, and information which is reasonably necessary for the ARB to render its decision under this Section 7. In the event that the ARB fails to take any action within the thirty (30) day period, approval will not be required, and this Section 7 will be deemed to have been fully complied with.
 - (1) In the event that the ARB disapproves any plans and specifications submitted to it, the ARB shall so notify the applicant in writing, stating the grounds upon which the disapproval was based. The ARB may alternatively approve plans and specifications subject to modifications required in writing by the ARB.
- D. To promulgate rules and regulations of general application, governing the procedures to be followed by the ARB, including the form and content of applications, plans and specifications to be submitted for approval. The ARB may from time to time adopt architectural guidelines, imposing restrictions in furtherance of the General Plan of Development of the Community, that are not inconsistent with this Declaration.
- E. By any of its members or appointed agents upon reasonable notice and at any reasonable time, to enter and inspect any Lot and Dwelling Structure for compliance with this Section 7 of this Declaration or any other provision in the Declaration under which the ARB has jurisdiction.

To exercise any other powers delegated to it by other provisions of this Declaration and/or by the Board of Directors of the Association.

7.6 Review Criteria. The ARB may disapprove any plans submitted to it or require modifications to same, for any one or more of the following reasons:

- A. Failure of such plans to comply with any of the protective covenants, conditions and restrictions contained in this Declaration;
- B. Failure to include information in such plans and/or as requested by the ARB;
- C. Objection to the site plan, exterior design, appearance or materials of any proposed alteration or improvements, including without limitation, color or color scheme, finish, proportion, style or architecture, height, bulk or appropriateness of any proposed alteration or improvement;
- D. Incompatibility of the proposed alteration or improvement with existing improvements.
- E. Failure of the proposed alteration or improvement to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules or regulations;
- F. Any other matter which in the judgment and sole discretion of the ARB would render the proposed alteration or improvement inharmonious or incompatible with the General Plan of Development of the Community.

7.7 Permits and Certificates of Occupancy; Compliance.

- A. No person shall seek or apply for a building permit from any governmental authority unless and until the approval of the proposed improvements has been obtained from the ARB.
- B. After the plans and specifications and plot plans and other data submitted have been approved by the ARB, no alteration, improvement or structure shall be erected, constructed, placed or maintained upon the Lot or Dwelling Structure unless same shall be erected, constructed, placed or maintained in conformity with the plans and specifications and plot plans approved by the ARB. Any alteration, construction or structure which shall be erected, constructed, placed or maintained which is not in conformity with the plans and specifications and plot plans approved by the ARB shall be deemed to have been undertaken without such approval and to be in violation of this Declaration.

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Furthermore, no certificate of occupancy (if applicable) shall be issued unless the Owner(s) have complied with this Section 7.

7.8 Records of Meetings. The ARB shall keep minutes and maintain records of all votes taken at ARB meetings. The ARB may also take action without a meeting by unanimous written consent of all members of the ARB.

7.9 No Waiver. The approval of the ARB of plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the ARB of the right to object to any of the features or elements embodied in such plans and specifications, if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use on other Lots, even if submitted by the same Owner(s) and/or contractor(s).

7.10 Liability for Actions of the ARB. Neither the Developer, the Board of Directors or Officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by anyone submitting plans for approval, or any other party, due to any mistakes in judgment, negligence or nonfeasance of the ARB in connection with the approval or disapproval of plans. Neither the Developer, the Board of Directors or Officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any alterations or improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

7.11 Developer Exemption. The Developer is exempt from the provisions of this Section 7 so long as the Developer owns legal title to any Lot within the Community.

Section 8. USE AND OCCUPANCY RESTRICTIONS. The use and occupancy of the PROPERTIES shall be in accordance with the following provisions so long as the Community exists:

8.1 Residential Use; No Business Activity.

- A. Each Lot shall be occupied by Owners and tenants and their family members, guests and invitees, as a residence and for no other purpose.
- B. No business or commercial building shall be erected on any Lot nor shall any business or commercial activity be maintained, operated, carried on, permitted or conducted on any Lot or Common Area.
- C. **Provisos.**
 - (1) Notwithstanding the foregoing to the contrary, the business of operating the Association shall not constitute a violation of this Section 8.1.

Furthermore, this Section 8.1 shall not be deemed to prohibit the Association from acquiring any Lot or Lots for any purpose which the Board of Directors deems necessary or beneficial for its members, including, but not limited to, recreational purposes.

Any business which qualifies as a home occupation under the applicable zoning code, if any, shall be permitted.

(3) The practice of leasing Dwelling Structures shall not be considered a violation of this Section 8.1.

8.2 Lot Restrictions. One (1) Lot shall be the minimum and maximum land area upon which a Dwelling Structure may be constructed. However, the Owner of more than one contiguous Lot may apply to the ARB for permission to use such Lots as a site of a single Dwelling Structure (whether the Dwelling Structure is constructed on both Lots or whether the Dwelling Structure is constructed on one Lot and recreational facilities on the other); and, upon the written consent of the ARB, the contiguous Lots shall thereafter be treated as a single Lot for purposes of this Article VIII of the Declaration. If required by the appropriate governmental entity, the Owner shall obtain a unity of title, as a condition to ARB approval.

- A. **Proviso.** Such combination of Lots and/or unity of title, and the provisions of this Section 8.2 shall not affect or change any references to "Lot" or "Lots" contained elsewhere in this Declaration, Articles of Incorporation and By-Laws or on the Subdivision Plat, particularly as to the levying of Assessments and Charges and voting rights.
- B. **Lot Elevation.** No changes in the elevation of the Lot shall be made nor shall any fill be used to extend the Lot beyond any Lot line, without the prior written consent of the ARB.
- C. **Lot Coverage by Dwelling Structure.** No Dwelling Structure shall cover more than thirty-five (35%) percent of the area of the Lot.

8.3 Dwelling Structure Floor Area. A single story or split level Dwelling Structure which is not a full two stories shall have a minimum floor area of 2,200 square feet; provided, however, the ARB shall have the right to require a greater minimum floor area if the ARB disapproves the design of a Dwelling Structure. A two story Dwelling Structure shall have a minimum of 1,600 square feet on the first floor; the second floor element, whether fully walled or being of the balcony or loft type, shall contain not less than 800 square feet of living area. Square footages referred to in this Section 8.3 shall be exclusive of porches, terraces, porticoes, patios, covered walks, pool area, utility rooms and garages. Square footage measurements shall be taken from the inside of the exterior walls of the Dwelling Structure. There shall be no restriction on the maximum square footage of a Dwelling Structure; provided, however, that no portion of a Dwelling Structure (including appurtenances thereto and fencing) shall be constructed on any of the Properties except for the Owner's Lot.

8.4 Dwelling Structure Height. The height of any Dwelling Structure shall not be more than the lesser of two and one-half (2-1/2) stories or thirty (30) feet in height, which is measured from the finished first floor grade to the highest point of the roof of the Dwelling Structure. Chimney heights may exceed said limitation, if approved by the ARB.

8.5 Roofs. The roofs of structures to be constructed on each Lot shall have a minimum pitch of five (5") inches in vertical dimension for each twelve (12") inches of horizontal dimension. The composition of all pitched roofs shall be of tile, cedar shake shingles, slate, or concrete tile construction, or of such other composition approved by the ARB. In no event shall asphalt or gravel built-up roofs on pitched surfaces be permitted, and no mansard roofs shall be allowed. Flat roofs shall be permitted only for patio, Florida rooms, porches and/or pool covering; and only upon specific approval by the ARB.

8.6 Garages.

- A. **Garage Requirements and Size.** Each Dwelling Structure must have an enclosed Garage which must be attached to the residence, but shall not face any street unless otherwise approved by the ARB. The Garage must be sufficient in size to accommodate no less than two (2) full-sized vehicles and have a minimum floor size of 400 square feet. Garage doors shall be operated by electric door openers. Carports are expressly prohibited.
- B. **Garage Use.** No Garage may be used as living space, with garage use to be limited to storage and/or the parking of vehicles, trailers or boats. Garage doors shall be kept closed at all times except when otherwise necessary for ingress and egress.

8.7 Setbacks. Minimum setback requirements are as follows:

- A. **Front.** There shall be a twenty-five (25) foot front yard setback from the front property line of the Lot. In the case of a Lot fronting on two (2) streets, the front of the Lot shall be whichever side the Dwelling Structure faces.
- B. **Rear.** The rear yard setback shall be fifteen (15) feet and shall be directly opposite the front yard. No Lot shall be required to have more than one rear yard setback. The rear yard setback for open swimming pools or screened pool enclosures shall be ten and one-half (10-1/2) feet. The rear yard setback for patio and terrace slabs and wooden pool decks shall be five and one-half (5-1/2) feet.

Side. The setback on the side of a Lot line shall be seven and one-half (7-1/2) feet; except in the case of a Lot fronting on two (2) streets, in which case the setback on the side of the Lot facing the street shall be fifteen (15) feet.

Restrictions. Except as otherwise provided for in this Declaration, and except for fences or walls which may be approved by the ARB, no structure of any kind shall be permitted in any building setback area, or on a property line, except that air conditioning equipment, water softeners, sprinkler controls and other similar utilitarian devices may extend into the setback area provided that they do not extend more than four (4) feet into the setback area as measured from the setback line.

8.8 Screening from View.

- A. All exterior storage areas, service yards, side entries, electrical and gas meters, air conditioning equipment, water softeners, sprinkler controls, and pumps shall be located or screened so as not to be visible from the streets, lake or other Common Area, any Lot or any real property outside of the Community.
- B. Laundry facilities, service areas, and drying yards and clothes lines must be completely screened from view on all sides.

8.9 Dwelling Structure Graphics; Signs.

- A. The size, design and placement of house numbering, exterior lighting, mailboxes, mailbox posts, and other such materials shall be as selected and approved by the ARB and shall display continuity and conformity throughout the Community. Exterior lighting as approved by the ARB shall be required.
- B. No signs shall be placed or erected or displayed on any Lot or Dwelling Structure (such as same may be viewed from any street, lake or other Common Area, any Lot or from any real property outside of the Community), except as may be permitted and approved by the ARB or the Board of Directors.
- C. Proviso. The foregoing is subject to the rights of the Developer and those builders designated by the Developer, as provided for in Section 12 of this Declaration.

8.10 Landscaping and Automated Irrigation System.

Landscaping. All landscaping of Lots shall be pursuant to guidelines and specifications established from time to time by the ARB. The minimum landscaping expenditure, including automated irrigation, on a Lot where a Dwelling Structure is being constructed, shall be no less than \$8,000.00 (to be increased on the anniversary of the date of recording of this Declaration, for inflation, based on the published Consumer Price Index for all Wage Earners and Clerical Workers 1982-84 = 100). In addition to landscaping on the Lot, at the time that a Dwelling Structure is constructed, the Owner shall sod and landscape the swale areas referred to in Section 6.2.B.1 above and (as applicable) those areas referred to in Sections 6.2.B.3 and 6.2.B.4 above; in a manner approved by the ARB. The ARB shall have the right to increase the amount of the minimum landscaping expenditure and placement, in its sole discretion. Landscape elements shall be of the long-life variety and shall relate to the architectural design elements. Landscape materials shall be considered of a strong unifying element and shall reflect physical, functional and aesthetic qualities of the site. Expansive horizontal and vertical surfaces must be interrupted by foliage masses of the standard of Florida Fancy and Florida First Grade. Each Lot shall have seven (7) major trees and at least twelve (12) feet in overall height at the time of planting. Any variety of palm trees susceptible to lethal yellowing disease shall not be permitted.

- B. Irrigation System. An automated irrigation system shall be required and installed at the time of construction of the Dwelling Structure, and shall be adequate to service all lawn, shrub and flower areas of the Lot and those landscaped portions of the Common Area for which the Owner is obligated to maintain under Section 6.2.B.1 of this Declaration and (as applicable) those areas referred to in Sections 6.2.B.3 and 6.2.B.4 of this Declaration.
- C. Use of Lake Eileen. Owners of Lots which border Lake Eileen which is part of the Common Area may utilize the Lake for irrigation of their Lots, subject to the restrictions of governmental entities, including the District and South Florida Water Management District, and subject to Rules and Regulations of the Association. The Association shall also be permitted to utilize Lake Eileen for irrigation of the Common Area.

8.11 Removal of Trees. In reviewing building plans, the ARB shall take into account the natural landscaping, such as trees and shrubs, and encourage the Owner to incorporate them into the landscaping plan for the Lot. No trees of four (4) or more inches in diameter at two (2) feet above natural grade shall be cut or removed without approval of the ARB.

8.12 Antennae and Other Rooftop Accessories; Window/Wall Air-Conditioning/Heating Units.

- A. No aerial or antenna shall be placed directly upon any lot or affixed to the exterior of any building, except one (1) temporary television antenna per Lot. One (1) temporary exterior television antenna may be installed provided:
 - (1) The antenna does not project above the highest point of the building on which it is mounted more than ten (10) feet.
 - (2) The antenna is removed no later than six (6) months after cable television service is made available to the Lot.
- B. No aerial or satellite dish which is visible from any street, lake or other Common Area, or real property outside of the Community shall be placed upon any Lot, Dwelling Structure or other structure.
- C. Wind driven attic ventilators shall not be permitted. Plumbing and heating vents protruding from roofs shall be painted so as to blend into the roofing color and shall be located, whenever possible, so as not to be seen from the front elevation of the Dwelling Structure.
- D. Electrically powered ventilators may be used if the roof vents are of low profile, blend into the roofing materials and are not seen from any street.
- E. Solar devices may be installed on the roof only, if same are of low profile, blend into the roofing materials and are not seen from any roadway.
- F. No window or wall air-conditioning/heating units shall be permitted.

8.13 Energy Devices Based On Renewable Resources. To the extent that Section 163.04, Florida Statutes, entitled "Energy Devices Based On Renewable Sources" is applicable to the Community, any covenant or restriction in this Declaration which is in conflict with that Statute shall be modified to be in complete conformity with and shall yield to the provisions of the Statute, such that the conflict is removed.

8.14 Swimming Pools. Any swimming pool to be constructed on any Lot shall be subject to the requirements of the ARB, which include, but are not limited to, the following:

- This is not a contract
- A. Composition shall be of material thoroughly tested and accepted by the industry for such construction.
 - B. Landscape, pool, recreation and security lighting shall be designed so as to not be an annoyance to the Owners and occupants of surrounding Dwelling Structures.
 - C. Subject to the provisions of Section 8.2 above: If the Owner elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be screened from public view by landscaping and/or walls or fences on both the front and side as required by the ARB.

8.15 Accessory Buildings. Unless otherwise approved by the ARB, no accessory buildings of any kind will be permitted on any Lot, other than pool cabanas located not more than five (5) feet from the Dwelling Structure and connected to the Dwelling Structure at the roof level.

8.16 Building Composition. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. Materials used in construction shall be subject to and regulated by the ARB.

8.17 Screening and Other Enclosures. The specifications of pool and/or patio enclosures and screening shall be as approved by the ARB; provided, however, that pool and screen enclosures must be of white, bronze or black aluminum. No other material, and no other color and no raw aluminum shall be allowed.

8.18 Fences, Walls and Hedges. Subject to the provisions of this Section 8.18, the composition, location and height of any fence, wall or hedge to be constructed on any Lot shall be subject to approval of the ARB. The ARB shall require the composition of any fence or wall to be consistent with the material used in the surrounding homes and other fences and walls, if any. Proviso, Subject to approval of the ARB with regard to location and other criteria:

- A. Chain link fencing is allowed only when constructed with black or green vinyl chord.
- B. No fence, wall or hedge shall be permitted which exceeds six (6) feet in height at any time.
- C. No fence, wall or hedge shall be constructed along the front of a Lot (or as to a corner Lot, on both sides of the Lot which face the roadway); however, privacy walls, decorative gates, hedges and planters shall be permitted in front of and near the Dwelling Structure.
- D. No fence or wall which protrudes beyond the front side of the Dwelling Structure shall be permitted on the side of a Dwelling Structure. This provision shall not preclude ARB approval of a hedge which so protrudes providing that the hedge is no higher than three (3) feet at any time.

- E. A hedge shall be permitted to protrude beyond the front side of the Dwelling Structure provided that the protruding hedge is no higher than three (3) feet.

8.19 Certain Structures.

Except as otherwise approved by the ARB, no structure of a temporary character, and no trailer, construction trailer, tent, shack, barn or outbuilding shall be constructed on any Lot at any time. Provisos. Notwithstanding the foregoing to the contrary:

- (1) A temporary construction office may be constructed on a building site when approved by the ARB as to the appearance of the structure and its location on the site. A temporary storage building for materials and supplies to be used in connection with the construction of a Dwelling Structure shall be permitted, provided that the ARB approves the appearance of the structure and its location on the site. The application to the ARB shall indicate the location of such temporary construction office and/or temporary storage building, and drawings shall reflect the appearance of same.

- B. No structure referred to in this Section 8.19 shall be used on any Lot at any time as a residence.

8.20 Garbage Disposal; Security.

- A. Garbage Disposal. All residences constructed on a Lot shall contain at least one (1) garbage disposal.
- B. Security. The Association and the Developer are not supplying security protection for the Community. Therefore, all residences must have installed a central station monitored security system.

8.21 Swales. Each Individual Lot Owner is required to sod, and install an adequate automated irrigation system within, all swale areas abutting his Lot and/or between the Lot and the street within the Community. This shall be done at the time that the Dwelling Structure is constructed upon the abutting Lot.

8.22 Sidewalks and Driveway Approaches. It shall be the responsibility and obligation of each Individual Lot Owner to install at his expense, sidewalks and driveway approaches in accordance with the requirements of the applicable governmental authority.

8.23 Driveway Construction. All Dwelling Structures shall have a paved driveway of stable and permanent construction of at least sixteen (16) feet in width at the entrance to the garage. All driveways must be constructed with concrete, interlocking paver blocks, "Bomanite", or any other substitute approved by the ARB. No asphalt or smooth concrete driveways shall be permitted. Where curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion acceptable to the ARB.

8.24 Games and Play Structures. All basketball backboards and any other game or play structures shall be located so as not to cause a nuisance to adjacent Owners on Lots and shall be subject to the prior approval of the ARB. No platform, doghouse, playhouse, or structure of a similar kind or nature shall be constructed on any part of a Lot located in front of the rear line of the Dwelling Structure on the Lot, and any such structure must have the prior approval of the ARB.

8.25 Construction Phase. Construction of any improvements shall be commenced by no later than five (5) months following the written approval from the ARB, and upon commencement, shall be prosecuted diligently without stopping, and shall be completed within a reasonable time not to exceed one (1) year from the start of construction. Site appearance during construction shall be kept in a neat and orderly condition so as not to cause an unsightly condition of the Lot. A dumpster or other trash container shall be provided and used on site during construction. The ARB shall have the power to extend the period of construction beyond the one (1) year period, provided that the Owner makes application prior to the expiration of the one (1) year period, and the ARB determines the request is reasonable. Any extension under this Section 8.25 shall be for a time certain as set at the discretion of the ARB, and under the guidelines and with such written documentation required of the Owner, as the ARB shall in its sole discretion determine.

8.26 Destruction or Removal of Dwelling Structure. In the event that any Dwelling Structure is destroyed or removed by or for any cause, if replaced, the Dwelling Structure shall be replaced with a Dwelling Structure of at least similar size and type.

8.27 Lake Shoreline Treatment and Activity. No docks, piers, bulkheads or mooring devices shall be permitted at the shoreline of the lake or in the lake. The shore and lake bottom may not be dredged, filled, or altered in any way. No sailboats or other watercraft may be moored along the shoreline of the lake. The use of Lake Eileen shall be permitted only pursuant to the Rules and Regulations of the Association.

8.28 Construction and Landscaping of Easements.

- A. There shall be no buildings or any kind of construction placed on utility or drainage easements as shown on the Subdivision Plat.
- B. Construction or landscaping upon maintenance or maintenance access easements as shown on the Subdivision Plat, shall be as approved by the ARB, and shall be in conformance with applicable governmental ordinances and codes.

No trees or shrubs shall be placed on any utility easement which are provided for water or sewer use or upon drainage maintenance or drainage maintenance access easements, as these easements are shown on the Subdivision Plat. Landscaping on other utility easements shall be allowed only upon approval from the ARB and after consent of all utility companies occupying same.

- D. No roof overhang shall protrude into any access easement as shown on the Subdivision Plat.

8.29 Covenant In Perpetuity; Utility Wires. There shall be no mining, exploration or drilling for oil, gas or minerals on the subject property unless released by the applicable governmental authority. All utilities and wires must be underground.

8.30 Unightly Lots. No underbrush and/or other unsightly growth shall be permitted to grow upon any Lot, and no rubbish, refuse, garbage or other unsightly objects shall be allowed to remain. In addition to any other provision contained in this Declaration, the rights of the Association pursuant to Section 11 of this Declaration shall control. The Association shall, at the election of the Owner and for an agreed charge to the Owner, maintain any undeveloped Lot as agreed to, which may include any and all Lots owned by the Developer, so as to prevent the undeveloped Lots from becoming unsightly as defined in this Section 8.30. Any such charge which may be agreed upon hereunder shall be deemed a Charge against the Lot and Owner and collectible as such under this Declaration.

8.31 Nuisances, Ordinances and Laws. No Owner shall use any of the Properties, or permit them to be used, in any manner which is unreasonably disturbing, detrimental or a nuisance to the occupant(s) of other Dwelling Structure(s) or which would not be consistent with the maintenance of the highest standards for a first class residential development, nor permit any of the Properties to be used in a disorderly or unlawful way, nor which will produce an insurance risk for the Association or other Owners or occupants. The use of each Lot and Dwelling Structure shall be consistent with existing ordinances, laws and other governmental regulations, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

8.32 Trash and Garbage. No Lot shall be used or maintained as a dumping ground for rubble, trash or other waste. Trash and garbage shall be placed in either receptacles or secured plastic bags. For sanitary reasons, should receptacles be used, all trash and garbage except newspapers, tree limbs and other such bulky items, shall be placed in plastic bags and tied securely before being placed in receptacles. Except as otherwise allowed in the next sentence, all trash, garbage and other waste shall be stored and/or maintained so as to not be visible from adjoining or adjacent Lots and Dwelling Structures, from any street, lake or other Common Area within the Community or from any real property outside of the Community. Trash, garbage and other waste shall be placed out for pick-up on the Owner's Lot or swale area in front of the Lot, no earlier than sundown on the evening prior to the day(s) on which trash, garbage or other waste is collected.

8.33 Pets and Animals. Pets and animals shall be permitted, only as provided for in this Section 8.33:

- A. Animals and pets shall be restricted in reasonable number to cats, dogs or fish, small domestic birds, hamsters, gerbils, small turtles and guinea pigs.
- B. All dogs and cats must be inoculated against rabies by a duly qualified and licensed veterinarian and shall also be inoculated in like manner in such cases of emergency whenever ordered by the Board of Health of the State of Florida.
- C. When outside of the Dwelling Structure, all dogs and cats must be accompanied by an attendant who shall have such dog/cat firmly held by collar and leash, which leash shall not exceed eight (8) feet in length. No cats or dogs shall be permitted to run at large outside of the Dwelling Structure.
- D. The owner/custodian of each animal and pet and/or the individual walking same, shall be required to clean up after the pet/animal on the Common Area.
- E. The pet/animal owner and the Owner of the Dwelling Structure involved shall be strictly liable for damages caused to the Common Area by the pet/animal.
- F. Any pet/animal owner's right to have a pet/animal reside in the Community shall have such right revoked if the pet/animal shall create a nuisance or shall become a nuisance as may be determined by the Board of Directors of the Association.

8.34 Vehicles and Parking.

- A. Except as otherwise allowed in Section 8.34.B below, the following vehicles shall not be allowed to park on any area within the confines of the Properties, except within the garage with the garage door closed: trucks, including pickup trucks; boats; vans; recreational vehicles; mobile homes; motor homes; campers; trailers; buses; terrain vehicles; off-road vehicles; go carts; three-wheel motorized vehicles; limousines; motorcycles and mopeds; dirt bikes; or any commercial vehicle of any type; and other such motor vehicles.
- B. Exceptions to A. above. The following vehicles shall not be subject to the parking restrictions contained in Section A. above, and shall be entitled to park on the Properties, subject to restrictions and provisions contained in Sections C through H below:

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- (1) Vehicles, regardless of classification, necessary for the maintenance, care or protection of the Properties, during regular business hours, and only for the time period during which the maintenance, care or protection is being provided.
- (2) Service and delivery vehicles, regardless of classification, during regular business hours and only for that period of time to render the service or delivery in question.
- (3) Vehicles for the handicapped bearing identification as such by the County or other applicable governmental authority.
- (4) Certain vans which are permitted. Subject to that provided above, a two-axle van as defined below which does not exceed the manufacturers' standard length, height and width of the particular van in a customized converted condition, used for family or personal transportation and which is not a commercial vehicle as defined below; which contains at least two (2) rows of seating and window(s) on each side of the vehicle adjacent to at least each of the first two (2) rows of seating; and which is or would be registered in the State of Florida as a passenger station wagon or any equivalent; shall be permitted to park on the Properties. The Association is permitted to make a presumption that the foregoing criteria are met, without the receipt of specific information or the vehicle registration, unless upon visual inspection of the vehicle, it is obvious that any of the criteria are not met. The owner or custodian of the vehicle shall submit to the Association reasonable information and documentation (including title and/or registration) concerning the vehicle upon request.

C. Classifications and Definitions.

- (1) The most current edition of the N.A.D.A. Official Used Car Guide ("Guide") shall determine the classification of whether a vehicle is in fact a truck or van, or whether it is a passenger automobile. If the Guide does not contain reference to a particular vehicle, then the manufacturer's classification shall control. If publication of the Guide shall be discontinued, an equivalent publication shall be selected by the Board of Directors to be used to determine vehicle classifications hereunder. Except as otherwise provided as to certain vans

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under Section 8.34.B.4 above, a State registration or title classification shall have no bearing on determination of the classifications under this Section 8.34.

(2) A "commercial vehicle" shall mean any motor vehicle which has an outward appearance of being used in connection with business, such as: the vehicle displays work equipment to view and/or is commercially lettered or contains a commercial or business logo.

(3) A "truck" shall mean any motor vehicle which is classified as a truck in accordance with Section 8.34.(C)(1) above.

(4) A "van" shall mean any motor vehicle which is classified as a truck in accordance with Section 8.34.(C)(1) above and which is recognized by the manufacturer to be a type of a van, and which has two (2) axes. Notwithstanding the foregoing to the contrary, a pick-up truck shall not be considered to be a van by the addition of a camper top or similar covering.

D. All motor vehicles must be maintained as to not create an eyesore in the Community.

E. No motor vehicle shall be parked at any time on the grass on the Properties (except for the landscaping equipment at the direction of the Board of Directors), nor on the roadways within the Community.

F. No repair (including changing of oil) of a vehicle shall be made on the Properties except for minor repairs necessary to permit removal of a vehicle;

G. Remedy of Towing. If upon the Association's provision of that notice required by Section 715.07, Florida Statutes, as amended from time to time, an offending vehicle owner does not remove a prohibited or improperly parked vehicle from the Community, the Association shall have the option and right to have the vehicle towed away at the vehicle owner's expense. By this provision, each Owner and vehicle owner provides the Association with the necessary consent to effect the tow. In the event that the vehicle owner fails to pay such costs upon demand, the Association shall have the right to levy a Charge for the costs against the Lot and Owner in question, that is, the Owner for himself/herself as the owner of the vehicle or for his/her family, lessees, guests, employees, visitors, etc. as owner(s) of the vehicle (as such, the Owner is liable for the vehicle violations of his/her family, lessees, guests, visitors, etc.); thereupon, the Charge shall be collected as Charges

are collected under this Declaration.

Alternative/Concurrent Remedies. Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance with this Section 8.34 by injunctive and other relief through the Courts; and/or any other remedy conferred upon the Association by law of the Declaration, Articles or By-Laws. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this Section 8.34.

8.35 Leasing of Lots with Dwelling Structures.

- A. In General. Except as is otherwise provided in this Section 8.35, Lots with Dwelling Structures may be leased without approval by the Association. The provisions of this Section 8.35 shall be fully complied with.
- B. Notice. Each Owner shall provide notice to the Association of any lease, sublease or change in occupancy by lessees or sublessees. The foregoing is referred to as a "Transfer" in this Section 8.35.
- C. Form Notice and Application. The Board of Directors of the Association is empowered to adopt a form to be used in connection with and as proper notification under this Section 8.35 and shall be entitled to require as part of proper notification, the beginning and ending of the lease term; the names of all occupants with ages; home and work telephone numbers, vehicle and pet information and such other information as is necessary to demonstrate to the Association that the occupants can meet the use requirements under this Declaration. The form shall include a requirement that all adult occupants must sign an acknowledgement that they have received a copy of, have read, and agree to abide by all of the Governing Documents and Rules and Regulations of the Association. No one shall be required to furnish a copy of the Lease to the Association. No fee shall be charged in connection with this process.
- D. Remedy. In the event that any Owner fails to provide proper notice to the Association of any Transfer as required in this Section 8.35, and in particular, Section 8.35.C, then the Association may provide written notice by registered mail or certified mail, return receipt requested, to the Owner concerned, requiring proper notification. If after ten (10) days after the mailing of said notice, the Owner has failed to provide proper notice, the Transfer (and occupancy thereunder) shall be void; the Association shall

thereupon be entitled to file proceedings in Court to seek cancellation of the Transfer and removal of the occupants on the Lot. Any tenants may be removed by the Association by eviction under Section 83, Florida Statutes, and each Owner and tenant hereby recognizes this remedy of the Association as if the Association were a party to the lease for that purpose only.

E. Other Leasing Restrictions. The following additional leasing restrictions shall apply:

(1) Renting Rooms. No rooms shall be rented on any Lot. The intention herein is that only entire Lots with Dwelling Structures may be rented.

(2) Frequency of Leasing. No lease shall be made more often than two (2) times in any calendar year. For purposes of calculation hereunder, a Lease shall be considered as made on the first day of the Lease term. A sublease as well as any change in occupancy under a lease or sublease shall constitute a new lease for purposes of calculation hereunder. Proviso. This provision shall not be considered to permit a Lease which is otherwise prohibited under the Governing Documents or the Rules and Regulations of the Association.

Section 9. INSURANCE AND CASUALTY. The insurance which will be carried upon the Properties in the Community shall be governed by the following provisions.

9.1 Association Purchase and Payment. The Association shall purchase such insurance policies with respect to the Properties, other than the Lots, as the Board of Directors of the Association shall determine from time to time to be desirable, or which shall be required by Law. All such policies shall be purchased for the benefit of the Association, and for the benefit of the Developer during its control of the Board of Directors of the Association as provided for in the By-Laws.

9.2 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section 9 is a common expense of the Association. Notwithstanding the foregoing to the contrary, any increase in the premium occasioned by Owner(s) misuse, occupancy or abandonment of any Lot or a Dwelling Structure or any other Properties shall be levied against and paid by such Owner(s) as a Charge, and collectible as Charges are collected pursuant to this Declaration. Premiums may be financed in such manner as the Board of Directors deems appropriate.

9.3 Deductibles. The Association is hereby permitted to purchase insurance policies which contain deductibles.

9.4 Share of Proceeds. All insurance policies obtained by the Association shall provide that all proceeds covering property losses shall be paid to the Association.

9.5 Reconstruction After Casualty - Common Area. Any damage or destruction to the Common Area resulting from a casualty shall be repaired or reconstructed, substantially in accordance with the plans and specifications for the original improvements; or if such plans and specifications are lost or unavailable, then in accordance with plans and specifications approved by the Board of Directors of the Association. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair of the damaged Common Area, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, the Association shall levy a Special Assessment against all Owners in sufficient amounts to provide funds for the payment of such costs. Notwithstanding the foregoing to the contrary, damage or destruction to the Common Area shall not be repaired if this Declaration is terminated as provided for in Section 14 below.

9.6 Owners Covenants.

- A. Each Owner hereby covenants to maintain full casualty insurance coverage on his Lot; and provided that there is a Dwelling Structure on the Lot and such insurance is obtainable, the portions of the Common Area for which the Owner is responsible to maintain under Section 6.2.B of this Declaration. This coverage shall include loss by damage by fire and all other hazards covered by a standard extended coverage endorsement; all perils covered by the standard "all risk" endorsement; and an Inflation Guard Endorsement where obtainable.
- B. Owners may, but shall not be required to, procure title insurance and insurance upon their personal property and for their personal liability and living expense, and for any other risks not otherwise insured by the Association in accordance with this Section 9, and not otherwise required of the Owners by this Section 9.6.
- C. All insurance purchased by Owners under this Section 9.6 shall be so purchased at their own expense.
- D. All damage or destruction to any improvement referred to in Section 9.6.A above shall be repaired or reconstructed with improvements of at least similar size and type, and subject to the approval of the ARB; the provisions of Section 7 shall apply here.

Section 10. CONDEMNATION OR EMINENT DOMAIN. The circumstances of a taking of Common Area by the power of eminent domain and/or of any taking of Common Area or other Properties by way of condemnation, eminent domain or inverse condemnation, shall be dealt with in such reasonable manner as determined to be appropriate under the circumstances by two-thirds of the entire Board of Directors. For the purposes of this Section 10, each Owner shall be considered as having sufficient property rights in and to the Common Area so as to be able to institute a claim directly against the taking authority.

Section 11. COMPLIANCE AND DEFAULT; REMEDIES.11.1 Duty to Comply; Right to Sue.

A. Each Owner, his tenants, guests, servants and agents, and the Association, shall be governed by and shall comply with the provisions of the Corporate Acts, this Declaration, the Articles of Incorporation, the By-Laws and the Rules and Regulations and architectural guidelines of the ARB. Actions for damages, for injunctive relief, and/or for declaratory relief, for failure to comply may be brought by the Association or by a Lot Owner against:

1. The Association;
2. A Lot Owner;
3. Anyone who occupies or is a guest in a Dwelling Structure; or
4. Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

B. No lawsuit of any kind shall be instituted and/or maintained unless the Association obtains the prior vote of not less than seventy-five (75%) percent of the voting interests of the entire membership of the Association. Notwithstanding the foregoing to the contrary, the following lawsuits shall not require such members' vote, and may be instituted and maintained by the vote of the Board of Directors alone:

1. Actions to enforce the Governing Documents, Rules and Regulations or architectural guidelines of the ARB.
2. Actions to collect assessments and charges due under the Governing Documents.
3. Actions against persons or entities with which the Association contracts.
4. Actions against any governmental authority.
5. The defense of any lawsuit (however, a counterclaim shall not be permitted unless it falls within any one or more of the foregoing exceptions).

11.2 Association Notice to Correct. In the event that any Owner shall fail to properly discharge his/her maintenance, repair and replacement obligations as provided for in Section 6 and in Section 9.6.D above; or shall fail to make and pay for maintenance, repair or replacement as provided for in Section 6 above; and in the judgment of the Board of Directors, same shall

result in a condition of unsightliness tending to adversely affect the value or enjoyment of neighboring Owners and residents; or should any Owner violate Section 7 above; or should the neglect or the willful misconduct of Owner(s) cause damage which then requires maintenance, repair or replacement by the Association; then the following shall apply:

- A. The Board may (but shall not be required to) provide notice of such condition(s) to the proper Owner(s), demanding that the condition(s) be corrected within thirty (30) days from the date the notice was sent. In the event that the Owner does not rectify the condition at the end of this period, then the Association shall be entitled to contract to have the necessary work performed (and entry onto the Lot), whereupon the cost of this work shall become a Charge against the Owner and Lot concerned (solely or proportionately as the Board shall determine) and collectible as Charges are collected under this Declaration.
- B. This Section 11.2 is in addition to the rights of entry onto the Lots and Dwelling Structures as provided for in Sections 11.3 and 11.4 below.
- C. Provisos. Notwithstanding any provision to the contrary in this Section 11.2, the following shall apply:
- (1) The thirty (30) day notice period may be shortened or eliminated if the Board determines that an emergency exists to effect correction.
 - (2) The thirty (30) day notice shall not apply to Section 11.3 below.

11.3 Negligence; Damage Caused by Condition in Lot. Each Owner shall be liable to the Association for the expenses of any maintenance, repair or replacement of Common Area made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or lessees. If any condition, defect or malfunction existing within a Lot or Dwelling Structure, whether caused by the Owner's negligence or otherwise, shall cause damage to the Common Area or to other Lots and Dwelling Structures, the Owner of the offending Lot shall be liable to the person or entity responsible for repairing the damaged areas, for all costs of repair or replacement not paid by insurance. If the Association effects correction, the cost shall be levied as a Charge against the Owner and Lot and collectible as Charges are collected under this Declaration; the Association may, but is not required to, provide notice to the Owner prior to effecting correction.

11.4 Association's Access onto Lots. The Association, by and through the Board of Directors, officers, or the agents or employees of the Association, has an irrevocable right of access onto the Lots and Dwelling Structures for the purposes of inspection, protection, maintenance, repair, replacement, alteration and improvement of those Properties for which it is obligated to protect, maintain, repair and replace, and for which it is permitted to alter and improve, under this Declaration.

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11.5 Owners Responsible. Owners are strictly responsible to ensure that their family members, guests, agents, lessees, servants, etc. or any occupants of their Lots comply with the Governing Documents and Rules and Regulations of the Board of Directors; as amended from time to time; and the Statutes which apply, and as such, are responsible and liable to the Association for violations of same by their family members, guests, agents, lessees, servants, etc. or any occupants of their Lots.

11.6 Waiver of Rights. The failure of the Association or of an Association member to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

11.7 Costs and Attorneys' and Paralegal Fees.

- A. In the event of a Lawsuit. In any legal proceeding arising out of an alleged failure of an Owner (for himself/herself or for his/her family members, guests, agents, lessees, servants, etc. or any occupants of the Lot), or the Association to comply with the Governing Documents or the Rules and Regulations, as amended from time to time, or Law, the prevailing party shall be entitled to recover the costs of the proceedings and attorneys' and paralegal fees (including appellate attorneys' and paralegal fees).
- B. Enforcement Without Suit. If an Owner fails to comply with any provision of the Governing Documents or Rules and Regulations, as amended from time to time, or law, and as a result of such failure it becomes necessary for the Association to employ the services of an attorney in order to ensure that the Owner complies with same, the Owner shall be liable for such attorneys' fees and paralegal fees incurred by the Association, regardless of whether or not a lawsuit may be instituted. Such attorneys' and paralegal fees shall become a charge against the Owner and Lot and collectible as Charges are collected under this Declaration.

11.8 No Election of Remedies. All rights, remedies and privileges granted to the Association or Owners under any terms, provisions, covenants, or conditions of the Governing Documents or Rules and Regulations of the Association, or Law, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Governing Documents, Rules and Regulations of the Association, or at Law or in equity.

11.9 Notice of Lien or Suit.

- A. Notice of Lien. An Owner shall give to the Association written notice of every lien upon his Lot other than for permitted mortgages, taxes and special

assessments, within five (5) days after the Owner receives actual notice of the attachment thereof.

B. Notice of Suit. An Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Lot, such notice to be given five (5) days after the Owner receives actual knowledge thereof.

C. Failure to Comply. Failure of an Owner to comply with this Section 11.9 will not affect the validity of any judicial suit. However, the failure may render the Owner liable to any party injured by such failure.

Section 12. DEVELOPER'S LOTS AND PRIVILEGES; DEVELOPER DESIGNEES. The following provisions shall apply in addition to any and all provisions contained elsewhere in this Declaration with respect to the Developer's Lots and privileges. The provisions of this Section 12 shall take precedence over any other provisions to the contrary in this Declaration, or in the Articles of Incorporation or By-Laws.

12.1 Changes in General Plan of Development. Until the completion of all of the contemplated improvements to the Properties in the Community and the sale of all Lots contemplated within the Community, the Developer reserves the right, without the joinder of any person or entity, to make such changes to the General Plan of Development as may be required by any lender, governmental authority, or as may be, in his judgment, necessary or desirable; provided that any changes when made will provide facilities as good as or better than those shown on the development plans filed with the appropriate governmental authority.

12.2 Veto Power. If at the particular time the Developer does not control the Board of Directors, and the Developer owns legal title to any Lot which is being made available for sale in the ordinary course of business, the Developer shall have the right to veto any action taken by the Board of Directors or by the Association, if the Developer determines that such action will materially and adversely affect the Developer's interests in the Community or which is in opposition to the General Plan of Development or to any changes proposed thereto by the Developer.

12.3 Deposits and Payments. The Developer shall be entitled to receive back any and all deposits refunded by any utility company or governmental authority, and shall be entitled to payments received by the Association with respect to the construction of private street lights, if any.

12.4 Sales/Lease Activities. The Developer, until all of the Lots contemplated within the Community have been sold and closed, shall be irrevocably empowered to sell, lease or rent Lots to any person or entity approved by the Developer without any interference or objection from the Association, and without any limitation. Furthermore, the Developer reserves the right to retain title to any Lots and lease all or portions of same, without any intention of selling them. The Developer shall have the right to transact upon the Properties any business necessary to consummate the sale/lease of Lots, including, but not limited to, the right to construct, install, maintain and use temporary construction, office, storage and sales facilities, place signs, banners and flags on the Properties for construction

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or sales purposes; use the Common Area for sales offices or for sales and promotional purposes; and conduct sales activities relating to property owned by the Developer or any of its affiliates which are situated outside of the Community. Any sales office, signs, fixtures, furnishings or other tangible personal property belonging to the Developer shall not be considered as part of the Properties nor owned by the Association and shall remain the property of the Developer.

12.6 Special Provision Regarding The Developer's Designees. The Developer shall be permitted, without relinquishing any rights of the Developer hereunder, to designate certain builders and contractors (whether or not affiliated with the Developer) who shall be permitted to transact any business necessary to consummate the sale/lease of Lots, including, but not limited to, the right to maintain models, have signs, staff employees, maintain offices, use the Properties and show Lots. The Developer shall be permitted to impose limitation(s) upon any one or more of said builders and contractors in connection with same. Any sales office, signs, fixtures or furnishings or other tangible personal property belonging to the particular builder and/or contractor shall not be considered as part of the Properties nor owned by the Association and shall remain the property of the particular builder and/or contractor.

12.6 Assessments, Charges and Liens; Common Expenses.

A. Annual Assessment Obligation. The responsibility of the Developer and the Developer's Lots for the payment of Annual Assessments shall be limited to that portion of the common expenses incurred by the Association during each budget year which exceeds the sum of

- (1) The Annual Assessment assessed and attributable to Lots other than those owned by the Developer; and
- (2) Working Capital Contributions, if any, received by the Association.

The obligation of the Developer as just stated shall continue until the Developer terminates the obligation in writing; thereafter, the Developer shall be responsible to pay assessments for all Lots owned by the Developer, subject only to other limitations of this Section 12.6.

B. Special Assessments; Charges. At no time shall the Developer or the Developer's Lots be liable for any Special Assessment or any Charge, including fine.

C. Other Exemptions. The Developer's Lots shall be exempt from any obligation to pay interest or late fees with respect to non-payment of assessments due and owing by the Developer with respect to its own Lots, if any, and at no time shall the Association be permitted to file a Claim of Lien against any Lot owned by the Developer.

Credits. The Developer shall be permitted to pay any Common Expenses of the Association, and when doing so, shall be entitled to credit/offset against any assessments due and owing by the Developer with respect to its own Lots, if any.

12.7 Assignment and Assumption of Developer's Rights and Privileges. The Developer hereby reserves the right to assign any or all of the rights of the Developer under the Governing Documents, in whole or in part, with respect to the Properties, to any other person or entity. In connection with such assignment, any assignee shall not be liable for any action of a prior developer. Any Institutional Mortgagee acquiring title to any of the Properties by foreclosure or by a deed in lieu of foreclosure has the right, but not the obligation, to assume any of the rights and obligations of the Developer; and regardless of such assumption, shall have the right to assign any rights of the Developer under the Governing Documents to any subsequent purchaser from the Institutional Mortgagee.

Section 13. RIGHTS OF MORTGAGEES. The following rights shall apply to certain or all mortgagees, in addition to those rights contained elsewhere in the Governing Documents:

13.1 Amendments to the Declaration. Written consent of the Institutional Mortgagee of a Lot shall be required for any amendment to this Declaration referred to in Section 15.5 below.

13.2 Association Lien Foreclosure. Certain named mortgagees have certain rights in connection with Association Lien foreclosure actions, as provided for in Sections 5.8.A and 5.11.E.1 above.

13.3 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Lot, the Association, on behalf of one or more Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Lot at the foreclosure sale. Any mortgagee shall have the right to accept title to the Lot in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Lot at the foreclosure sale. If the Association or any of its members redeem the mortgage or cure the default, it or they shall have a lien against the Lot for all sums expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

13.4 Right to Inspect Books. The Association shall make available to Institutional Mortgagees requesting same current copies of the Governing Documents and Rules and Regulations of the Association, and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

13.5 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

13.6 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

- A. Any 60-day or longer delinquency in the payment of assessments or charges owed by the Owner of any Lot on which the mortgagee holds a mortgage; and any 30-day or longer default of any other provision in the Governing Documents by an Owner of any Lot on which the mortgagee holds a mortgage.
- B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- C. Any condemnation or casualty loss that affects a material portion of the project or the Lot securing its mortgage.
- D. Any proposed action that requires the consent of a specified percentage of mortgage holders.

13.7 Access. All mortgagees shall specifically have a complete right of access to all of the Common Area for the purpose of ingress and egress to any Lot upon which they have a mortgage loan.

13.8 Priority. All provisions of a real property mortgage in favor of an Institutional Mortgagee shall take precedence over the provisions of this Declaration, including the provisions of this Section 13. No breach of any of the provisions contained in the Declaration shall defeat or adversely affect the lien of any Institutional Mortgage at any time made in good faith and for a valuable consideration upon any Lot.

13.9 Presumption. Where an Institutional first mortgage, by some circumstance fails to be a first mortgage but it is evident that it is intended to be a first mortgage, it shall nevertheless, for the purpose of this Declaration and Exhibits annexed hereto be deemed to be an Institutional first mortgage.

Section 14. TERMINATION. The Community may be terminated in the following manner:

14.1 Agreement. The Community may be terminated at any time by the approval in writing by the Owners of ninety (90%) percent of Lots and by the record owners of mortgages on the Lots whose Owners are consenting in writing.

14.2 General Provisions. Upon termination, the former Owners shall become the Owners, as tenants in common, of all Common Area and the assets of the Association. The shares of such tenants in common shall be equal. The mortgagee or lienor of an Owner, shall have a mortgage or lien solely and exclusively upon the share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of the termination. The termination of the Community shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of Palm

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14.3 New Community. The termination of the Community does not bar creation of another community affecting all or any portion of the same property.

14.4 Sale; Partition.

- A. Except as may be provided otherwise in Section 14.4(B) below, following termination, the Common Area of the former Community may be partitioned and sold upon the application of any Owner. If following a termination, at least seventy-five percent (75%) of the voting interests determine to accept an offer for the sale of the property, all Owners shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the Common Area shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.
- B. If the proposed termination is submitted to a meeting of the membership of the Association, pursuant to notice, and is approved in writing within sixty (60) days of the meeting by three-fourths (3/4) of the voting interests of the members of the Association, and by all Institutional Mortgagees, then the Association and the approving Owners, if they desire, shall have an option to purchase all of the Common Area parcels of the other Owners within a period expiring one hundred twenty (120) days from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option and if the option is exercised, the approvals shall be irrevocable. During this option period, and up through the date of closing on the option, no actions for partition shall lie. The option shall be exercised upon the following terms:

- (1) Exercise of Option. An Agreement to Purchase executed by the Association and/or the record Owners of the Common Area parcels who will participate in the purchase, shall be delivered by personal delivery or mailed by Certified or Registered Mail, to each of the record Owners of the Common Area parcels to be purchased, and such delivery shall be deemed the exercise of the option. The Agreement shall indicate which Common Area parcels will be purchased by each participating Owner and/or the Association, and shall require the purchase of all Common Area parcels owned by Owners not approving the termination, but the Agreement shall effect a separate contract between the seller and his purchaser.

- (2) Price. The sale price for each Lot shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such Agreement and, in the absence of agreement as to price, it shall be determined by appraisers appointed by a Judge of the Circuit Court in and for Palm Beach County, Florida, on the petition of the seller. The expense of appraisal shall be paid by the purchaser.
- (3) Payment. The purchase price shall be paid in cash.
- (4) Closing. The sale shall be closed within thirty (30) days following the determination of the sale price.

14.5 Last Board. The members of the last Board of Directors shall continue to have the powers granted in this Declaration and in the Articles of Incorporation and By-Laws for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

14.6 Provisions Survive Termination. The provisions of this Section 14 shall be deemed covenants running with the land, and shall survive the termination of the Community until all matters covered by those provisions have been completed.

14.7 Priority - Conflict. In the event that there is any conflict between this Section 14 and Section 15 below, the language contained in this Section 14 shall control and govern.

Section 15. AMENDMENT OF DECLARATION.

15.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4) of the Lots.

15.2 Procedure; Notice and Format. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting, unless insufficient time to give proper notice remains before that meeting. The full text of any amendment to the Declaration shall be included in the notice of the Owners' meeting of which a proposed amendment is considered by the Owners. New words shall be inserted in the text by underlining and words to be deleted shall be lined through with hyphens; however, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision _____ for present text."

15.3 Vote Required. Except as otherwise provided by Florida Law, or by specific provision of the Governing Documents, this Declaration may be amended by concurrence of not less than a majority of the entire Board of Directors and a majority of the voting interests of all members of the Association.

15.4 Certificate; Recording; Effective Date. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by any officer of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment, and any Joinders and consents required, are recorded in the Public Records of Palm Beach County, Florida.

15.5 Provisos. Notwithstanding any provision in this Declaration to the contrary, the following shall apply:

- A. So long as the Developer controls the Board of Directors as provided for in the By-Laws, this Declaration may be amended by the vote of the Developer alone, and after such control is relinquished, so long as the Developer owns any Lot in the Community, no Amendment may be made without the written consent and Joinder of the Developer.
- B. No amendment shall operate to unlawfully discriminate against any Lot or class or group of Lots.
- C. No amendment shall diminish or impair any of the rights, privileges, powers and/or options provided in this Declaration in favor of or reserved to record owners of any institutional mortgages unless the institutional mortgagee shall join in the execution of the amendment.
- D. Section 14 above concerning termination shall not be amended without the consent of all voting interests and all record owners of mortgages on the Lots.

Section 18. MISCELLANEOUS PROVISIONS:

18.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not affect the remaining portions thereof.

18.2 Priorities in Case of Conflict: In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from highest priority to lowest:

- A. The Corporate Acts.
- B. Other Florida Statutes which apply.
- C. This Declaration.

D. The Articles of Incorporation.

E. The By-Laws.

F. The Rules and Regulations promulgated by the Board of Directors.

16.3 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

16.4 Invalidity. In the event any Court shall hereafter determine that any provisions of this Declaration as originally drafted, or as amended, violates the rule against perpetuities or any other rules of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law, and for such purpose measuring lives shall be that of the (original) incorporators of the Association.

16.5 Captions. The captions in this Declaration and in the Articles of Incorporation and By-Laws attached hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit any provision in the Governing Documents.

16.6 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

16.7 Owners' Affirmative Duty. All Owners are charged with the affirmative duty to keep the Association advised, in writing, of any changes in mailing addresses. The Association shall be permitted to rely on the information supplied by Owners in writing.

16.8 Covenant Running with the Land. All provisions of the Governing Documents and Rules and Regulations of the Association shall, to the extent applicable unless otherwise expressly provided in the Governing Documents to the contrary, be perpetual and be construed to be covenants running with the Properties in the Community, and all of the provisions of the Governing Documents and Rules and Regulations shall be binding upon and enure to the benefit of the Developer and subsequent owner(s) of Properties within the Community, and their respective heirs, personal representatives, successors and assigns. None of the provisions contained in the Governing Documents or in the Rules and Regulations of the Association are intended to create, nor shall be construed as creating, any rights in and for the benefit of the general public.

16.9 Special Provision in favor of the South Florida Water Management District. The provisions contained in the Governing Documents are subject to the regulations, requirements and restrictions adopted from time to time by the South Florida Water Management District.

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Section 17. SPECIAL PROVISIONS RELATING TO THE DISTRICT.

17.1 Ownership and Maintenance of Water Management System ("WMS"). Pursuant to the Water Management Plan ("Plan"), title to Lake Eileen and the Preserve shall be conveyed in fee simple to the District. Such property shall nonetheless continue to be deemed to be part of the Common Area.

17.2 Maintenance of the WMS. Pursuant to the Plan, the WMS shall be maintained, repaired and replaced by the District.

17.3 Other Maintenance. Any portion of the Common Area consisting of drainage facilities which are not conveyed to the District pursuant to the Plan, shall be operated and maintained by the Association, such operation and maintenance to include aquatic weed control, which shall be done at its expense.

17.4 Special Drainage Assessment. Each Lot shall be subject to the District's special assessment. The Owners of each Lot shall be assessed an annual amount which is levied by the District for the operation, maintenance and debt service of the WMS. The assessment rate is subject to change from tax year to tax year, depending on the annual budget and District requirements for the maintenance of and improvements to the WMS, which serves the Lots. This assessment will appear on the annual real estate tax bill of the Owners of each Lot, as a separate and distinct assessment which shall be paid directly to the Palm Beach County Tax Collector.

17.5 Enforcement by the District relating to the Preserve. In addition to enforcement rights given to the Association and Owners under this Declaration, the District shall have equal and independent rights to enforce any and all of the covenants and restrictions set forth in this Declaration which apply to or are designed to protect the Preserve. Enforcement shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots which violate any of the provisions of this Declaration, and to enforce any liens created by these covenants. Failure of the District to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter, nor shall such failure to enforce create any liability on the part of the District. In any action or proceeding under this Section 17.6, the prevailing party shall be entitled to recover its costs and attorneys' and paralegal fees.

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17.6 General. Any provision of the Governing Documents shall be subject to the requirements, regulations and limitations adopted by the District from time to time.

IN WITNESS WHEREOF, CYPRESS COVE OF JUPITER, INC., a Florida corporation, as Developer, has caused the execution of this Declaration of Covenants and Restrictions for Cypress Cove of Jupiter, on the 7 day of June, 1990.

CYPRESS COVE OF JUPITER, INC.,
a Florida corporation

Esther M. Hartman
PRESIDENT - ESTHER M. HARTMAN

Jerry B. Hartman
SECRETARY - JERRY B. HARTMAN

STATE OF FLORIDA)
)ss
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that on this 7 day of June, 1990, before me personally appeared ESTHER M. HARTMAN and JERRY B. HARTMAN President and Secretary, respectively, of CYPRESS COVE OF JUPITER, INC., to me known to be the individuals described in and who executed the aforesaid Declaration as their free acts and deeds.

WITNESS my signature and official seal at P. Hartman, in the County of Palm Beach, State of Florida, the day and year last aforesaid.

Jerry B. Hartman
NOTARY PUBLIC, State of Florida

My Commission Expires: 4-27

CYPR800

This is a true and correct copy

EXHIBIT "A"

ORB 6587 Pg 1002

State of Florida



Department of State

I certify that the attached is a true and correct copy of the Articles of Incorporation of CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., a corporation organized under the Laws of the State of Florida, filed on June 12, 1990, as shown by the records of this office.

The document number of this corporation is N38596.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the 14th day of June, 1990.



Jim Smith
Secretary of State

This is Not a Contract

ORB 6587 Pg 1003

ARTICLES OF INCORPORATION

OF

CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC.

(A Corporation Not-For-Profit Under the Laws of the State of Florida)

FILED
90 JUN 12 PM 3:09
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned by these Articles of Incorporation hereby associate themselves for the purpose of forming a Corporation not-for-profit under Chapter 617, Florida Statutes, and certify as follows:

ARTICLE I

NAME AND ADDRESS

The name and address of the corporation, herein called the "Association" is CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., and its address is 120 Olympus Way, Jupiter, Florida 33477.

ARTICLE II

DEFINITIONS

For convenience, the corporation shall be referred to in this instrument as the "Association"; the Declaration of Covenants and Restrictions for Cypress Cove of Jupiter, as the "Declaration"; these Articles of Incorporation as the "Articles"; and the By-Laws of the Association as the "By-Laws". All other definitions contained in the Declaration are incorporated herein by reference.

ARTICLE III

PURPOSE AND POWERS

Section 3.1. Purpose. The purpose for which the Association is organized is to provide an entity for the operation of Cypress Cove of Jupiter, located in Palm Beach County, Florida. The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director, or officer.

THIS INSTRUMENT PREPARED BY:

LEVINE AND FRANK, P.A.
3300 PGA Boulevard, Suite 800
Palm Beach Gardens, FL 33410
Telephone (407) 626-4700

Section 3.2. Powers. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration, the By-Laws or the Florida Corporate Acts; and it shall have all of the powers and duties reasonably necessary to operate the Community pursuant to the Declaration and By-Laws as they may hereafter be amended, including, but not limited to:

- A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties; and to levy and collect Charges.
- B. To protect, maintain, repair, replace and operate the Properties, pursuant to the Governing Documents.
- C. To purchase insurance upon the Properties for the protection of the Association and its members.
- D. To make improvements of the Properties, subject to any limitations contained in the Declaration, and to reconstruct improvements after casualty.
- E. To make, amend, and enforce reasonable rules and regulations governing the use of the Properties, including the Lots and the operation of the Association.
- F. To enforce the provisions of the Corporate Acts, the Governing Documents and any Rules and Regulations of the Association.
- G. To contract for the management and maintenance of the Community and the Properties, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association.
- H. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Community.
- I. To borrow money without limit as to amount if necessary to perform its other functions hereunder; provided, however, that the following limitation shall apply should the Association desire to mortgage any or all of the Common Area: The Association shall obtain the vote or consent of two-thirds (2/3) of the voting interests of the membership of the Association.
- K. To purchase Lots and Dwelling Structures in the Community and to hold, lease, mortgage or convey them.
- L. To dedicate or transfer all or any portion of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the vote of the members referred to in the next sentence below. No such dedication or transfer shall be effective unless it is authorized and approved by at least two-thirds (2/3) of the voting interests

of all members of the Association. Proviso. Any transfers required in connection with condemnation proceedings shall only require the approval of the Board of Directors of the Association.

- M. To participate in mergers and consolidations with other corporations not for profit organized for the same purpose, or annex additional residential property and Common Area, provided that such merger, consolidation or annexation shall have the consent of two-thirds (2/3) of the voting interests of the membership of the Association.

Section 3.3. Funds and Properties. All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws. Shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the Lots.

ARTICLE IV

MEMBERSHIP AND VOTING IN THE ASSOCIATION

Section 4.1. Membership.

- A. The members of the Association shall be the record owners of a fee simple interest in Lots in the Community, as further provided in the By-Laws.
- B. A change of membership shall be established and become effective by recording in the Public Records of Palm Beach County, Florida, a deed or other similar instrument and by the delivery to the Association of a copy of such instrument. The failure of a new record owner to deliver a copy of such instrument to the Association shall not deprive the new record owner of membership in the Association.

Section 4.2. Voting. The owners of each Lot, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the By-Laws.

Section 4.3. Quorum. The quorum for voting at members' meetings shall be as provided for in Section 3.4 of the By-Laws, which Section is incorporated herein by reference.

ARTICLE V

DIRECTORS

Section 5.1. Number and Qualifications. The property, business and affairs of the Association shall be managed by a Board in the manner and accordance with the relevant provisions specified in the By-Laws. Except for Directors appointed by the Developer, each Director must be a member of the Association or a spouse of a member. Other provisions regarding qualifications of Directors are contained in the By-Laws.

This

Section 5.2. Duties and Powers. All of the duties and powers of the Association existing under Chapters 617 and 607, Florida Statutes and the Governing Documents shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to:

- (A) approval by Owners, when such approval is specifically required in the Law or Governing Documents; and/or
- (B) action by the Executive Committee, if any, in the manner as provided for in the By-Laws.

Section 5.3. Election; Removal. Subject to the provisions contained in Section 5.4 next below, Directors of the Association shall be elected at the Annual Meeting of the members in the manner determined by and subject to the terms and provisions set forth in the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

Section 5.4. First Board of Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have taken office, as provided in the By-Laws, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Esther M. Hartman	120 Olympus Way Jupiter, FL 33477
Jerry B. Hartman	120 Olympus Way Jupiter, FL 33477
Herbert J. Hartman	123 Landward Drive Jupiter, FL 33477

ARTICLE VI

OFFICERS

Section 6.1. Offices. The affairs of the Association shall be administered by the Officers holding the offices designated in the By-Laws.

Section 6.2. Duties and Powers. The powers and duties of the officers are as provided in the By-Laws.

Section 6.3. Election; Removal. The Officers shall be elected by the Board of Directors of the Association at its first meeting after the Annual Meeting of the Members of the Association and shall serve at the pleasure of the Board of Directors.

Section 6.4. First Officers. The names and addresses of the first Officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Esther M. Hartman PRESIDENT	120 Olympus Way Jupiter, FL 33477
Jerry B. Hartman VICE PRESIDENT	120 Olympus Way Jupiter, FL 33477
Herbert J. Hartman SECRETARY/TREASURER	723 Landward Drive Jupiter, FL 33477

ARTICLE VII

INDEMNIFICATION

Section 7.1. To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director, every officer, and every member of a committee of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him/her in connection with any legal proceeding (or settlement or appeal of such proceeding) (and including administrative proceeding) to which he/she may be a party because of his/her being or having been a Director, officer or member of a committee of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his/her actions or omissions to act were material to the cause adjudicated and involved:

- A. Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor; or
- B. A violation of criminal law, unless the Director or officer had no reasonable cause to believe his/her action was unlawful or had a reasonable cause to believe his action was lawful; or
- C. A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

Section 7.2. The Association shall, at the Association's expense, and if available, purchase insurance to protect the persons referred to in this Article VII.

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ARTICLE VIII

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BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors, and may be altered, amended or rescinded in the manner provided in the By-Laws.

ARTICLE IX

AMENDMENTS TO THE ARTICLES OF INCORPORATION

Amendments to these Articles shall be proposed and adopted in the following manner:

Section 9.1. Proposal. Amendments to these Articles may be proposed by the Board of Directors or by written petition signed by the owners of one-fourth (1/4) of the Lots.

Section 9.2. Procedure; Notice and Format. Upon any amendment or amendments to these Articles being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting, unless insufficient time to give proper notice remains before that meeting. The full text of any amendment to the Articles shall be included in the notice of the Owners' meeting of which a proposed amendment is considered by the Owners. New words shall be inserted in the text by underlining and words to be deleted shall be lined through with hyphens; however, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Articles. See provision _____ for present text."

Section 9.3. Vote Required. Except as otherwise provided by Florida Law, or by special provisions in the Governing Documents, these Articles may be amended by concurrence of a majority of the entire Board of Directors and a majority of the voting interests of the entire membership of the Association.

Section 9.4. Certificate; Recording and Effective Date. A copy of each Amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the Public Records of Palm Beach County, Florida. The Amendment shall be effective when the Certificate and copy of the Amendment, and any Joinders and consents required, are recorded in the Public Records of Palm Beach County, Florida. The certificate must identify the Book and Page of the Public Records where the Articles are recorded.

Section 9.5 Provisos. Notwithstanding any provision in these Articles to the contrary, the following shall apply:

- A. So long as the Developer controls the Board of Directors as provided for in the By-Laws, these Articles may be amended by the vote of the Developer alone; and after such control is relinquished, so long as the Developer owns any Lot in the Community, no Amendment may be made without the written consent and Joinder of the Developer.

This is a copy of the original document.

- B. No amendment shall operate to unlawfully discriminate against any lot or class or group of Lots.
- C. No amendment shall diminish or impair any of the rights, privileges, powers and/or options provided in these Articles in favor of or reserved to record owners of any institutional mortgagee unless the institutional mortgagee shall join in the execution of the amendment.

ARTICLE X

DISSOLUTION OF THE ASSOCIATION

In the event of dissolution of the Association, other than incident to a merger or consolidation, any Member of the Association may petition the Circuit Court of the Fifteenth Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Properties, in the place and instead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and the Properties.

ARTICLE XI

TERM

The term of the Association shall be perpetual.

ARTICLE XII

REGISTERED AGENT AND REGISTERED OFFICE

The Initial Registered Office of this Corporation shall be Levine and Frank, P.A., 3300 PGA Boulevard, Suite 800, Palm Beach Gardens, Florida 33410, with the privilege of having its office and branch office at other places within or without the State of Florida. The Initial Registered Agent at that address shall be Jay Steven Levine, Esquire.

IN WITNESS WHEREOF, the Incorporators have affixed their signatures this 7th day of June, 1990.

WITNESSES:

[Signature]
Doreen K. Parker

[Signature]
 JERRY B. HARTMAN
[Signature]
 ESTHER M. HARTMAN

STATE OF FLORIDA)
)ss
COUNTY OF PALM BEACH)

ORB 6587 Ps 1010

BEFORE ME, the undersigned authority, personally appeared JERRY B. HARTMAN and ESTHER M. HARTMAN, who after being duly sworn, acknowledged before me that they executed the foregoing Articles of Incorporation freely and voluntarily for the uses and purposes therein expressed.

WITNESS my signature and official seal at P. Bch Gens, in the County of Palm Beach, State of Florida, this 7 day of June, 1990.

[Signature]
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: 4-27-93

ACCEPTANCE OF REGISTERED AGENT

Having been named as Registered Agent to accept service of process of CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., at the place designated in these Articles, I agree to act in the capacity and I further agree to comply with the provisions of all Statutes relative to the proper and complete performance of my duties.

DATED THIS 7th day of June, 1990.

HART801

[Signature]
REGISTERED AGENT - JAY STEVEN LEVINE

EXHIBIT "B"

BY-LAWS

OF

CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC.
(A Corporation Not-For-Profit Under the Laws of the State of Florida)

Section 1. GENERAL. These are the By-Laws of CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC., hereinafter the "Association", a corporation not for profit organized under the laws of Florida.

1.1 Principal Office. The Principal office of the Association is at 120 Olympus Way, Jupiter, Florida 33477.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 Definitions. The definitions set forth in the Declaration of Covenants and Restrictions shall apply to terms used in these By-Laws.

Section 2. MEMBERSHIP AND VOTING RIGHTS.

2.1 Qualifications. The members of the Association shall be the owners of legal title to the Lots. The foregoing is not intended to include persons who hold their interest merely as security for the performance of an obligation. In the case of a Lot subject to a recorded agreement for deed, the contract vendee shall be deemed the Owner of the Lot for purposes of determining membership and use rights. In the case of a life estate, only the life tenant (for the duration of his life) shall be deemed the member of the Association.

THIS INSTRUMENT PREPARED BY:

LEVINE AND FRANK, P.A.
3300 PGA Boulevard, Suite 800
Palm Beach Gardens, FL 33410
Telephone: (407) 628-4700

This

2.2 Voting Interests. The members of the Association are entitled to one (1) vote for the Lot owned by them. The total number of possible votes (the "voting interests") shall equal the total number of Lots. The vote of a Lot is not divisible. If a Lot is owned by one natural person, his right to vote shall be established by a record title to the Lot. If a Lot is owned jointly by two or more natural persons, that Lot's vote may be cast by any one of the record Owners. Votes may be cast for Lots owned under a trust arrangement, by any trustee. Votes may be cast for Lots owned by an estate in probate, by any personal representative of the estate. If two or more Owners of a Lot do not agree among themselves how their one vote shall be cast, that vote shall not be counted for the particular measure.

2.3 Closing the Records to Vote. The record of Owners shall be closed against any new transfers of ownership preceding any meeting of the Association, on the date of mailing of notice of the particular meeting. Only members of the Association as of that date shall be entitled to notice of and vote at the meeting. The Owners record book will then again be re-opened after the meeting has been adjourned.

2.4 Approval or Disapproval of Matters. Whenever the decision or approval of an Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Lot if in an Association meeting, unless the joinder of record Owners is specifically required.

2.5 Change of Membership. A change of membership in the Association shall be established by the new member's membership becoming effective as provided in 4.1.B of the Articles. At that time the membership of the prior Owner shall be terminated automatically.

2.6 Termination of Membership. The termination of membership in the Association does not relieve or release a former member from liability or obligation incurred in, or in any way connected with, the Community during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or member arising out of, or in any way connected with, such ownership and membership and the covenants and obligations incident thereto.

Section 3. MEMBERS MEETINGS.

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Palm Beach County, Florida, each year during the month of January at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business authorized to be transacted by the members.

3.2 Special Members Meeting. Special members meetings must be held whenever called by the President or by a majority of the Board of Directors, and must be promptly called by the President upon receipt of a written petition signed by at least twenty-five (25%) percent of the voting interests. Such petition shall state the purpose(s) of the meeting. The business at any special meeting shall be limited to the items specified in the petition, and contained in the notice of meeting.

This

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3.3 Notice of Members' Meetings; Waiver of Notice. Notice of all Annual and Special members meetings must state the time, date, and place of the meeting. Notice of all meetings shall be sent by first class mail to each Owner at his address as it appears on the books of the Association, and an affidavit of the Officer making such mailing shall be retained in the Association records as proof of such mailing. Notice of a members meeting may, alternatively, be delivered in person if a written waiver of mailing is obtained. The member is responsible for providing the Association with any change of the member's address. The notice must be mailed or delivered at least fourteen (14) days, but not more than sixty (60) days, prior to the date of the meeting. Attendance at any members meeting by a member constitutes a waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting.

3.4 Quorum. A quorum at members meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast one-third (1/3) of the voting interests of the entire membership.

3.5 Vote Required. The acts approved by a majority of the votes cast at a meeting at which a quorum has been attained shall be binding upon all Owners for all purposes, except where a higher vote is required by Law or by any provision of the Governing Documents.

3.6 Proxies. Votes may be cast at a meeting in person or by proxy. A proxy may be given by any person entitled to vote, and shall be valid for a period of eleven (11) months from the date of the proxy, unless a longer period is stated in the proxy, and unless or until revoked sooner. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, and signed by the person authorized to cast the vote for the Lot, and the original must be delivered to the Secretary at or before the adjournment of the particular meeting. Holders of proxies need not be members. The holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. The proxy may name the Board of Directors as the proxy holder, in which case the proxy shall be voted in the manner determined by resolution of the Board.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to a later date by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. If the date, time and place for the (new) adjourned meeting is announced at the meeting, no new notice of the adjourned meeting need be given. Any business which might have been conducted at the meeting as originally scheduled may be conducted at the continued meeting.

3.8 Order of Business. The order of business at members meetings shall be substantially as follows:

- A. Call to order by the President (or other Officer in the absence of the President)
- B. Appointment of a Chairperson, only if the President is absent; otherwise, the President chairs the meeting
- C. Appointment of a Parliamentarian
- D. Call of the roll or certification of quorum

- E. Proof of notice of meeting or waiver of notice
- F. Minutes of last members meeting - read or waive reading
- G. Reports of Officers
- H. Reports of Committees
- I. Election of Directors (where appropriate)
- J. Unfinished Business
- K. New Business
- L. Adjournment

3.9 Minutes of Meetings. The minutes of all meetings of the membership shall be kept in a book available for inspection by members and/or their authorized representatives at any reasonable time. Member(s) of the Association and their authorized representatives shall have the right to make handwritten notations from the minutes, and to receive photocopies of the Minutes at the cost of the member(s) concerned. The Board of Directors shall establish such cost.

Section 4. BOARD OF DIRECTORS.

The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by Law, as modified and explained in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the owners only when such is specifically required.

4.1 Number and Term of Service. The affairs of the Association shall be managed initially by a Board of three (3) Directors selected by the Developer. Beginning with the meeting of the Owners called pursuant to Section 4.17 below, the Board shall be composed of any odd number of Directors that the Owners may decide at each Annual Meeting; the number of Directors, however, shall never be less than three (3) nor more than nine (9).

4.2 Nominations and Elections. Beginning with the meeting of the Owners called pursuant to Section 4.17 below, the following provisions shall apply: At each annual meeting (or annual or special meeting in the event of recall), the members shall elect as many Directors as there are vacancies to be filled. A nominating committee shall be appointed by the Board of Directors no later than seventy-five (75) days preceding the annual meeting. The nominating committee shall submit its recommended nominees for the office of Director, to the Board of Directors by no later than forty-five (45) days preceding the annual meeting. The slate of nominees recommended by the nominating committee shall be mailed to all Owners along with the notice of the annual meeting. Nominations shall be taken for the office of Director from the floor of the annual meeting. Directors shall be elected by written ballot distributed at the meeting (unless dispensed with a majority consent of the voting interests represented at the meeting) and shall be elected by a plurality of the votes cast at the meeting. In the election of directors, there shall be appurtenant to each Lot as many votes as there are Directors to be elected. No voting representative of any Lot may cast more than one (1) vote for any candidate,

It being the intent that voting in the election of Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be declared elected except that any tie vote shall be decided by the flip of a coin.

4.3 Vacancies on the Board. If the office of any Director or Directors becomes vacant for any reason, other than recall as provided for in Section 4.4 below, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor or successors who shall hold office until the next annual meeting. At the next annual meeting, the members shall elect a person or persons to fill the remaining unexpired term or terms, if any.

4.4 Removal of Directors (Recall). Any or all Directors may be removed with or without cause by a majority of the voting interests, either by a written agreement or at any meeting called for that purpose.

- A. By Written Agreement. If a proposed recall is sought by written agreement, a separate agreement is required for each member of the Board being recalled. A special Owners' meeting must be called by the Association and held not less than forty (40) days from the date of the Board's receipt of the written agreement for the purpose of the members filling the vacancies created by recall. If recall is effected by written agreement, then the Board shall promptly call a meeting of the Owners for the purpose of having the Owners fill the vacancies so created. The foregoing procedure shall apply notwithstanding any other provision in these By-Laws to the contrary.
- B. By Special Meeting. A special meeting for the purpose of recall may be called by ten per cent (10%) of the voting interests or shall be called pursuant to Section 3.2 of these By-Laws. The notice of the meeting must be accompanied by a dated copy of a signature list of at least ten percent (10%) of the voting interests, stating that the purpose of the signatures is for recall. The notice of meeting shall specify a person, other than a Board member, subject to that recall, who shall call the meeting to order and determine whether a quorum is present. The failure of the notice to so designate a person shall not invalidate an otherwise valid notice. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date notice is given. The first order of business, upon the determination that a quorum exists, shall be the election of a presiding officer for that meeting who shall be a person other than a Director subject to that recall. The proposed recall of more than one member of the Board shall require a separate vote for each member sought to be recalled. Any vacancies resulting by reason of recall at the meeting, shall be filled by the members of the Association at that same meeting. The foregoing procedure shall apply notwithstanding any other provision in these By-Laws to the contrary.
- C. All provisions specified in Section 4.2 of these By-Laws shall apply other than the nominating committee procedures. Any Director recalled shall not be eligible for re-election at the Owners' meeting in question.

- D. Proviso. Notwithstanding the foregoing to the contrary, all vacancies in Directorships during Developer control of the Board of Directors of the Association shall be filled by the Developer. Notwithstanding any provision to the contrary in these By-Laws, until the date on which the Developer relinquishes control of the Board of Directors of the Association as provided in Section 4.17 below, neither the Directors of the Association named in the Articles of Incorporation, nor any Directors named by the Developer to replace them, shall be subject to removal by members other than the Developer. Such Directors may be removed and replaced by the Developer without the necessity of any meeting of the Board of of the Association.

4.5 Meetings of the Board of Directors.

- A. Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such place and time as may be fixed by the Directors at the Annual Meeting at which they were elected.
- B. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors.
- C. Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of a majority of the Directors.

4.6 Notice of Board Meetings.

- A. Notice to Directors. Notice of the time and place of meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting; notwithstanding the foregoing to the contrary, no notice need be given to Directors of a meeting if it is a regular meeting which is held on the same date of each month. Notice of all special meetings shall state the purpose of the meeting.
- B. Waiver of Notice. Any Director may waive notice of a Board meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

4.7 Quorum of Directors. A quorum at a Board meeting shall be attained by the presence in person of a majority of the entire Board of Directors. Members of the Board of Directors may participate in any meeting of the Board or Executive Committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person.

4.8 Voting by Directors.

- A. Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Governing Documents or by applicable Statutes. Directors may not vote by proxy at Board meetings.
- B. Presumption of Assent. A Director who is present at a meeting of the Board, inclusive of the President, shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest.

4.9 Meetings Open to the Members. Meetings of the Board of Directors shall be open to all members to attend and observe. No member, however, shall be entitled to participate in the meeting unless specifically invited to do so, and in the manner set forth by the Board.

4.10 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those Directors present.

4.11 Order of Business. The order of business at meetings of the Directors, as appropriate, shall be:

- A. Calling of roll
- B. Proof of notice of meeting or waiver of notice
- C. Reading and disposal of any unapproved minutes of Board meetings
- D. Reports of Officers and committees
- E. Election of Officers (if any)
- F. Unfinished business
- G. New business
- H. Adjournment

4.12 Joiner in Meeting by Approval of Minutes. A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

4.13 Adjourned Meetings. Any duly called meeting of the Board of Directors may be adjourned to a later date by a vote of the majority of the Directors present, regardless of whether a quorum has been attained. No notice of adjournment is required to be given to any Director who was not present at the time of adjournment. Any business which might have been conducted at the originally scheduled meeting may be conducted at its continuance.

4.14 Minutes of Meeting. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by members of the Association and/or their authorized representative(s) at any reasonable time. These individuals shall have the right to make written notations from the minutes, and to receive photocopies thereof at the cost of the member concerned. The Board of Directors shall establish such cost.

4.15 Committees.

A. Standing and Special Committees. The Board of Directors, by resolution, may appoint Committees to assist in the conduct of the affairs of the Association.

B. Executive Committee. The Board of Directors, by resolution, may appoint an executive committee to consist of two or more members of the Board. The executive committee shall have and may exercise all of the powers of the Board in the management of the business and affairs of the Association during the intervals between the meetings of the Board insofar as may be permitted by law. The executive committee, however, shall not have power to:

- (1) determine the common expenses required for the operation of the Association and the Community;
- (2) determine the assessments payable by the Owners to meet the common expenses of the Association;
- (3) adopt or amend Rules and Regulations;
- (4) purchase or lease real property in the name of the Association;
- (5) approve or recommend to Owners any actions or proposals required by Law or by the Governing Documents to be approved by the Owners; and
- (6) fill vacancies on the Board of Directors or the Executive Committee. Vacancies on the Executive Committee shall be filled only by resolution of a majority of the entire Board of Directors.
- (7) Those matters as prohibited by law, from time to time.

4.16 Failure to Elect Director Quorum. If the Association or the Board of Directors fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any member of the Association may apply to the Circuit Court in, and for Palm Beach County, Florida, for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the member shall mail to the Association and post conspicuously on the Properties, a notice describing the intended action, giving the Association time to fill the vacancies. If during such time the Association fails to fill the vacancies, the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver and reasonable court costs and reasonable attorneys' fees incurred by the petitioner(s). The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve as such until the Association fills vacancies on the Board sufficient to constitute a quorum.

4.17 Developer Control of the Board of Directors; Transfer of Board and Association Control From The Developer.

- A. The Developer shall control the Board of Directors until the happening of the event(s) described in Section 4.17.B below.
- B. The control of the Board of Directors shall be relinquished by the Developer and assumed by the Owners other than the Developer by the call of a Special (or Annual) Meeting of the Owners to be held within ninety (90) days after the date of the closing on the last sale of all Lots which are contemplated to constitute the Community. Notwithstanding the foregoing, the Developer shall be entitled to relinquish control of the Board of Directors of the Association at such time prior to such date as the Developer may determine in its sole discretion; such control shall be relinquished by the calling and holding of a Special (or Annual) Meeting of the members of the Association.
- C. Upon the holding of the Special (or Annual) Meeting described in Section 4.17.B above, it shall be the affirmative obligation of the Owners other than the Developer to elect a majority of the Directors and assume control of the Board of Directors of the Association. Neither the Developer nor its appointees shall be liable in any manner in connection with any Board and/or Officer resignations effected on the date of the Meeting so called, in the event of the failure or refusal of the Owners other than the Developer to assume control of the Board of Directors, and even in the event that a Quorum of the Members is not obtained at such Meeting. When the Developer has relinquished control of the Board of Directors of the Association, but so long as the Developer is legal owner of any Lot in the Community, the Developer shall automatically be entitled to appoint one (1) Directors to the Board of Directors, without approval from the Owners.
- D. Upon the Developer's relinquishment of control of the Board of Directors of the Association and the Owners assumption of control of the Board, the Owners other than the Developer shall be deemed to have assumed control of the Association, as well as of the Board of Directors.

Section 5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by a majority vote of the entire Board. Any Officer may be removed with or without cause by vote of a majority of the entire Board at any Board meeting. Any person may hold more than one (1) office. The Board of Directors may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

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5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors. He shall execute bonds, mortgages, and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents, in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the power of the President, and shall perform such other duties as the Board of Directors may prescribe. "Absence" or "disability" shall be viewed on a case by case, duty by duty basis, and as used herein, shall mean incapability of the President to effect a particular duty under question, incident to the office of the President.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees and Executive Committee when required. He shall maintain a proper roster of Owners and their addresses. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the seal to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the governing Documents. Any of the foregoing duties may be performed by the Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall have responsibility for the custody of Association funds and securities and the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association. He shall cause all monies and other valuable effects to be deposited in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee disbursement of the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

Section 6. COMPENSATION OF DIRECTORS, OFFICERS AND COMMITTEE AND ARB MEMBERS.

Neither Directors, Officers, nor committee or ARB members shall receive compensation for their services as Directors, Officer, committee or ARB members (as applicable), unless compensation is approved by a majority of the voting interests of all members of the Association, and if required, the persons are duly licensed as Community Association Managers. Nothing herein shall preclude the Board of Directors from employing and compensating for employment, a Director, Officer, committee or ARB member for the management of the Community, or for any other service to be supplied by such Director, Officer, committee or ARB member. Nothing in this Section 6 shall preclude the Association from retaining an architect or other professional, and compensate same, even though such individual may be a member of the ARB.

Directors, Officers, committee and ARB members shall be entitled to reimbursement for all actual and proper out-of-pocket expenses, relating to the proper discharge of their respective duties.

Section 7. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in Section 5 of the Declaration shall be supplemented by the following provisions:

7.1 Annual Budget. The Board of Directors shall adopt an annual budget for common expenses for each fiscal year. A copy of the adopted budget shall be provided to all the owners. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

7.2 Reserves. In addition to annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance as to those Properties for which the Association is obligated to maintain, repair and replace under the Declaration, and may include operating reserves in the budget.

7.3 Annual Assessments. Annual assessments based on the adopted budget shall be paid annually, in advance, due on January 1st of each year, unless otherwise specified by the Board of Directors. One written notice of the annual assessment shall be provided to all members, prior to January 1 of the particular year; no other notices need be given by the Association. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget for a new budget year has not been adopted at the time the installment for that year is due, it shall be presumed that the amount of such installment is the same as the previous installment, and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage calculated shall be added or subtracted from each Lot's next due installment.

7.4 Special Assessments. Special assessments may be imposed by the Board of Directors when needed to meet any proper common expense(s) for which there is/are not sufficient funds in the annual budget and annual assessments. Special assessments are due on the date(s) specified in the resolution of the Board approving such assessment. The notice of any special assessment which has been levied must contain a statement of the purpose(s) of the assessment.

7.5 Depository. The Association shall maintain its accounts in such financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such person(s) as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

7.6 Financial Information. The form of accounting, if any, to be provided to the members of the Association shall be as determined by the Board of Directors from time to time. Provided, however, at no time shall the financial reporting be less stringent than that required by the Corporate Statutes in effect from time to time.

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7.7 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

7.8 Annual Election of Income Reporting Method. The Board of Directors shall make a determination annually, based on competent advice, whether it shall cause the Association's income to be reported to the Internal Revenue Service by the "regular" method (Federal Tax Form 1120) or the "alternative" method (Federal Tax Form 1120H), according to which method of reporting shall best serve the interests of the Association for the reporting period under consideration.

Section 8. SYSTEM OF FINES FOR NON-COMPLIANCE; SUSPENSION.

8.1 Authority and Scope. The Board of Directors may impose fines on any Owner and Lot for any violations of the Governing Documents and Rules and Regulations; as amended from time to time; and/or violations of the Law; by Owners or the Owners' tenant(s); and/or their family members, agent(s), guest(s), visitor(s), servant(s), etc.

8.2 Owner is Liable. Each and every such violation shall be the responsibility of and attributed to the owner (and his Lot) regardless of whether the offending party is in fact the Owner or the Owner's tenant(s), or their family, agent(s), guest(s), visitor(s), servant(s), etc. As such, the Owner is responsible for the actions of the Owner's tenant(s) and family, agent(s), guest(s), visitor(s), servant(s), etc.

8.3 Written Notice Required; Contents. No fine shall be imposed against an Owner for any violation unless and until the offending party or parties (which always shall include the Owner) has/have been given an opportunity to request a hearing on whether the fine should be levied. The Association shall provide notice to the offending party or parties that they have an opportunity to request a hearing on whether the fine should be levied. If the Association fails to receive a written request for a hearing within fifteen (15) days after the Association mails such notice, no hearing need be held, and the fine may be levied automatically without further warning. The written notice from the Association shall also include a statement as to the provisions of the Governing Documents, Rules and Regulations and/or Law which are being violated and the names of the violators, if known. If a hearing is timely requested, then the Board of Directors shall schedule a hearing as soon as is possible and notify the offending party or parties of the date, time and place of the hearing.

8.4 Level of Fines. A fine for each violation shall be \$15.00. This fine may be levied at the rate of \$15.00 per day for each day that the violation occurs, on a running per day basis, so long as the Board's notice informs the offending party or parties of this fact.

8.5 Record Keeping. The Association shall maintain a file of all notices issued and findings of the Board of Directors in order that a record of offenses and offenders may be kept.

8.6 Hearing Before The Board of Directors. If the offending party or parties requested a hearing before the Board of Directors, then the following shall apply:

- A. A party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, to have counsel present, and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association.
- B. Failure of the Owner and the violator in question to appear at the scheduled meeting shall result in the automatic vote by the Board that the Owner is in violation, whereupon the fine may be levied without further warning.

Notwithstanding any provision in these By-Laws to the contrary, the Board of Directors shall be permitted to delegate the conduct of hearings to a Committee ("Hearings Committee") which Hearings Committee will make recommendations to the Board of Directors for a final Board decision.

8.7 Collection of the Fine. Once a fine is deemed to be due and owing, the Association shall provide written notice to the Owner of the fine due and owing, with due date for payment. The notice shall inform the Owner of his rights to appeal under Section 8.8 of these By-Laws. The fine shall be paid and collectible as a Charge pursuant to the provisions of the Declaration.

8.8 Appeal. An Owner is hereby given the right to appeal the decision of the Board of Directors as to a fine. Any Owner who desires to appeal must make written request for same to be received by the Board of Directors within fifteen (15) days from the date that the Board mails the notice referred to in Section 8.7 above. If such written request is timely received by the Association, an appeal shall be conducted by a committee appointed by the Board of Directors, none of whom shall be members of the Board. The decision of that committee shall be final. If such an appeal is not timely requested, then the decision of the Board of Directors is final.

8.9 Suspension.

- A. The Board of Directors of the Association shall be permitted to suspend the voting rights and right of use of the recreation facilities of any member (including his family members, lessees, guests, etc.) during any period in which the member shall be delinquent in the payment of any Charge or assessment levied by the Association. Such suspension may be made by the Board of Directors without having to follow the notice and hearing procedures under Section 8 of these By-Laws.
- B. The Board of Directors may also vote to suspend the voting rights and right of use by an Owner (including his family members, lessees, guests, etc.) of the recreation facilities for a period not to exceed sixty (60) days in the event that any Owner or other violator violates any provision of the Governing Documents or Rules and Regulations or Law, other than the delinquency in payment of assessments or Charges levied by the Association. However, in connection with such suspension, all provisions

regarding notice, hearing and appeal as provided for in this Section 8 shall apply, as if the suspension were deemed to be a fine.

8.10 Concurrent Remedies. The fine system and suspensions may be invoked independently of or concurrently with any other remedies provided for in the Governing Documents or Law. As such, the fine system and/or suspensions is/are not a condition precedent to the Association's pursuit of other remedies available to it under the Governing Documents or under the Law. Also, the fact that a fine is levied and/or paid or suspension results does not constitute compliance with the Governing Documents, Rules and Regulations and Law, if in fact the violation(s) remain(s).

Section 9. PARLIAMENTARY RULES. ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of meetings of the Membership and Board of Directors when not in conflict with the Governing Documents or applicable Law.

Section 10. AMENDMENT OF THE BY-LAWS. All amendments to the By-Laws shall be proposed and adopted in the following manner:

10.1 Proposal. Amendments to these By-Laws may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4) of the Lots.

10.2 Procedure; Notice and Format. Upon any amendment or amendments to these By-Laws being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting, unless insufficient time to give proper notice remains before that meeting. The full text of any amendment to the By-Laws shall be included in the notice of the Owners' meeting at which a proposed amendment is considered by the Owners. New words shall be inserted in the text by underlining and words to be deleted shall be lined through with hyphens; however, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Laws. See provision ___ for present text."

10.3 Vote Required. Except as otherwise provided by Florida Law, or by specific provision of the Governing Documents, these By-Laws may be amended by concurrence of not less than a majority of the entire membership of the Board of Directors and by a majority of the voting interests of the entire membership of the Association.

10.4 Certificate; Recording; Effective Date. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the By-Laws, which certificate shall be in the form required by law and shall be executed by any officer of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment together with any joinders and consents required, are recorded in the Public Records of Palm Beach County, Florida. The certificate must identify the Book and Page of the Public Records where the By-Laws are recorded.

This is a copy of the original document.

10.5 Provisions. Notwithstanding any provision in these By-Laws to the contrary, the following shall apply:

- A. So long as the Developer controls the Board of Directors as provided for in these By-Laws, these By-Laws may be amended by the vote of the Developer alone; and after such control is relinquished, so long as the Developer owns any Lot in the Community, no Amendment may be made without the written consent and joinder of the Developer.
- B. No amendment shall operate to unlawfully discriminate against any Lot or class or group of Lots.
- C. No amendment shall diminish or impair any of the rights, privileges, powers and/or options provided in these By-Laws in favor of or reserved to record owners of any institutional mortgages unless the institutional mortgagees shall join in the execution of the amendment.

Section 11. MISCELLANEOUS. The Miscellaneous provisions contained in Section 16 of the Declaration are incorporated herein by reference.

THESE BY-LAWS were adopted as the By-Laws of the CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC, on the 17 day of June, 1990.

CYPRESS COVE OF JUPITER HOMEOWNERS ASSOCIATION, INC.

Ester M. Hartman
PRESIDENT

Robert J. Hartman
SECRETARY

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