

**Declarations of Master Covenants, Conditions and
Restrictions
Of
Cypress Springs II**

This Document Prepared by And Should be Returned to:

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**DECLARATION OF MASTER COVENANTS, CONDITIONS AND
RESTRICTIONS
OF
CYPRESS SPRINGS II**

This Declaration of Master Covenants, Conditions and Restrictions ("Declaration") of Cypress Springs II is made as of December 8, 1998 by LANDSTAR CYPRESS SPRINGS, LTD., a Florida limited partnership, hereinafter referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of the property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, Declarant desires to create on the Property a community of residential homes and Common Property for the benefit of the owners of the Property; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the Property and to this end desires to subject the Property to the covenants, restrictions, easements, charges and liens hereafter set forth, all of which are for the benefit of the Property and each Owner, as hereafter defined, thereof; and

WHEREAS, to achieve these purposes, Declarant deems it desirable to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering Common Properties and facilities as well as administering and enforcing these covenants and restrictions and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Florida the Cypress Springs II Homeowners' Association, Inc. as a corporation not for profit, for the purpose of exercising all of the functions stated herein.

NOW, THEREFORE, Declarant hereby declares that all of the Property, as hereafter defined, is and shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. Said easements, covenants, conditions, restrictions, reservations, liens and charges shall run with the Property, shall be binding upon all parties having or acquiring any right, title or interest in the Property or in any part thereof, and shall inure to the benefit of each person or entity, from time to time, owning or holding an interest in the Property.

ARTICLE I

DEFINITIONS

The following words and terms when used in this Declaration or any Supplemental Declaration hereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

A. **“Area of Common Responsibility”** shall mean the Common Property, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any Neighborhood Association or governmental agency become the responsibility of the Association.

B. **“Architectural Review Committee” or “ARC”** shall refer to the committee established by the Board of Directors of each Neighborhood Association for the purpose of reviewing and approving or vetoing all architectural, engineering, planning and landscaping aspects of any improvement or development of individual units or buildings in the Neighborhood.

C. **“Articles” and “Bylaws”** shall mean the Articles of Incorporation and the Bylaws of the Association as they may exist from time to time, copies of which are attached hereto as Exhibits “B” and “C” respectively.

D. **“Association”** shall mean the Cypress Springs II Homeowners’ Association, Inc., a Florida not for profit corporation, its successors and assigns, and shall be a homeowner association, not a condominium formed pursuant to Chapter 718 of the Florida Statutes.

E. **“Board”** shall mean the Board of Directors of the Association, appointed or elected in accordance with the Bylaws of the Association.

F. **“Builder”** shall mean any purchaser of one or more Lots from Declarant for the construction and resale of Units.

G. **“Common Expenses”** shall mean the actual and estimated expenditures, including reasonable reserves, for maintenance, operation and other services required or authorized to be performed by the Association with respect to Areas of Common Responsibility, Common Property, Open Spaces, Surface Water Management Systems, Lakes or Public Areas, all as may be found to be reasonably necessary by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association. .

H. **“Common Property” or “Common Area”** shall mean and refer to a recreation parcel and those tracts of land reserved for landscape use along roadways, lakes, and an entry feature on the east and west boundary of the Property, together with any improvements thereon, which are actually and specifically dedicated, deeded or leased to the Association for the use and enjoyment of all Owners and designated in said dedication, deed or lease as “Common Property,” or tracts of land identified as “Common Property” on a final development plan prepared by the Declarant. The term “Common Property” shall also include any personal property acquired by the Association if said property is designated as “Common Property” by the Association. Common Property is

specifically reserved for the use and benefit of Members, and is an integral appurtenant part of each Unit.

I. **“Community Wide Standard”** shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board and the Architectural Review Committee.

J. **“Declarant”** shall mean Landstar Cypress Springs, Ltd., a Florida limited partnership, and its successors and assigns who take title to any portion of the Properties for the purpose of development and sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

K. **“Exclusive Common Area”** shall mean and refer to the common property within a Neighborhood that is reserved for the exclusive use and enjoyment of Owners of Units within the Neighborhood.

L. **“First Union Mortgage”** shall mean and refer to the mortgage between Landstar Cypress Springs, Ltd. and First Union National Bank, a national banking association, recorded on June 1, 1998 in Official Records Book 5493, at Page 47, Public Records of Orange County, Florida

M. **“Institutional Lender”** shall mean and refer to the owner and holder of a Mortgage encumbering a Unit or Lot, which owner and holder of said Mortgage may be a bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, an agency of the United States government, private or public pension fund, Veteran’s Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a credit union, real estate or mortgage investment trust or a lender generally recognized in the community as an institutional lender.

N. **“Lakes”** shall mean natural or artificial water bodies identified as Lakes on the Master Plan of Cypress Springs II, as amended from time to time. The Lakes may be conveyed to Orange County or to the Association as Common Property, but subject to the Surface Water Management System.

O. **“Lot”** shall mean any parcel of land shown upon any recorded subdivision map or plat of the Properties upon which in the future will be located an attached or detached single-family residential dwelling.

P. **“Master Plan”** shall mean the plan of development for Cypress Springs II as amended from time to time in accordance with approvals obtained from Orange County, Florida.

Q. **“Member”** shall mean and refer to all those who are Members of the Association as provided herein and, unless the context clearly indicates otherwise, shall include Owners of Units whose membership in the Association is represented by a Neighborhood Association.

R. **“Mortgage”** shall mean a permanent or construction mortgage, a deed of trust, a deed to secure debt, or any other form of security deed, including any collateral security documents executed in connection therewith.

T. **“Neighborhood”** shall mean each separately developed and denominated residential area within the Property which is represented in the Association by a Neighborhood Association.

U. **“Neighborhood Association”** shall mean a condominium, cooperative or homeowners association formed to operate and maintain a number of Units and property common to such Units. Each Neighborhood Association shall be responsible for establishing and operating an Architectural Review Committee to require, among other requirements, that each Neighborhood conforms to the plans and specifications approved by the Declarant.

V. **“Neighborhood Expenses”** shall mean the actual and estimated expenses incurred by the Association for the benefit of Owners of Units within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board and as more particularly authorized herein.

X. **“Neighborhood Representative”** shall mean the senior elected officer (e.g., Neighborhood Association president) from each Neighborhood who shall be the person responsible for casting all votes attributable to Units in the Neighborhood. The next senior officer of each Neighborhood Association shall be the alternate Neighborhood Representative.

Y. **“Notice”** shall mean delivery of any document by mail with postage prepaid to the last known address according to the records of the Association of the person or entity who appears as Owner in the records of the Association. If available from the records of the Association, notices to an Owner will be sent to a tenant of Owner occupying the Unit. Notice to one of two or more co-owners shall constitute notice to all Owners.

Z. **“Open Space”** shall mean an exterior open area from the ground upward devoid of residential and commercial buildings, accessory structures and impervious areas; however, those buildings and structures or areas used exclusively for recreational purposes may be included in the Open Space.

AA. **“Original Property”** shall mean the real property described in Exhibit “A” attached to this Declaration.

BB. **“Owner”** shall mean and refer to the owner as shown by the records of the Association (whether it be the Declarant, one or more persons, firms or legal entities) of fee simple title to any Lot or Unit located within the Properties. Owner shall not mean or refer to the holder of a Mortgage or security deed its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term “Owner” mean or refer to any lessee or tenant of an Owner.

CC. **“Parks”** shall mean lands so designated on the Master Plan, which may or may not be further designated as Common Property.

DD. **“Properties” or “Property”** shall mean and include the Original Property and all real property located in the Undeveloped Parcel when annexed in accordance with the terms and conditions of Article II hereof.

EE. **“Public Areas”** shall mean all lands owned by the State of Florida, Orange County, Florida, any city, district or municipality which, to the extent allowed by governmental authority, are to be maintained by the Association.

FF. **“Recreation Parcel”** shall mean those parcels of Common Area which are shown as recreational areas on the Master Plan. The Recreation Parcel shall be owned by the Association and shall be used for the common benefit and enjoyment of the Members of the Association, their invitees and guests and shall not be open to the general public.

GG. **“Rental Apartment Building”** shall mean any residential building containing more than one Unit in which the individual Units therein are not owned in fee simple by the occupants.

HH. **“Subdivision Wall”** shall mean the wall that each Builder will be responsible for constructing within the landscape tract along Cypress Springs Parkway. The walls shall be uniform throughout and the plans and specifications for the Subdivision Wall shall be approved by the Declarant prior to construction thereof.

II. **“Supplemental Declaration”** shall mean any supplement, amendment or modification to this Declaration.

JJ. **“Surface Water Management System”** shall mean and refer to a system which is designed and constructed to control the discharge of water caused by rainfall, and which shall incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution which would otherwise affect the quantity and quality of discharges of water from the system. Declarant hereby reserves for itself and the Association the right to grant easements for drainage as required by the Surface Water or Storm Water Management System for Cypress Springs II.

KK. **“Turnover”** shall mean the transfer of operation of the Association by the Declarant as described herein.

LL. **“Undeveloped Parcel”** shall mean that portion of Cypress Springs II described in Exhibit “D” attached hereto and incorporated herein by this reference.

MM. **“Unit”** shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single family detached houses on separately platted Lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Properties. The term shall include all portions of the Lot owned including any structure thereon. In the case of a Rental Apartment Building or other structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Unit. In the case of a parcel of vacant land or land in which improvements are under construction, the parcels shall be deemed to contain the number of Units designated for such parcel on the Master Plan or site plan approved by Declarant, whichever is more recent, until such time as a certificate of occupancy is issued on all or a portion thereof by a local government entity having jurisdiction, after which the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above, and the number of Units in the remaining land, if any, shall continue to be determined in accordance with this paragraph.

NN. **“Voting Member”** shall mean the Declarant as to votes allocated to the Class B member, any Builder as to votes allocated to a Class C member, and the Neighborhood Representative as to all the votes allocated to Class A Members.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

Section 1. Property subject to this Declaration. From and after the time that this Declaration is recorded in the Public Records of Orange County, Florida, the Original Property shall be subject to the terms and conditions of this Declaration. The Property shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained in this Declaration, which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors or assigns and shall inure to the benefit of each’ Owner thereof.

Section 2. Restrictions and Amendments. The Declarant shall be entitled, at any time and from time to time, to plat, replat, submit to condominium or to file a declaration forming a Neighborhood Association, for all or any part of Cypress Springs II and to file restrictions and amendments thereto with respect to any portion or portions of Cypress Springs II.

Section 3. Annexation

A. Within twenty (20) years from the date of recording of the Declaration, the Declarant may, without the consent or joinder of the Owners or any other person or entity, annex additional real property (including Common Property) within the Undeveloped Parcel to the Properties. Annexations under this subparagraph shall be accomplished by filing a Supplemental Declaration describing the real property to be annexed and shall become effective when such Supplemental Declaration is filed among the Public Records of Orange County, Florida, unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person or entity the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the Properties and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

B. Subject to the consent of the owner thereof, the Association may annex real property, other than property within the Undeveloped Parcel, to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Voting Members representing two-thirds (2/3) of the votes of each class of Members of the Association. The annexation of land under this subparagraph shall be accomplished by the recordation in the Public Records of Orange County, Florida, of a Supplemental Declaration describing the property being annexed and signed by the President and Secretary of the Association and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

C. No provision of this Declaration shall be construed to require Declarant or any other person or entity to annex any real property to this Declaration. Further, the Declarant is not obligated to bring all or any part of the remaining real estate in the Undeveloped Parcel into the Association.

D. The Declarant intends to develop the Property and its adjoining lands in accordance with the Master Plan, but hereby reserves the right to modify the Master Plan (with respect to the Property and other lands included in the Master Plan) from time to time in its sole discretion and at its option but always in accordance with applicable regulatory requirements. The Declarant shall not be required to follow any predetermined order of improvement and development within the Master Plan or Properties and it may annex additional lands and develop them before completing the development of the Properties.

E. Covenants and restrictions applicable to annexations to the Properties shall be compatible with, but need not be identical to, the covenants and restrictions set forth in this Declaration. Furthermore, the Declarant shall have the unilateral right until the Turnover Meeting to waive compliance with any provision of this Declaration for any Owner provided such waiver does not result in a condition or arrangement which is materially inconsistent with or detrimental to the overall development plan for the Property or to the rights of existing Members of the Association; however, this waiver right shall not include the right to waive or alter the assessment or voting provisions of this Declaration with respect to any Owner. Such a condition is retained by Declarant in recognition that

within Cypress Springs II there will be a variety of land uses and housing types, thereby necessitating differing restrictive covenants.

F. In the event that either the Federal Housing Administration or the Veterans Administration insures or guarantees any mortgage encumbering a Lot, and the regulations or procedures of such agency require under such circumstances approval or annexation by such agency or determination by such agency that such annexation is consistent with the general plan of development for Cypress Springs II, then such approval or determination shall be a prerequisite to such annexation.

Section 4. Withdrawal. Within twenty (20) years from the date of recording of the Original Declaration, the Declarant may, when necessary or desirable to accommodate changes in the Master Plan, withdraw from the provisions of this Declaration any of the Property that continues to be owned by the Declarant, and its successors or assigns, and which has not been dedicated or designated as Common Property or an Exclusive Common Area. Withdrawals under this Section shall be accomplished by filing a Supplemental Declaration describing the real property to be withdrawn and shall become effective when such Supplemental Declaration has been recorded in the Public Records of Orange County, Florida, unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person or entity the right, privilege, and option to withdraw property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the Properties and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Section 5. Further Restrictive Covenants. The Declarant or a Builder may record further restrictive covenants, Declarations of Condominium or Cooperative, or Declaration of Covenants, Conditions and Restrictions pertaining to homeowners' associations, or plats as to any of the Properties owned by the Builder. The Declarant (as long as it owns any land in the Undeveloped Parcel) shall have the right of written approval of all such document and shall require the formation of a Neighborhood Association to serve such Lots or, if appropriate, the annexation of such Lots into an existing Neighborhood Association.

ARTICLE III

MASTER ASSOCIATION

Section 1. Membership. Every Owner of a Unit within a Neighborhood, every Builder, every owner of a Rental Apartment Building, and the Declarant shall be Members of the Association. Memberships in the Association shall not be assignable except to the successor-in-interest of the Member. Each Neighborhood Association shall represent the interests of all of its members. In the event a Rental Apartment Building is converted to a condominium, the Owner's membership shall immediately terminate and the Owners of condominium Units shall automatically become Members of the Association upon the recording of the Declaration of Condominium. By acceptance of a deed or other instrument evidencing ownership interest, each Owner accepts a direct or representative membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the

Articles of Incorporation, the Bylaws and other rules and regulations of the Association. In addition to the foregoing, the family guests, invitees and tenants of said Owners shall, while in or on the Property, abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the Bylaws and other rules and regulations of the Association.

Section 2. Allocation of Voting Rights

A. Members of the Association shall be allocated votes as follows:

Class A. Class A Members shall be all of the Neighborhood Associations administering condominiums and other Neighborhoods within the Property and the Owner of any Rental Apartment Building. A Neighborhood Association shall automatically become a Class A Member upon the recording of a declaration of condominium or other declaration authorizing the establishment of a Neighborhood Association. The Owner of a Rental Apartment Building shall become a member upon the recording of a deed conveying the Rental Apartment Building to such Owner. Each Neighborhood Association shall be represented by a Neighborhood Representative. The Neighborhood Representative shall act for, and on behalf of the Association it represents and the members thereof, in connection with any and all Association business. Class A Members shall be allocated one vote for each Unit owned by a member thereof, other than the Declarant or a Builder, so long as said Unit is within the Neighborhood administered by the Neighborhood Association. Each Owner of a Rental Apartment Building shall have one vote for each Unit in the Rental Apartment Building subject to assessment by the Association. In no event shall more than one vote be cast with respect to any Unit.

Class B. The Class B Member shall be the Declarant, or its specifically designated (in writing) successor. The Class B Member shall be allocated three (3) votes for each Lot or Unit owned by it in Cypress Springs II, which is subject to assessment by this Association; provided that the class B member shall cease and become converted to Class A membership upon Turnover of the Association as set forth herein. Upon conversion to Class A membership, the Declarant shall have one vote for each Unit or Lot owned by it in Cypress Springs II so long as said Unit or Lot is subject to assessment by this Association.

Class C. Class C Members shall be all Builders. Each Builder shall remain a Member so long as it owns a Lot or Unit. Class C Members shall be allocated one vote for each Lot or Unit owned by the Class C Member. Upon the transfer of title of any Lot or Unit which is held for resale by a Builder, the Class C membership interest appurtenant to such Lot or Unit shall automatically be converted to a Class A Membership interest unless the Lot or Unit is resold to Declarant, in which case the membership shall automatically be converted to a Class B membership interest or unless the Lot, with no Unit built thereon, is sold to another Builder, with the consent of Declarant, in which case the membership shall not convert.

B. When any Unit or Lot is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership, time-share or interval ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the secretary of the Association (and in all event for time share or interval ownership), such Owner shall select one official representative to qualify for voting in the condominium or homeowners' association and shall notify in writing the Secretary of such association of the name of such individual. The vote of each official representative shall be considered to represent the will of all the Owners of that property. If the Owners fail to designate their official representative, then the association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Owner(s). Upon such notification the Owner may not vote until the Owner(s) appoint their official representative pursuant to this paragraph.

C. Notwithstanding anything to the contrary hereinabove, the Declarant and each Builder shall be entitled to attend Association meetings and to exercise the voting rights attached to any Class A membership they may own.

Section 3. Change of Membership

A. Change of membership in the Association, or in a Neighborhood Association in the case of Class A Members, shall be established by recording in the Public Records of Orange County, Florida, a deed or other instrument conveying record fee title to any Lot or Unit, and by the delivery to the Association of a copy of such recorded instrument. The Owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the Prior Owner shall be terminated. In the event that a copy of said instrument is not delivered to the Association, said Owner shall become a direct or indirect Member, but shall not be entitled to voting privileges enjoyed by its predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot or Unit acquired; provided, however, that an Owner of a Rental Apartment Building shall become liable for and shall pay all fees and assessments attributable to such the Units in such Building on the date of receipt of the certificate of occupancy therefor.

B. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

ARTICLE IV

FUNCTIONS OF MASTER ASSOCIATION

Section 1. Area of Common Responsibility. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Area of Common Responsibility and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep the Area of Common Responsibility in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof and any agreement with another association or governmental agency and consistent with the Community Wide Standard.

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

Section 3. Services. The Association shall have the following powers:

- A. Maintenance of Areas of Common Responsibility, Parks, Lakes, Open Space, Surface Water Management Systems, Recreation Parcels, landscaping, irrigation systems, lands covered by the Master Plan and all city, County, district or municipal properties and rights of way (to the extent permitted by any governmental authority) which are located within or in a reasonable proximity to the Properties where deterioration of any of the described items would adversely affect the Properties or the operation of systems appurtenant to Cypress Springs II. The Association shall adopt standards of maintenance and operation required by this and other subsections within this Section which are consistent with the Community Wide Standard.

- B. Maintenance of any real property located within Cypress Springs II upon which the Association has accepted an easement for said maintenance.

- C. Maintenance of beaches, lakes and canals owned by or dedicated for the use of the Association within the Properties, as well as maintenance of waterbodies not owned by the Association within the Properties if and to the extent permitted or required by any contract or by any governmental authority having jurisdiction thereof. Maintenance shall include, but not be limited to, the preservation of any shorelines or beaches (together with lakes and bodies of water), in an ecologically sound condition so that they can be used for such water activities as may be determined and allowed from time to time by the Association.

D. Insect, pest and aquatic control where necessary or desirable in the judgment of the Association to supplement the service provided by the state and local governments. The Association reserves a perpetual right on, over and under all Properties to dispense pesticides and take other action which in the opinion of the Association is necessary or desirable to control insects and vermin; provided, however, the Association shall not dispense herbicides or pesticides in designated conservation areas within the Property except as reasonably necessary to maintain health and safety conditions for residents of the Property and, in such event, shall use only herbicides or pesticides used or approved by state and local governments for controlling such problems in conservation areas. The provisions of this paragraph shall not be construed as an obligation on the part of the Association to provide such services.

E. Taking any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants, conditions, or restrictions applicable to the Properties or in the Articles or Bylaws.

F. Conducting business of the Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, Notice of Meetings, and other important events. The Association shall have the right to enter into management agreements with companies affiliated with the Declarant in order to provide its services, and perform its functions.

G. Adopting, publishing and enforcing such Rules and Regulations as the Board deems necessary.

H. Lighting of roads, sidewalks, walking and bike paths throughout the Properties as deemed necessary by the Board.

I. At the sole option and discretion of the Board, conducting recreation, sport craft, and cultural programs of interest to Members, their families, tenants and guests and charging admission fees for the operation thereof.

J. Constructing improvements on Common Property and easements as may be required to provide the services as authorized in this Article.

K. The Association may also provide exterior maintenance upon any Unit or upon any structure containing Units which, in the Association's opinion, requires such maintenance because said Unit or structure is being maintained in a manner inconsistent with the Community Wide Standard. The Association shall notify the Owner of said Unit or structure in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected the condition within fifteen (15) days after date of said notice, the Association (after approval of a majority of the Board) may correct such condition. Said maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. For the purpose of performing the exterior

maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Unit or exterior of any Unit or other structures or improvements located in Cypress Springs II at reasonable hours on any day, except Saturday and Sunday; however, the Association shall have the right of entry without notice if necessary to correct an emergency situation. The cost of such maintenance shall be assessed against the Unit upon which such maintenance is performed as a Special Assessment as provided herein.

L. Establish use fees and promulgate rules and regulations respecting the use of Common Property and Association facilities by Members and persons other than Members.

M. Engage in any activities reasonably necessary to remove from the Areas of Common Responsibility, Common Property, Lakes, Surface Water Management System and Open Space any pollutants, hazardous waste or toxic materials, and by Special Assessment, recover costs incurred from the Owner(s) causing or upon whose property such materials were located or generated.

The functions and services allowed in this Section to be carried out or offered by the Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Members of the Association. The functions and services which the Association is authorized to carry out or to provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board; however, the Board may not vote to reduce or abrogate the Association's responsibility to maintain Areas of Common Responsibility. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

Section 4. Mortgage and Pledge. The Board shall have the power and authority subject to the requirements contained elsewhere in this Declaration, to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which are to be used by the Association in performing its functions.

Section 5. Conveyance to Association. The Association shall be obligated to accept any and all conveyances to it by Declarant of fee simple title, easements or leases to Open Space, Parks, Lakes, Recreation Parcels, Surface Water Management Systems or Common Property.

Section 6. Conveyance by Association. The Association may convey or dedicate lands or easements to Orange County, Florida. The Association may also convey lands or easements to the Declarant in connection with any replatting of any portion of the Property.

Section 7. Contracts with Another Master Association. The Association is authorized to enter into any contracts or easement arrangements with another master association that has been or may subsequently be formed for portions of the Cypress Springs II property that are not annexed hereto and made subject to this Declaration provided that such contracts or easements are necessary or beneficial for the operation of the Association or the maintenance of the Properties; provided that the costs or expenses of operating, performing, or maintaining such contracts or easements shall be allocated between this Association and such other master association in accordance with the cost incurred or benefit received by each association. Any such contracts or easements shall be approved by the vote or written consent of a majority of the Board of the Association.

ARTICLE V

EASEMENTS

Section 1. Owners' Easements of Access and Enjoyment. Subject to the provisions below, every Owner shall have a right to use and an easement of enjoyment in and to the Common Areas (other than Exclusive Common Areas whose use may be restricted to Owners of particular Neighborhood Units by rule or regulation adopted by the Neighborhood Association having the responsibility for such Exclusive Common Areas), together with an easement of access to and from the Common Areas (other than Exclusive Common Areas which are so restricted) which shall be appurtenant to and shall pass with the title to the Lot or Unit owned by such Owner, subject to the following:

- A. The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure;
- B. All provisions of this Declaration and the Articles and Bylaws of the Association;
- C. Rules and regulations governing the use and enjoyment of the Common Areas adopted by the Association; however, the Association may not restrict the persons described in this Article from the reasonable use of the Common Areas in connection with the construction and sale of Units and other improvements upon the Property.
- D. Restrictions contained on any and all plats of all or any part of the Common Areas or filed separately with respect to all or any part or parts of the Common Areas.

Section 2. Declaration of Use. Any Owner may delegate, in accordance with the appropriate Bylaws, his right of ingress and egress over and across the Common Areas and right of use and enjoyment of the Common Areas to his guests, invitees and family members, and to tenants and contract purchasers of his Unit, and their respective guests, invitees and family members.

Section 3. Utility Easements. The Declarant reserves to itself (and its successors or assigns) for so long as the Declarant owns any of the Properties, and the Association thereafter, the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the Properties and the Common Property upon, over, under and across the Properties. Said easements shall only be given for the purpose of maintaining, installing, repairing, altering and operating sewer lines, irrigation lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal lines and systems, pipes, wires, fiber optics lines, power lines, telephone service, gas lines, syphons, valves, gates, pipelines, cable television service, alarm systems and all machinery and apparatus appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Properties and Common Property. All such easements to be of a size, width and location as Declarant, or the Association after Turnover, in its discretion, deems best but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Properties.

Section 4. Declarant Easements. The Declarant hereby reserves to itself, its successors and assigns, and to such other persons as Declarant may from time to time designate in writing, a perpetual easement, privilege and right in and to, over, under, on and across the Common Property for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use does not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the Owners. Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any of the Properties owned by Declarant. The easements granted by Declarant shall not structurally weaken any improvements or unreasonably interfere with enjoyment of the Properties. Declarant reserves for itself, its successors and assigns, an exclusive easement for the installation and maintenance of security and television cables and wire within the rights-of-way, Common Property, and easement areas referred to hereinabove.

Section 5. Service Easements. Declarant hereby grants to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized by the Declarant, its successors or assigns to service the Properties, and to such other persons as the Declarant from time to time may designate, the nonexclusive, perpetual right of ingress and egress over and across the Common Property for the purposes of performing their authorized services and investigation.

Section 6. Right of Entry. The Association shall have the right, but not the obligation, to enter any Unit for emergency, security, and safety, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board. .

Section 7. Drainage Easements. Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to Association to be necessary to maintain reasonable standards of health, safety and appearance. These easements include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other action reasonably necessary to install utilities and to maintain reasonable standards of health and appearance but shall not include the right to disturb any improvements erected within the Properties which are not located within the specific easement area designated on the plat or in this Declaration. Except as provided herein, existing drainage and drainage channels (or areas reserved for such purposes) shall not be altered so as to divert the flow of water onto adjacent parcels or into sanitary sewer lines. The Association shall have the sole control over elevations and slopes within drainage easements and no Owner or Neighborhood Association may alter any such elevations except upon written consent of the Association.

Section 8. Extent of Easements. The rights and easements of enjoyment created in this Article shall be subject to the following:

- A. The right of the Declarant or the Association, in accordance with its Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the Parks, Lakes, Recreation Parcels, Surface Management Systems and Common Property and providing services authorized herein and, in aid thereof, to mortgage said properties.
- B. The right of the Association to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period, not to exceed sixty (60) days, for any infraction of its published rules and regulation, it being understood that any suspension for either non-payment of any assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment.
- C. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility that may be situated on or in the Parks, Lakes, Recreation Parcel, and Common Property.
- D. The Board shall have the power to place (and remove after notice) any reasonable restrictions upon any roadways owned by the Association including, but not limited to, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of such roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Properties shall not make such restrictions unreasonable.

E. The right of the Association to give, dedicate, mortgage or sell all or any part of the Common Property (including leasehold interests therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by the Association; provided that no such gift or sale or determination of such purposes or conditions shall be effective unless the same shall be authorized by Voting Members representing two-thirds (2/3) of the votes of each class of Members at a duly called meeting of the Voting Members of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent at least sixty (60) days prior to such meeting to every Voting Member. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Members.

ARTICLE VI

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant covenants, and each Owner of any Lot or Unit shall, by acceptance of a deed therefor, regardless of whether it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay the Association: (1) Annual Assessments (2) Special Assessments, and (3) Neighborhood Assessments, all fixed, established and collected from time to time as hereinafter provided. The Annual, Special, and Neighborhood Assessments, together with such interest thereon and costs of collection provided herein shall be a charge and continuing lien on the real property and improvements of the Owner against whom each such assessment is made. Each such assessment, together with interest thereon and costs of collection, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. In the case of co-ownership of a Unit or Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Property or by the abandonment of the property against which the assessment was made. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association may be used for the improvement, maintenance, enhancement and operation of the Area of Common Responsibility, Parks, Lakes, Surface Water Management Systems, Common

Property, and Public Areas which are located within or in a reasonable proximity to the Property to the extent that deterioration of the Public Areas would adversely affect the appearance of the Property or the operation of systems appurtenant to the Property, and further to provide services which the Association is authorized or required to provide by contract or otherwise, including, but not limited to, the payment of taxes and insurance thereon, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions.

Section 3. Duty of the Board. It shall be the duty of the Board, at least thirty (30) days in advance of the fiscal year of the Association, to fix the amount of the Annual Assessment against each Lot or Unit and to prepare a roster of the Lots and Units and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Failure to fix the amount of the Annual Assessment within the time period set forth above will not preclude the Board from fixing the Annual Assessment at a later date. Written notice of the Annual Assessment shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement thereof.

Section 4. Declarant's Guaranty. Both Annual and Special Assessments must be fixed at a uniform rate for all Units, except as set forth hi. this Article and for as long as there is Class B membership, the Declarant will have the following option for each assessment year:

Notwithstanding anything herein to the contrary, the Declarant, or its successors or assigns, will be excused from payment of the annual and special assessments for Units owned by it. During such period as this guaranty shall be in force, the Declarant obligates itself to pay to the Association any amount for expenses incurred during that period not produced by the Association from assessments against other Unit Owners. Said guaranty does not pertain to or include such portions of assessments, annual or special, or installments thereunder, required to meet the cost of improvements or betterment to the Common Area, the funding of reserves, if any, or the payment of ad valorem taxes assessed against the Property as a whole. Notwithstanding this guaranty, Declarant shall have the right, in its sole discretion, to pay the regular amount of annual assessments for each Unit owned by it, and if there is a deficit, said deficit shall be shared and paid equally by all Units. Further, notwithstanding anything herein to the contrary, the above guaranty shall expire and be of no further force and effect upon the Declarant's electing to relinquish control of the Association through its designee-directors, as provided in the Bylaws.

Section 5. Builder Assessments. Each Builder, as a Class C Member shall, for each unimproved Lot or Lots with a Unit that is unoccupied and unsold which remains owned by such Builder, pay twenty-five percent (25%) of the Annual Assessment rate fixed for Class A Membership. In the event Declarant is required to fund any operating deficit, Builder shall, in addition to paying twenty five percent (25%) of the Annual Assessment, reimburse Declarant for a prorata share of said funded deficit based on the percentage of Lots then owned by Builder within the Property at the time the deficits are paid by Declarant.

Section 6. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit by Declarant or a Builder to an Owner other than Declarant or a Builder, the Maximum Annual Assessment per Unit shall be Two Hundred Fifty and 00/100 Dollars (\$250.00).

From and after such date, the Maximum Annual Assessment may be increased each year not more than fifteen percent (15%) above the Maximum Annual Assessment for the previous year without a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 7. Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any fiscal year a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided such assessment shall have the affirmative vote or written consent, or combination thereof, of Voting Members representing at least two-thirds (2/3) of the votes of each class of Members. The obligation to pay Special Assessments shall be computed on the same basis as Annual Assessments. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association (by simple majority vote of the Board) may also levy a Special Assessment against any Member to reimburse the Association for costs incurred pursuant to this Declaration that may be required to bring a Member and the Unit or Lot into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, and the Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. The Association (by simple majority vote of the Board) may also levy a Special Assessment against the Units or Lots in any Neighborhood to reimburse the Association for costs incurred to bring the Neighborhood into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the Bylaws, and the Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Neighborhood Representative of the Neighborhood Association and an opportunity for a hearing.

Section 8. Assessments of Reserves

A. At the time the Association is created, the Association shall establish reserve accounts for all expected expenditures of deferred maintenance, repairs, or replacement of Common Property for which the Association will ultimately be responsible under the terms of the purchase agreement or the Association's governing documents. The reserve accounts shall be funded in amounts calculated as follows:

- (1) When the Association is ultimately responsible for the upkeep, maintenance, and repair of a recreation facility, a reserve account for the expected amount of maintenance and repairs that would normally be required to be done at intervals of less than one year shall be funded.

(2) When the Association is ultimately responsible for the maintenance of a pool or pools, a reserve for the resurfacing of the pool annually in an amount not less than twenty percent (20%) of the estimated cost to resurface the pool shall be funded.

(3) The Association may establish and fund additional reserve accounts for the maintenance, repair or replacement of other Common Property or Common Property components for which the Association will ultimately be responsible.

B. The use of reserve funds accounts is limited as flows:

(1) Reserve account funds may be expended only for substantial maintenance, repair, or replacement of Common Property or Common Property specific components for which the funds were originally deposited, unless, after assumption of control of the Association by Owners other than the Declarant, two-thirds (2/3) of the quorum or two-thirds (2/3) of the voting members of the Association, whichever is greater, at a duly noticed meeting, vote to expend the funds for other purposes.

(2) The reserve accounts shall be established in the name of the Association at a bank, savings and loan association, or trust company located in the county in which the community is located, and the funds may not be commingled with other funds.

C. The reserve accounts specified in this section must be maintained by the Association throughout its existence unless waived by a majority of the Homeowners' Association's members.

Section 9. Neighborhood Assessments. The Association may impose a Neighborhood Assessment upon any Unit subject to the jurisdiction of a Neighborhood Association or a Neighborhood Committee which assessment shall be for Neighborhood Expenses benefiting only Units within a particular Neighborhood. The Board shall be entitled to set Neighborhood Assessments only to the extent that this Declaration or the Bylaws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment.

In the event the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Assessments applicable to Owners that are members of a Neighborhood Association shall be billed to such Neighborhood Association. The Neighborhood Association shall have the initial responsibility for billing the Owner and collecting such assessments, which assessment will be deemed a debt of the Neighborhood Association. If the Neighborhood Association pays the assessment applicable to an Owner, but the Owner does not promptly reimburse the Neighborhood Association, such association shall be subrogated to the Association's lien rights herein provided.

Section 9.5. Resale Capital Contributions. The Association is authorized to establish and collect a Resale Capital Contribution upon every conveyance of an ownership interest in a Unit by an Owner other than the Declarant. After a Unit has been conveyed by Declarant, the Resale Capital Contribution shall be a recurring assessment payable upon all succeeding conveyances of a Unit. The amount of the Resale Capital Contribution shall be \$500 initially; however, said amount may be revised from time to time by the Board in the exercise of its judgment pursuant to resolution duly adopted. The due date of the Resale Capital Contribution shall be the date of the closing of the conveyance. Payment of the Resale Capital Contribution assessment shall be the legal obligation of the transferee and not the transferor. For purpose of this Section 9.5, the term "conveyance" shall mean transfer of record legal title to the Unit by deed or other authorized means of conveyance, with or without valuable consideration, including a transfer of possession and beneficial ownership by means of an agreement for deed; however, it shall not apply to transfer of title directly resulting from foreclosure of a mortgage, or deed in lieu thereof, or caused by the death of the transferee, or to a transfer of title to a trustee or the transferor's spouse without changing occupancy, solely for estate planning or tax reasons

Section 10. Notice and Quorum Requirements. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

Section 11. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments provided for herein shall commence as to each Unit on the first day of the first month following: (i) as to each Unit owned by the Declarant, the date of subjection of the Lot or Residential Property to this Declaration; and (ii) as to each Unit owned by a Class A or Class C member, the date of conveyance to an Owner of any portion of the Property by Declarant or by a Class C member, as the case may be. The due date of Annual Assessments provided for herein shall be fixed by Board resolution. The Annual Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

Section 12. Effect of Non-Payment of Assessment: The Personal Obligation of the Neighborhood Association and Owner: The Lien: Remedies of Association. If any assessment is not paid on the date due, then such assessment shall become delinquent and the entire assessment shall, together with interest thereon and cost of collection thereof as hereinafter provided, become due and payable and be a continuing lien on the property which shall bind such property in the hands of the then Owner, the Owner's heirs, devisees, personal representatives and assigns. The obligation of the Owner to pay such assessment, however, shall remain a personal obligation. The Association may record a notice of lien for delinquent assessments in the public records and foreclose the lien in the same manner as a mortgage. The lien shall not be valid against subsequent bona fide purchasers or mortgagees for value unless so recorded. Upon recording, the lien shall secure the amount of delinquency stated therein and all unpaid assessments thereafter until satisfied of record.

If the assessment is not paid within thirty (30) days of its due date, the Association shall send written notice of the delinquency to the delinquent Member within thirty (30) days after the delinquency date. After the foregoing notice, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Neighborhood Association or the Owner personally obligated to pay the same or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

The Association, acting on behalf of the Owners' shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) No right to vote shall be exercised on its behalf; (b) No assessment shall be assessed or levied on it; and (c) Each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees and costs shall be maintainable without foreclosing or waiving the lien securing the same.

THE FOLLOWING PARAGRAPH WAS ADDED BY THE "FIRST AMENDMENT TO DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CYPRESS SPRINGS II" RECORDED ON 7/14/2003

Notwithstanding anything to the contrary herein, if any Assessment is not paid on the due date, the Owner of the property as to which the Assessment is delinquent (the ("Delinquent Owner")) shall be liable to the Association for all fees, costs, and expenses incurred by the Association to collect any such Assessment, including without limitation, all attorney's fees and costs, whether or not suit is brought. Any and all such costs shall be added to and become a part of the delinquent Assessment, shall be the personal liability of the Delinquent Owner, and a lien on the Delinquent Owner's property. The provisions of this Paragraph are in addition to, and are not intended to replace any provisions contained in the original Declaration.

Section 13. Subordination of the Lien to the Mortgages: Mortgagees' Rights. The lien

of the assessments provided for herein is subordinate to the lien of any first Mortgage given to an Institutional Lender now or hereafter placed upon a Unit or Lot; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer or management agent of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such certificate.

Section 14. Damage to Common Areas by Owners. Any maintenance, repairs or replacement within the Common areas arising out of or caused by the willful or negligent act of the Owner, his family, guests or invitees shall be done at said owner's expense or a Special Assessment therefor shall be made against the Lot or Unit.

Section 15. Exempt Property. The following property subject to this Declaration shall be exempted from all assessments, charges and liens created herein: (a) all proportionate 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 Property as defined in Article I hereof; (c) any of the Property exempted from ad valorem taxation by the laws of Florida to the extent agreed to by the Associations.

ARTICLE VII **NEIGHBORHOODS**

Section 1. Neighborhood Associations. All Units shall be located within a Neighborhood. The Units within a particular Neighborhood will be subject to additional covenants and the Owners of such Units or Property will all be members of a Neighborhood Association in addition to the Association.

Section 2. Neighborhood Rules and Regulations. Each Neighborhood Association shall have the right to adopt reasonable rules designed to restrict the use of Exclusive Common Area to Owners, their guests and invitees, of Units within such Neighborhood Nothing herein shall prevent the Board from adopting such rules on its own initiative.

Section 3. Voting Member. Each Neighborhood shall have a Neighborhood Representative who shall be the senior elected officer (e.g., Neighborhood Association president) from each Neighborhood and who shall be the person responsible for casting all votes attributable to Units in the Neighborhood. The next senior officer of each Neighborhood Association shall be the alternate Neighborhood Representative.

ARTICLE VIII **SPECIAL PROVISIONS**

Section 1. Residential Use. Cypress Springs II, subject to the restrictions contained herein and except as shown on the Master Plan, shall be used for residential living units and related recreational, facilities only and for no other purposes. Notwithstanding anything herein to the contrary, Declarant and any Builder shall be able to build and maintain sales models and offices with the written consent of Declarant until such time as the last parcel in Cypress Springs II is developed and sold by Declarant or other Residential Property Owner. Uses which do not conform to Orange County zoning ordinances will not be permitted.

Section 2. Temporary Buildings. No tents, trailers, vans, shacks, tanks, or temporary or accessory buildings or structures shall be erected or permitted to remain on the Properties; however, the foregoing shall not restrict or prevent the construction and maintenance of temporary sales models and such other temporary facilities as are essential to the development, construction and sale of the housing facilities created, provided that such are in compliance with appropriate governmental requirements applicable thereto.

Section 3. Trash and Garbage. No lumber, metals, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on the Properties except building materials during the course of construction of any approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made at such place as will be accessible to persons making such pick-up. At all other times, such containers shall be stored so that they cannot be seen from surrounding property.

Section 4. Burial of Pipe and Tanks. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Properties above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No property shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth; however, nothing contained herein shall prohibit or restrict removal by a Builder or the Declarant of fill or earth materials to construct or create approved drainage structures (including lakes) or landscaped berms.

Section 5. Nuisance. Nothing shall be done on the Properties which is illegal or which may be or may become an annoyance or nuisance to the neighborhood. In the event of any questions as to what may be or become a nuisance, such questions shall be submitted to the Association for a decision in writing and its decisions shall be final.

Section 6. Weeds and Underbrush. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon the Properties and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. In the event an Owner shall fail or refuse to keep his Lot or Unit free of weeds, underbrush, sight obstruction, refuse piles or other unsightly growths or objects, then the Association may enter upon said property and remove the same at the expense of the Owner, and such entry shall not be deemed a trespass; except, however, that the Owner shall be given ten (10) days prior written notice of such action.

Section 7. Vehicle Parking. The Board or a Neighborhood Association may from time to time promulgate rules which restrict, limit or prohibit the use of any driveway or parking area which may be in front of, adjacent to or part of any Unit as a parking place for personal passenger vehicles, commercial vehicles, trailers, recreational vehicles, self-propelled motor homes, motorcycles and boats. Such rules, if and when promulgated, shall have the same force and effect as if promulgated and initially made a part of this Declaration. Overnight parking or storage of trucks or commercial vehicles in excess of one-half ton rated capacity is prohibited. No unregistered or inoperable motor vehicle or trailer of any kind may be disassembled, serviced or repaired on the Properties in such a manner as to be visible from any point on adjacent property or the street. The following initial rules have been adopted by the Board:

A. Prohibited Vehicle - No “Prohibited Vehicle” shall be parked or stored on any of the Common Properties or Common Areas or stored on any of the Common Properties or Common Area or on any portion of a Lot which is visible from any of the Common Properties or Common Areas or from any road or other Lot within the Property. For purposes of this Section, a “Prohibited Vehicle” is:

(1) a truck (except a 1/2 ton pick-up truck which has no camper top, bed enclosure or other appendage attached to it), delivery van, service van or bus;

(2) a commercial vehicle (i.e., one not designed and used for normal personal/family transportation) and any vehicle bearing lettering, graphics or other commercial insignia, except if such lettering, graphics or insignia are completely covered with a magnetic or other type covering of the same color as the vehicle;

(3) a recreational vehicle (RV) including a camper, mobile and motor home, all terrain vehicle (ATV or ATC) or dune buggy;

(4) a trailer of any type;

(5) a boat; or

(6) a derelict vehicle, including a vehicle with no current license plate or a vehicle incapable of self propulsion.

For purposes of this Section, a “Prohibited Vehicle” shall not be deemed to be (even if generally described above) any commercial or public service vehicle present in the Properties while performing services for or on behalf of owners or residents of Cypress Springs II.

B. Non-resident/visitor parking. While parking within the Properties, non-residents and visitors shall follow all parking rules and regulations.

Section 8. Clothes Drying Area. No portion of any of the Properties shall be used as a drying or hanging area for laundry of any kind unless the area is fully screened by fencing or landscaping from view from adjacent property or streets.

Section 9. Guns. The discharge of firearms within the Properties is prohibited. The term “firearms” includes BB guns, pellet guns, and other firearms of all types, regardless of size.

Section 10. Shuttles and Aerials. Without the express prior written consent of the Architectural Review Committee for a determination of the location of an exterior radio, television, dish antenna or other antenna or device for sending or receiving electromagnetic signals, none may be erected or maintained in Cypress Springs II except that a master antenna system or systems may be constructed and maintained by the Declarant or the Association or their designees. No hurricane or storm shutters shall be installed unless the same be of a type approved by the Association.

Section 11. Drainage. No changes in elevations of property subject to these restrictions shall be made which will cause undue hardship to adjoining property or be inconsistent with the approved draining plans for Cypress Springs II or any part thereof.

Section 12. Underground Wires. No lines or wires for communication or the transmission of electrical current or electromagnetic pulses shall be constructed, placed, or permitted to be placed on a Lot unless the same shall be underground, or unless specifically permitted in writing by the ARC.

Section 13. Animals. No horses, cattle, swine, goats, poultry, fowl, or any other animals not commonly considered household pets shall be kept on the Properties. Under no circumstances shall any commercial or business enterprises involving the use, care or treatment of animals be conducted on the Properties without the express prior written consent of the Board. All pets shall be kept on a leash when not on the pet owner's lot or unit and no pet shall be allowed to roam unattended. The Association may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on the Properties.

Section 14. Business. No trade or business will be conducted or carried on upon the Properties or in any building or other structure erected thereon, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a Builder with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

Section 15. Maintenance of Parking Areas, etc. All setback areas, yards, walkways, driveways and parking areas and drainage swales shall be maintained and kept in a neat and clean condition, free of refuse and debris.

Section 16. Maintenance of Landscaped Areas. All landscaped areas (to the paved public right of way) shall be maintained in live, healthy and growing condition, properly watered and

trimmed. Any planting of grass, shrubs or trees which become dead or badly damaged shall be replaced with similar, sound, healthy plant materials.

Section 17. Use and Maintenance of Waterbodies. The use of all Lakes and waterbodies existing or created in Cypress Springs II will be in accordance with rules and regulations adopted from time to time by the Association. There will be no construction of any dock or other facility in any lake or waterbody without written approval of the ARC, procured in accordance with standards and requirements set by the ARC from time to time. Maintenance of Lakes and waterbodies is the exclusive obligation and function of the Association. No motorboats shall be allowed on any of the internal lakes without the consent of the Association.

Section 18. Maintenance of Landscaping to Public Right of Way or Water's Edge. Any Owner or Neighborhood Association within the Properties that owns or has the maintenance responsibility for property adjoining any public right of way or water body shall maintain the landscaping to the public right of way or water's edge regardless of the property boundaries on the plot.

Section 19. Fences. The composition, location and height of fences and walls must be approved by the ARC prior to installation in accordance with standards and requirements set by the ARC from time to time. The ARC is under no obligation whatsoever to approve any fences. Any fence constructed on a Residential Unit that intersects with a Subdivision Wall may not exceed the height of the Subdivision Wall.

Section 20. Trees. Removal of existing trees and shrubbery from any Lot shall not be permitted (except within the foundation perimeter line for the dwelling) unless landscaping of an equivalent or higher quality is substituted therefor.

Section 21. Air Conditioners. No window air conditioning units shall be permitted. Permanently mounted wall air conditioning units shall not be permitted unless first approved by the ARC.

Section 22. Signs. No sign of any kind shall be displayed to the public view on any Lot or Unit, except those which shall be in compliance with the guidelines established by the ARC. The ARC shall have the right to establish guidelines so as to require a uniform standard for signs in the Properties.

Section 23. Lighting. No exterior lighting fixtures shall be installed on any Unit without adequate and proper shielding of fixtures. No lighting fixture shall be installed that may be or become an annoyance or a nuisance to the residents of adjacent Units.

Section 24. Stormwater. The St. Johns River Water Management District ("SJRWMD") has required Declarant to install a storm water drainage and retention system within the boundaries of the Properties. No structure, fence or landscaping that interferes with the flow or retention of stormwater shall be permitted and no refuse shall be placed upon or allowed to remain on any part of any Unit within any easement area for storm water drainage or retention, and the stormwater drainage and retention areas, including drainage swales or retention ponds, shall not be filled or

otherwise changed so as to alter or block the flow or the quantity of water. Owners of Units within which any easement for stormwater drainage or retention lines are located shall be responsible for the maintenance of such areas to permit the flow and retention of water in accordance with the storm water drainage and retention system plan required and approved by SJRWMD. If any Owner shall fail to comply with any part or all of the restrictions contained in this Section, the Association shall notify the Owner in writing, shall have the right to correct such failure to comply herewith, and to assess and collect the cost thereof and shall have a lien upon the Unit upon which the work was performed.

Section 25. Swimming Pools and Tennis Courts. Any swimming pool, tennis court and screening or fencing of either to be constructed on any Lot shall be subject to the approval and requirements of the ARC, which shall include, but which shall not be limited to the following:

- A. Above-ground swimming pools normally will not be allowed;
- B. Lighted tennis courts normally will not be allowed;
- C. Materials, design and construction shall meet standards generally accepted by the industry and shall comply with applicable governmental regulations; and
- D. The location shall be approved by the ARC.
- E. All fuel tanks for swimming pools, along with other necessary pool mechanical equipment, shall be shielded from view at ground level by appropriate landscaping or approved decorative fences.

Section 26. Time Shares. No Lot or Unit shall be owned or used in multiple or time share ownership requiring registration pursuant to the provisions of the Florida Statutes, as Amended from time to time, unless approved in writing by Declarant.

Section 27. Pollutants. No owner shall discharge or allow to be discharged any pollutant hazardous waste or toxic material, and in the event of such discharge shall be liable for all cleanup cost incurred in connection therewith.

Section 28. Further Restrictions. These restrictions are intended to be minimum restrictions applying to the Properties. The Declarant or a Builder will have the right to subject property to further restrictions and covenants by way of Declaration of Condominium or Declaration of Protective Covenants and Restrictions. Provided, however, that the ARC must approve such restrictions prior to recording, and such restrictions will be deemed of no force and effect and unenforceable unless the recorded instrument is executed by the chairman of said Committee indicating the required approval.

Section 29. Non- Waiver. No delay in enforcing these covenants and restrictions as to any breach or violation thereof shall impair, damage or waive the right of the Association to enforce the same, to obtain relief against or recovery for continuation or repetition of such breach or violation or of any similar breach or violation thereof at a later time or times.

Section 30. Enforcement. Failure of the Owner to comply with such restrictions, covenants, or rules and regulations shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof, including costs and attorneys' fees incurred in bringing such actions, and if necessary, costs and attorneys' fees for appellate review. The Association shall have the right to suspend voting rights and use of Common Areas and Lakes for any Owner violating these Covenants and Restrictions for a period of time which is the longer of sixty (60) days or the term of continued violation after thirty (30) days' written notice to the Owner. Both the Association and the Neighborhood Association (where violation has occurred with respect to a Unit within the jurisdiction of such Neighborhood Association) shall have the right to enforce the provisions of this Declaration through eviction proceedings or other self-help procedures appropriate to the violation.

Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these covenants; and failure by the Association or any Owner or the Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association shall have the right of self help to cure any violations that remain uncured after any required notice is given.

Section 31. Fines. In addition to all other remedies, in the sole discretion of the Board of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, tenants, or employees to comply with any covenant, restriction, rule or regulation, contained herein or promulgated pursuant to these Declarations provided the following procedures are adhered to:

A. Notice. Association shall notify the Owner of the infraction or infractions and the proposed fine(s) and the proposed date on which such fine(s) shall become final, which date shall not be earlier than the next regularly scheduled Board meeting. Included in the notice shall be date and time of the next Board meeting.

B. Hearing. The noncompliance shall be presented to a Committee of at least three (3) members appointed by the Board of Directors who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the Committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. A written decision of the Committee shall be submitted to the Owner not later than twenty-one (21) days after the Committee's meeting.

C. Fines. The Board may impose fines against any Unit as follows:

(1) First noncompliance or violation: a fine not in excess of One Hundred Dollars (\$100.00). A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing.

D. Payment of Fines. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines.

E. Collection of Fines. Fines shall be treated as a Special Assessment otherwise due to the Association, and as such will be a lien against the Owner's Unit Of Lot.

F. Application of Fines. All monies received from fines shall be allocated as directed by the Board.

G. Nonexclusive Remedy. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association or the Neighborhood Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association or Neighborhood Association may otherwise be entitled to recover by law from such Owner.

ARTICLE IX

TURNOVER

Section 1. Time of Turnover. The Turnover of the Association by the Declarant shall occur at the Turnover meeting described herein which shall take place within sixty (60) days of the occurrence of the following events, whichever occurs earliest:

A. December 31, 2005.

B. Upon voluntary conversion to Class A membership by the Declarant.

C. When the total votes outstanding in the Class A membership for all Units approved in the Master Plan equal the total votes outstanding in the Class B membership.

The Declarant, or its successors or assigns, shall remain a member so long as it owns a Lot or Unit subject to this Declaration.

Section 2. Procedure of Calling Turnover Meeting. The purpose of the Turnover meeting shall be to elect directors to the Association. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify all Members in writing of the date, location, and purpose of the Turnover meeting.

Section 3. Procedure for Meeting. The Turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order.

Section 4. Delivery of Documents to Association at Turnover. At the time of Turnover, Declarant shall deliver the following documents to the Association:

- A. All deeds to Common Property.
- B. The Association's original Declaration of Covenants and Restrictions.
- C. A certified copy of the Articles of Incorporation of the Association.
- D. A copy of the Bylaws.
- E. The minute books including all minutes.
- F. The books and records of the Association
- G. All policies, rules, and regulations that have been adopted.
- H. Evidence of resignations of directors who are required to resign because the Declarant is required to relinquish control of the Association.
- I. The financial records of the Association from the date of incorporation through the date of turnover.
- J. An accounting of Association funds and the control thereof.
- K. A description of all tangible property of the Association.
- L. A copy of all contracts that are in force with the Association as one of the parties.
- M. A list of the names, addresses, and telephone numbers of all contractors, subcontractors, or others in the employ of the Association.
- N. All insurance policies.
- O. Any permits issued to the Association by governmental bodies.
- P. All warranties in effect.

- Q. A complete roster of the homeowners and their mailing addresses, telephone numbers, and section and lot numbers.
- R. A plat map or survey showing all common property owned by the Association.
- S. Employment and service contract in effect.
- T. All other contracts to which the Association is a party.

Section 5. Financial Statements. Within twelve (12) months after Turnover, financial statements from the date of incorporation through the date of Turnover must be given to the Board of Directors. The financial statements must be:

- A. Compiled if the annual budget of the Homeowners' Association is under \$400,000.00; or
- B. Reviewed if the annual budget is \$400,000 or greater.

Section 6. After Turnover. After Turnover, the Association must compile, at least once every three (3) years, all governing documents, including copies of standards from sale contracts, Articles of Incorporation, Bylaws, rules, restrictive covenants, and any other document then in effect which governs the rights or duties of homeowners. If there have been no changes made to the governing documents during the three (3) year period, the Association shall provide a statement on Homeowners' Association stationary that no changes have been made and attach the statement to the governing documents.

ARTICLE X

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association's Board or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to casualty insurance on the Common Area, the Association may, upon request of a Neighborhood, but shall not under any circumstances be obligated to, obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonable available, and if not reasonably available, then at a minimum, fire and extended coverage, in such form as the Board deems appropriate for one hundred (100%) percent of the replacement cost of all structures located on Units within the Neighborhood and/or common property of the Neighborhood Association, and charge the coats thereof to the Owners of Units within the benefitted Neighborhood as a Neighborhood Assessment.

The Association shall have no insurance responsibility for any part of Commercial Property.

Insurance obtained on the properties within any Neighborhood, whether obtained by such Neighborhood or the Association, shall at a minimum comply with the applicable provisions of this Section 1, including the provisions of this Article applicable to policy provisions, loss adjustment, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Neighborhood Association, if any.

To the extent available on commercially reasonable terms and conditions, the Board may also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability shall have at least a One Million Dollar (\$1,000,000.00) limit for bodily injury, personal injury, and property damage from a single occurrence, and, if reasonably available, a Five Million Dollar (\$5,000,000.0000) umbrella liability policy.

Premiums for all insurance on the Common Area shall be Common Expenses of the Association and shall be included in the Annual Assessment, as described herein; provided, in the discretion of the Board, premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood benefitted thereby. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party 'e lose bears to the total.

All insurance coverage obtained by the Board shall be written in the name of the Association as trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

A. All policies shall be written with a company licensed to do business in Florida which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating.

B. All policies on the Common Area shall be for the benefit of the Association, its Members, and Mortgagees providing construction financing on the Common Area; all policies secured at the request of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Owners of Units within the Neighborhood and their Mortgagees, as their interests may appear.

C. Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board; provided, however, no Mortgagee

having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

D. In no event shall the insurance coverage obtained and maintained by the Association's Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

E. All casualty insurance policies shall have an inflation guard endorsement, if reasonable available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Orlando, Florida, area.

F. The Association's Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

- (1) a waiver of subrogation by the insurer as to any claims against the Association's Board, its manager, the Owners, and their respective tenants, servants, agents, and guests;
- (2) a waiver by the insurer of its rights to repair and construct, instead of paying each;
- (3) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of anyone or more individual Owners;
- (4) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;
- (5) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (6) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance if required. The amount of fidelity converge shall be determined in the directors' best business judgment but, if reasonably available, may not be less than three (3) months' assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Unit which is subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the association that each Owner shall carry blanket all-risk casualty insurance on the Unites) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article XIII for insurance on the Common Area, unless the Association at the request of the Neighborhood Association for the Neighborhood in which the Unit is located carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising a Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any costs of repair or reconstruction which is not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard. .

A Neighborhood Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Unite subject to its jurisdiction and the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction

A. Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

B. Any damage or destruction to the Common Area or to the common property of any Neighborhood Association shall be repaired or reconstructed unless the Voting Members representing at least seventy-five (75%) percent of the total vote of the Association, if Common Area, or the Unit Owners representing at least seventy five (75%) percent of the total vote of the Neighborhood whose common property is damaged, if common property of a Neighborhood Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Neighborhood shall be repaired or reconstructed; provided, however, this provision shall not apply to construction Mortgagees providing construction financing for such damaged property.

C. In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association, or the Neighborhood Association, as applicable, in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction to the Common Area or to the common property of a Neighborhood Association for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Voting Members, levy a Special Assessment against all Owners on the same basis as provided for Annual Assessments, provided, if the damage or destruction involves the common property of a Neighborhood, only the Owners of Units in the affected Neighborhood shall be subject to assessment therefor. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE XI

NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person or entity acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE XII

CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat' of condemnation by the Board acting on the written direction of Voting Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any Property which may become subject to this Declaration) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking, the Declarant, so long as the Declarant owns any property which may become subject to this Declaration, and Voting Members representing at least seventy five percent (75%) of the total vote of the Association shall otherwise Agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the above provisions in Article XIII hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period, or during the last year of any subsequent ten (10) year renewal period, Voting Members representing three-fourths (3/4) of the votes of the Association vote in favor of terminating this Declaration at the end of its then current term.

Written notice of any meeting at which such proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least sixty (60) days advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast In favor of such resolution, and the total number of votes cast against such resolution. .

Said certificate shall be recorded in the Public Records of Orange County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. Termination of the Association shall riot have the effect of terminating easements herein provided or granted prior to such termination, or terminating contractual rights created prior to termination which from the context of the contract were meant to survive termination.

Section 2. Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Property owned by the Association at such time shall be transferred to another association or appropriate public agency having similar purposes. If no other association or agency will accept such property then it will be conveyed to a Trustee appointed by the Circuit Court of Orange County, Florida, which Trustee shall sell the Common Property free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Orange County, Florida. That portion of the Open Space or Common Property consisting of the Surface Water Management System cannot be altered, changed or sold separate from the lands it serves. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Property, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of the Common Property. The excess of proceeds, if any, from Common Property shall be distributed among Owners in a proportion which is equal to the proportionate share of such Owners in Common Expenses.

Section 3. Amendments by Members. This Declaration may be amended at any time by the affirmative vote or written consent, or any combination thereof, of Voting Members representing three-quarters (3/4) of each class of Members of the Association; provided, however, that if the affirmative vote required for approval of action under the specific provision to be amended is a higher or lower percentage, then such higher or lower percentage shall be required to approve amendment of that provision and further provided that so long as Declarant is the Owner of any Unit, or any property affected by this Declaration, as amended from time to time, or appoints a Director of the Board, no amendment shall be effective without Declarant's express joinder and consent. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the number of votes necessary to adopt the amendment, the total number of votes cast for the amendment; and the total number of votes cast against the amendment. Such amendment shall be recorded in the Public Records of Orange County, Florida.

Notwithstanding anything above contained to the contrary, no amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

Section 4. Amendments by Declarant. Notwithstanding the above, Declarant shall have the right, until Turnover, to amend this Declaration, without the necessity of joinder by Owners or any other persons or entities, to clarify any ambiguities or conflicts, subject, however, to the requirements, if appropriate, of Section 5 below.

Section 5. Assignment of Rights and Duties. Any and all of the rights, powers and reservations of the Association and Declarant may be assigned to any person, corporation or association (including the Neighborhood Associations) which will assume the duties of the Association or Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignee evidencing its consent in writing to accept such assignment and assume such duties, he or it shall to the extent of such assignment have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Association or the Declarant. Further, the Association or the Declarant may from time to time delegate any and all of its rights, powers, discretion and duties hereunder to such agent or agents as it may nominate.

Section 6. HUD/VA Approval. As long as there is a Class B membership, and so long as the Declarant wishes to maintain its HUD/VA A approved status, the following actions will require the prior approval of the Department of Housing and Urban Development or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration. Furthermore, to the extent and if required as a condition of obtaining approval by FHA/VA, that Declarant must make modifications to this Declaration, then Declarant shall have the right to so modify this Declaration without the necessity of joinder of any Owner or any other party who may be affected.

Section 7. Density Transfers. If an Owner of a Lot shall develop such property so that the number of Units contained therein is less than the allowable number of Units allocated by the Master Plan to that particular Lot, the excess allowable Units not used by the Owner (with respect to that Lot) shall inure to the benefit of Declarant's remaining properties.

Section 8. Special Exceptions and Variations. Unless the written consent of the Association is first obtained, no Owner shall file a request for zoning variations, special exceptions or zoning changes affecting or relating to land within the Properties.

Section 9. Municipal Service Taxing Units. In order to perform the services contemplated by this Declaration of Covenants and Restrictions, the Association or Declarant, in conjunction with Orange County, Florida, may seek the formation of special purpose municipal service taxing units ("MSTUs"). The MSTUs will have responsibilities defined in their enabling resolutions which may include, but are not limited to, maintaining roadway informational signs, traffic control signs, benches, trash receptacles and other street furniture, keeping all public roadways and roadside pedestrian easements clean of windblown trash and debris, mowing, payment of electrical charges, maintenance of drainage canals, ponds and structures, maintenance of designated landscape areas, payment of energy charges for street and pedestrian lighting, and other services benefiting the Properties. In the event such MSTUs are formed, the Properties will be subject to assessment for the cost of services performed within the MSTU and personnel working or under contract with Orange County shall have the right to enter upon lands within the Properties to affect the services contemplated. Each Owner by acquiring lands with the Properties agrees to pay each and every MSTU assessment imposed upon the Owner ta land in a timely manner, failing which such assessments and special charges shall be a lien upon those lands. The Association retains the right to contract with Orange County to provide the services funded by the MSTU's.

Section 10. Severability. Should and covenant, condition or restriction herin contained, or any Article, Section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 11. Interpretation. The Board shall have the right except as limited by any other provisions of this Declaration or the Bylaws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith, determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the maintenance of Common Areas and the facilities located thereon.

Section 12. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association as approved by the Board in the manner provided for in the Bylaws of the Association, unless the terms of this instrument provide otherwise.

Section 13. Execution of Documents. The Master Plan for the development of the Properties may require from time to time the execution of certain documents required by governmental authorities. To the extent that said documents require the joinder of Owners, the Declarant by its duly authorized officers may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Declarant, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section shall recite that it is made pursuant to this Section.

Section 14. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee member shall not be liable for any mistake of judgment, negligent or otherwise; except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officer and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to other on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 15. Prohibited Actions. Notwithstanding anything contained herein to the contrary, the Association will not perform or undertake any activity which will violate its non-profit statute under applicable state or federal law.

Section 16. Singular, Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular and the use of any gender shall be deemed to include all genders.

Section 17. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of Properties.