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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR CYPRESS BREEZE PLANTATION

This Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation, is made on the 20<sup>th</sup> day of November, 2001 by Cypress Breeze, L.L.C. ("Declarant").

STATEMENT OF PURPOSE

A. Declarant is the owner of all the property shown on the subdivision plat for Cypress Breeze Plantation, recorded at Plat Book 14, Page 93, of the Public Records of Walton County, Florida, a copy of which is attached hereto as Exhibit A.

B. The lots within Cypress Breeze Plantation will be used for "residential" purposes as determined by Declarant and the Architectural Review Committee from time to time, and also as defined herein. The easements within Cypress Breeze Plantation will be used by the various utility providers to furnish services to the neighborhood. The common areas will be transferred to a nonprofit Florida corporation formed or to be formed by Declarant, which corporation will own such areas for the benefit of the lot owners in Cypress Breeze Plantation.

NOW THEREFORE, Declarant hereby establishes this Declaration of Covenants, Conditions, Restrictions, and Easements for Cypress Breeze Plantation, which will run with the land and be binding on and inure to the benefit of every owner of property within Cypress Breeze Plantation.

ARTICLE I - DEFINITIONS

The following definitions apply wherever the capitalized terms appear in this Declaration. Additional terms also may be defined the first time they appear.

1.1 "Articles" means the Articles of Incorporation of the Cypress Breeze Plantation Homeowners Association, Inc. (hereafter "Association"), filed with the Secretary of State of Florida, as amended from time to time.

1.2 "Assessments" means, collectively, the following charges:

(a) "General Assessment" means the amount charged to each Member to meet the Association's annual budgeted expenses.

(b) "Individual Lot Assessment" means an amount charged to a Member's

individual Lot for any charges particular to that Lot.

(c) "Special Assessment" means a charge to each Member for capital improvements or emergency expenses.

1.3 "Board" means the Board of Directors of the Association.

1.4 "Building Restrictions and Design Requirements" refer to Declarant's initial requirements for structures allowed by Owners to be constructed on the lots, and subsequent amendments thereto.

1.5 "Bylaws" means the Bylaws of the Association.

1.6 "Cypress Breeze Plantation" refers to Cypress Breeze Plantation, the plat of which is recorded at Plat Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Walton County.

1.7 "Common Property" means those tracts of land that are (i) deeded to the Association and designated in the deed as Common Property, or (ii) labeled as a Common Area on the Plat. The term "Common Property" also means any personal property appurtenant to any real property owned by the Association or acquired by the Association if the personal property is designated as such in the bill of sale or other instrument conveying it. "Common Property" does not mean any area that is (i) dedicated in the plat to the county or municipal government or other party other than the Association, or (ii) sold or dedicated by the Association.

1.8 "Association" means the Association for Cypress Breeze Plantation Homeowners Association, Inc., a Florida nonprofit corporation, its successors and assigns, formed or to be formed by Declarant.

1.9 "Declarant" means Cypress Breeze, L.L.C., and its successors and assigns. Declarant also may be an Owner. The various rights of Declarant under this Declaration may be separated and assigned to different parties and, if so assigned, each assignee will be considered "Declarant" as to the specific rights so assigned. Declarant may collaterally assign its rights as Declarant by mortgage or other instrument, and such assignees may elect to either exercise the assigned rights or designate another party to exercise such rights if such assignees succeed to Declarant's interest in Cypress Breeze Plantation or any portion thereof.

1.10 "Declaration" means this Declaration of Covenants, Conditions, Restrictions, and Easements for Cypress Breeze Plantation and all supplements and amendments to this Declaration.

1.11 "Drainage System" means all drainage easements and rights of way, lakes, ponds, water management tracts, drainage facilities, conservation districts, conservation areas, and buffer zones, as shown on the Plat. The "Drainage System" also means a system that is designed and constructed or implemented to control discharges necessitated by rainfall events, incorporating methods to (i) collect, convey, store, absorb, inhibit, treat, use, or reuse water; or (ii) prevent or reduce flooding, overdrainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of discharges from the Drainage System as permitted pursuant to the Florida

Administrative Code.

1.12 "Residential" means those types of living arrangements where one or more individuals reside in a single family home environment. "Residential" shall not include business or commercial purposes.

1.13 "Lot" means any lot shown on a Plat along with any improvements constructed on the Lot.

1.14 "Member" means a member of the Association. Each Owner is also a Member. There are two classes of Members as defined in Article VII.

1.15 "Mortgagee" means any institutional lender that holds a bona fide mortgage encumbering a Lot. The term "institutional lender" specifically includes, but is not limited to, a bank, a savings and loan association, a mortgage lending company, an insurance company, a credit union, and the Federal National Mortgage Association or similar agency.

1.16 "Owner" means the record owner, whether that be one or more persons or entities, of (i) the fee simple title to any Lot, or (ii) a life estate in any Lot. "Owner" does not mean a Mortgagee.

1.17 "Plat" means the plat of Cypress Breeze Plantation and the plats of any additional land annexed to and made part of Cypress Breeze Plantation, from time to time.

1.18 "Public Records" means and refers to the Official Public Records of Walton County, Florida.

1.19 "Rules" means the rules governing the use of the Common Property originally enacted by Declarant and revised from time to time by the Association. The procedures regarding the Rules are set forth in Paragraph 5.6.

## ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION

This article describes the real property of which Cypress Breeze Plantation will initially be comprised, and provides the method by which additional property may be added.

2.1 Initial Property. The property initially subject to this Declaration consists of the property shown on the plat of Cypress Breeze Plantation described as Phase 1.

2.2 Annexation of Additional Property.

(a) Parties Authorized to Annex Property. Additional property may be annexed by the following parties:

(i) By Declarant. Unless waived by recorded instrument, Declarant will have the right, but not the obligation, from time to time in its sole discretion, to annex any property to Cypress Breeze Plantation, if such property is adjacent to or abuts any property shown on the Plat. In determining whether the property to be annexed is adjacent to or abuts the property shown on the Plat, Declarant may disregard any roads that are situated between the property shown on the Plat and the property to be annexed.

(ii) By Association. Additional property may be annexed to Cypress Breeze Plantation by the Association, pursuant to the same requirements as 2.2 (a) (i), but only after the termination of the Class B Membership. A two-third (2/3) vote of all owners entitled to vote is required for the Association to annex additional property.

(b) Procedure. The party effecting the annexation shall record a Supplemental Declaration in the Public Records. The Supplemental Declaration shall be executed by either Declarant, its assigns, or the president of the Association. The Supplemental Declaration shall contain the legal description of the property being annexed. The Supplemental Declaration may contain special provisions applicable to the property being annexed. These special provisions may limit the applicability of specific covenants, restrictions, and easements contained in this Declaration to the annexed property or may impose additional or different covenants, conditions, or restrictions to reflect the different character of the property being annexed. The party making the Supplemental Declaration will have sole discretion to determine the special provisions to be contained in the Supplemental Declaration; however, no special provisions may be included that exempt the owners of the property being annexed from equitably sharing in common expenses. Upon recording the Supplemental Declaration, the annexed property will become part of Cypress Breeze Plantation.

2.3 Further Subdivision or Replat of Lots. Owners (other than Declarant) may not subdivide or separate any Lot into smaller lots; however, this shall not prohibit corrective deeds or similar corrective instruments. An Owner may, by recording an instrument to that effect in the Public Records, combine two or more Lots for a single residential site, whereupon the combined property will be deemed to be a single Lot for all purposes. Declarant shall have the right to modify the Plat to make adjustments to Lot boundary lines if the Owners of the affected Lots consent. Declarant may make other adjustments to the Plat if Owners are not materially affected or if all Owners who will be materially affected consent to the modification. Owners shall not unreasonably withhold their consent to an adjustment, and consent will be deemed given if an Owner does not object in writing to a request for the Owner's consent. Declarant also may replat a Lot or Lots to Common Property, to roadway, or to other legal purpose, without the consent of the other Owners, whereupon such replatted Lot or Lots will no longer be deemed a "Lot." Declarant also may establish additional easements on a Lot or Lots without the consent of the other Owners.

### ARTICLE III - ARCHITECTURAL REVIEW AND CONSTRUCTION REQUIREMENTS

To ensure that the residential buildings within Cypress Breeze Plantation are harmonious, Declarant will create an Architectural Review Committee to approve all construction. Although certain requirements are specified herein, and in the Building Restrictions and Design Requirements, the Architectural Review Committee will not be limited to the specific requirements but rather will have broad discretion.

#### 3.1 Architectural Review Committee.

(a) **Composition.** The Architectural Review Committee will consist of a single person or a committee of persons selected by Declarant. Declarant may temporarily delegate this right to appoint members or may assign this right by written instrument recorded in the Public Records. Member(s) of the Architectural Review Committee will serve at the pleasure of the entity entitled to select the member(s) and may be replaced at any time. If Declarant (or assignee) fails to appoint at least one person to the Architectural Review Committee and such vacancy continues for 30 days after the Association gives written notice to Declarant (or assignee) of such vacancy, the Association will have the right to appoint the member(s) of the Architectural Review Committee until such time as Declarant (or assignee) exercises its right of appointment.

(b) **Professional Advisor.** The Architectural Review Committee may employ one or more architects or land planners to advise the Architectural Review Committee, but is not required to do so. Each advisor may sit on the Architectural Review Committee as either a voting or nonvoting member, at the discretion of the other members of the Architectural Review Committee. At the discretion of the Architectural Review Committee, the advisor may be paid a reasonable fee derived from application fees or payable by the Association.

#### 3.2 Architectural Review Procedure.

(a) **Construction Subject to Review.** All construction, improvements, remodeling, or modification on or to a Lot, except interior alterations not affecting the external appearance of the Lot or improvements on a Lot, must be approved in advance by the Architectural Review Committee. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows, and trim); replacement of roof or other parts of a building other than with duplicates of the original material; installation of antennas, satellite dishes or receivers, solar panels, or other devices; construction of fountains; construction of privacy walls or other fences or gates; addition of awnings, flower boxes, shelves, statues, or other outdoor ornamentation; addition of window coverings; and initial landscaping and any material alteration of landscaping. This right is general and is not limited to the specific items listed in this Paragraph or in Paragraph 3.4. Construction effected by or on behalf of Declarant will not be subject to approval by the Architectural Review Committee.

- include:
- (b) Application. Three sets of the plans shall be submitted for approval and shall
- (i) The construction plans and specifications, including all proposed clearing and landscaping;
  - (ii) elevations of all proposed improvements. Elevations shall be drawn at 1/4" scale. All exterior views of the dwelling must be shown and all exterior elevations of amenities such as walls, fountains, built up planters, etc. shall be shown;
  - (iii) a lot survey showing current improvements;
  - (iv) Dimension Site Plan. This drawing shall show setbacks and all planned improvements, gates, fountains, etc.;
  - (v) Foundation and Framing Plan. Plans to be drawn at 1/4" scale and in conformity with all Walton County and the State of Florida codes;
  - (vi) Floor Plans. Floor plans to be drawn 1/4" scale, containing all information necessary for construction;
  - (vii) Details. Drawings shall show exterior trim, window and door details, railings, planter construction, side walls and fences, and all other exterior amenities; and
  - (viii) such other items as the Architectural Review Committee requires.

No construction on any Lot shall be commenced and no Lot shall be modified except in accordance with the submitted plans. Any modification to the approved plans must also be reviewed and approved by the Architectural Review Committee.

(c) Basis for Decision. The Architectural Review Committee, in making its decisions, may consider purely aesthetic matters that in the sole opinion of the Architectural Review Committee will affect the desirability or suitability of the construction. The Architectural Review Committee will not be limited to the specific restrictions and requirements of this Article in making its decisions.

(d) Application Fee; Deposit. The Architectural Review Committee may establish procedures for the review of applications, and impose a reasonable fee to be paid by the applicant. The fee shall initially be set at One Hundred Dollars (\$100.00). The Architectural Review Committee also may require an applicant to post a security deposit to ensure that all work is effected only in accordance with approved plans. The Architectural Review Committee may retain the security deposit until all work has been completed in accordance with the approved plans.

(e) Notification of Approval. The Architectural Review Committee must notify

an applicant in writing of its decision within 30 days of receiving a completed application. If approval or disapproval is not given within 30 days after submission of a completed application, the application will be deemed approved unless the applicant agrees to an extension.

(f) Enforcement. If any construction or modification is undertaken that has not been approved or that deviates substantially from the approved plans, Declarant or the party delegated or assigned Declarant's right to appoint the Architectural Review Committee, may bring an action for specific performance, declaratory decree, or injunction, and will be entitled to recover all costs of such action including attorneys fees at trial or on appeal. Any such action also shall determine entitlement to any retained security deposit. At such time as Declarant (and its affiliates) owns no Lots within Cypress Breeze Plantation, each Owner will have the right to enforce these provisions. The failure to strictly enforce these provisions as to a particular violation or violations will not be deemed a waiver to enforce these provisions as to future or continuing violations.

3.3 Liability. The Architectural Review Committee and Declarant will not be liable to the applicant or to any other party to ensure that the proposed plans comply to any applicable building codes, for inadequacy or deficiency in the plans resulting in defects in the improvements, or to ensure that construction was done in accordance with the plans.

3.4 Specific Restrictions and Requirements. The following restrictions and requirements shall apply to the Lots and to structures constructed thereon; however, the Architectural Review Committee will not be limited to these items when reviewing plans and will have broad discretion in the interpretation of these restrictions.

(a) Commercial Building. No building may be erected, placed, or permitted to remain on any Lot for business or commercial purposes. However, this shall not preclude Declarant from annexing additional property which may be designated for commercial or business uses.

(b) Building Restriction Lines. No dwelling shall be located nearer to the streets or adjacent Lots than the applicable building setback requirements on the applicable Plat, or if not specified on the Plat, of the applicable government regulation.

(c) Exterior Color and Materials. The color and materials of all exterior surfaces will be subject to approval of the Architectural Review Committee. The Architectural Review Committee may promulgate a list of approved colors and materials for this purpose. This restriction includes, but is not limited to, roofs, window tints and films.

(d) Non-Interference With Easements. No structure, planting, or other material may be placed or permitted to remain on a Lot if it may damage or interfere with the installation or maintenance of any entry way, hedge, planting, tree, grass, fence, or other improvement or landscaping, or with maintenance or repair of the Drainage System or of any improvement located within the Common Property or any drainage easement. Any easement area located on a Lot and all improvements on an easement area shall be maintained by the Owner of the Lot whereon the easement area lies, except for those easement areas the maintenance of which is the responsibility of a public authority, utility, or the Association. In any event, an Owner may not interfere with the maintenance of an easement area on the Owner's Lot by the party responsible for maintaining the

same. This provision may be enforced by any person or party benefitting from the easements or responsible for the maintenance of them.

(e) Utility Connections. Connections for all utilities, including, but not limited to, water, sewage, electricity, telephone, and cable must be run underground from the connecting point therefrom to the building in such a manner as is acceptable to the respective utility authority or company and the Architectural Review Committee.

(f) Mailboxes. All mailboxes, paper boxes, or other receptacles of any kind for use in the delivery of mail, newspapers, magazines, or similar material shall be erected or permitted in only the location approved by the Architectural Review Committee and must be constructed according to a size, design, and material approved by the Architectural Review Committee.

(g) Signs. No sign of any kind shall be displayed to general view on any Lot except under any of the following circumstances:

(i) Directional or traffic signs may be installed by the appropriate governmental authority, by Declarant, or by the Board, and entrance or other identification signs may be installed by or with the consent of the Architectural Review Committee; and

(ii) Declarant may display signs for the sale of Lots, homes, and promotion of the subdivision; and

(iii) One "For Sale" sign not more than two square feet (as measured on each side of the sign) may be displayed on a Lot by the Owner or the agent for such Owner; and

(iv) One "For Rent" sign not more than two square feet (as measured on each side of the sign) may be displayed from the interior of a dwelling on a Lot by the Owner or the agent for such Owner.

(h) Fences. No fences, except as may be required by law or government regulation, may be erected on any Lot without prior written approval of the Architectural Review Committee. The Architectural Review Committee may specify the height, location, and material as conditions of any approval, provided that fences commonly known as "chain-link" or "hurricane fences" or any fence similar to same are strictly prohibited and shall not be permitted by the Architectural Review Committee under any circumstances. The Architectural Review Committee will select a single color or other finish for all fences in order to maintain a uniform appearance throughout Cypress Breeze Plantation. Fences shall be located only where indicated on plans approved by the Architectural Review Committee but, generally, will be permitted only in the rear yard of a Lot. If the front of the dwelling is irregular in design, the Architectural Review Committee will determine the setback requirement for the fences. These restrictions will not apply to fences constructed by Declarant.

(i) Manufactured Homes. No manufactured homes, trailers or modular homes shall be permitted in Cypress Breeze Plantation.

3.5 Temporary Structures. No structure of a temporary nature, whether a trailer, tent,



shack, garage, barn, or any other such building, is permitted on a Lot. This restriction excludes temporary buildings used in connection with and during the construction of a building if approved by the Architectural Review Committee.

3.6 Completion of Construction and Repairs. The improvement of a Lot and the construction, repair, or remodeling of any improvement must be diligently and continuously pursued once begun and, in any event, promptly completed within one (1) year after commencement of work. The Architectural Review Committee may, as a condition of approval, impose a deadline to complete construction. In addition to any other remedies, the Architectural Review Committee may impose a fine for each day of violation for work that is not diligently pursued, continued, and completed.

3.7 Sales Offices. Notwithstanding anything in this Declaration to the contrary, Declarant and parties approved by Declarant may construct and maintain sales offices and sales trailers, together with a sign or signs relating thereto, on a Lot or Lots or on any other property within Cypress Breeze Plantation until such time as all of the Lots are sold.

3.8 Destruction or Damage to Subdivision Improvements. Owners will be responsible for any and all damage caused to Common Property or subdivision improvements, including, but not limited to, curbs, gutters, water hydrants, sidewalks, power poles, or fences erected by anyone, whether such damage is caused by the Owner or the Owner's employees, agents, invitees, guests, contractors, or subcontractors. Any liability incurred under this provision will be both a personal obligation and an Individual Lot Assessment on such Owner's Lot.

3.9 Landscaping. Landscaping shall be kept up to code as set forth in the Architectural Review Committee guidelines.

3.10 Conversion of Lots to Other Uses. Notwithstanding anything herein to the contrary, Declarant reserves the right to (i) use any Lot owned by it for the purpose of ingress and egress to any adjoining property, and (ii) cause any Lot to be platted as a right of way. Declarant also reserves the right to impose additional easements on any Lot owned by Declarant.

#### ARTICLE IV - USE OF PROPERTY; INDIVIDUAL LOTS

The following restrictions are imposed on the use of the Lots to promote a harmonious neighborhood and limit uses that may be a nuisance to other Owners.

4.1 Business and Commercial Use. No building may be erected on any Lot for business and commercial purposes.

4.2 Further Subdivision. Declarant reserves the right to re-subdivide the Lots; provided, however, no building shall be erected on or allowed to occupy such re-subdivided Lot if the same has an area less than that required by any applicable zoning ordinance. In the event of re-subdivision all provisions in this Declaration will apply to each re-subdivided Lot as if each re-subdivided Lot had been a Lot as originally shown on the Plat.

4.3 Maintenance of Exteriors. Each Owner shall at all times maintain the exterior of all structures on the Owner's Lot and any and all fixtures attached thereto in a slightly manner. If an Owner fails to undertake the necessary repair or maintenance within five days of notice of violation (given by Declarant or the Architectural Review Committee) or fails to complete the work within 15 days of the notice, Declarant or the Association may effect the repairs or maintenance to the Owner's Lot to preserve the beauty, quality, and value of Cypress Breeze Plantation and the costs of these repairs or maintenance, plus a 15% administrative fee, shall be payable by the Owner to the party effecting the work. If the Owner fails to make this payment within five days of demand, the costs and fee will constitute an Individual Lot Assessment against the Owner's Lot. If the work was effected by Declarant, the Association will be responsible to pay the requisite costs and fee to Declarant and collect the same from the Owner. Each Owner grants Declarant, the Association, and their respective contractors, employees, and agents a perpetual easement to enter onto the Owner's Lot to carry out the work, and releases those parties from all liability with respect to such work. Additionally, the Association may impose a fine for each day this Paragraph is violated.

4.4 Noxious Vegetation. No Owner may permit the growth of noxious weeds or vegetation on the Owner's Lot or on the land lying between the street and the front Lot line of the Owner's Lot. All unimproved areas of a Lot must be maintained in an attractively landscaped and slightly manner. The Association may impose a fine for each day this paragraph is violated.

4.5 Litter, Trash, Garbage. No garbage, trash, refuse, or rubbish may be deposited, dumped, or kept on any Lot except in closed sanitary containers. Trash containers must be kept inside a garage or otherwise hidden from public view. Trash containers may be placed at the front of the Lot on the day designated for pickup, but only if promptly returned to the proper storage area as soon as possible.

4.6 Nuisances. No Owner may cause or permit unreasonable noises or odors on the Owner's Lot. No Owner may commit or permit any nuisance, any immoral or illegal activity, or anything that may be an annoyance or a noxious or offensive activity to the other Owners or their guests. Soliciting within Cypress Breeze Plantation is strictly prohibited without the approval of Declarant or the Association.

4.7 Parking. Private passenger motor vehicles and non-commercial trucks and non-commercial vans may be parked on the Lots but must be kept completely on the driveway area of a Lot without blocking the sidewalk. Boats and personal watercraft, including but not limited to jet ski and waverunner type watercraft, and all trailers therefor may not be parked on the Lots. Commercial trucks and commercial vans may only be parked on the driveway area of a Lot when necessary for providing services to an Owner, or for pickup and delivery service, but only while undertaking this activity and never overnight. Recreational vehicles, motor homes, travel trailers, campers, and trailers may be parked on the driveway area of a Lot for up to a total of 48 hours per week for loading and unloading only, but may not be used for dwelling purposes. Repairs to and/or maintenance of any vehicle on the Lots is prohibited.

4.8 Animals/Pets. Common household dogs and cats weighing less than forty (40) pounds (not exceeding one of each on any Lot), aquarium fish, small birds in indoor cages and mice, gerbils and hamsters in indoor cages are permitted to be kept on the Lots, but shall not be kept in such number as to be an annoyance to other Owners, their tenants or guests. The Board of Directors may approve the keeping of pets weighing in excess of forty (40) pounds, in its sole and arbitrary discretion. All owners of pets shall be held strictly responsible to immediately collect and properly dispose of the wastes and litter of their pets on any Lot. Should a pet owner fail to clean up after his pet, the Association shall perform that service and bill the Owner of the Lot on which the pet resides, with a minimum charge of \$25.00 for such service. The charge may be increased by vote of the Board of Directors. The Association further reserves the right to adopt and enforce additional pet regulations necessary to ensure that pets are not and do not become a nuisance, and demand that an Owner or the tenants or guests of an Owner permanently remove from a Lot any and all pets which create disturbances and annoyances to other Owners, their tenants or guests.

#### ARTICLE V - COMMON PROPERTY

The Association will own and maintain the Common Property for the benefit of all Members and, when necessary, improve, convey, or lease the property.

##### 5.1 Title to Common Property.

(a) Ownership. The Common Property will be owned by the Association for the benefit of all owners.

(b) Conveyance. The Association is authorized to buy or lease real or personal property to be added to the Common Property. After termination of the Class B Membership, the Association may (with the consent of Declarant) sell or lease any part of the Common Property; however, membership approval is not needed for the Board to sell personal property or to grant easements on real property.

(c) Dedication. If the county or municipal government requests that the Association convey title to or dedicate the Common Property or any portion thereof to the public, the Association will be authorized to make such conveyance or dedication, but only with the approval of the Members. Upon such dedication, all obligations of the Association regarding the property so dedicated will cease except for requirements imposed as a condition of the dedication.

##### 5.2 Maintenance; Management; Contracts.

(a) Association Responsibility. The Association will be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Property and must keep the same attractive, clean, and in good repair in accordance with this Declaration and applicable governmental regulations. This shall include, but not be limited to, water and sewer lines, lift station, and roads.

(b) Management Agreements. The Association may contract with Declarant or

any other party for the performance of all or any portion of the management of the Association and the Association's maintenance and repair obligations. Management costs will be included within the Assessments. The property manager for the Association, its employees, officers, contractors, and assigns will have the right to use the Common Property without liability for Assessments or other charges, as more particularly specified in the management agreement.

5.3 Capital Improvements. The Association may make capital improvements to the Common Property and may modify the uses of the Common Property.

5.4 Damage or Destruction of Common Property by Owner. If any Owner or any guest, customer, tenant, licensee, agent, employee or family member damages any of the Common Property as a result of negligence or misuse, the Owner hereby authorizes the Association to repair the damage. The cost of repair will be the responsibility of that Owner and will become an Individual Lot Assessment payable by the responsible Owner.

5.5 Compliance with Laws. Lots and the Common Property may be used and must be maintained in accordance with all applicable laws, ordinances, and regulations, including, without limitation, all regulations and requirements of the Water Management District and the Florida Department of Environmental Protection.

5.6 Rules for Use of Common Property. Members will have the right to use the Common Property only in accordance with the terms of the Rules initially made by Declarant and revised from time to time by the Association. The Rules may restrict the time of use, provide limitations on use of the Common Property by a Member's guests and lessees, and provided such fee or charge is uniformly assessed. No Member will be entitled to any rebate or reduction in such Member's Assessments on account of any such restrictions imposed on the Member's use of the Common Property. The Rules will be kept at the offices of the Association and copies will be made available without charge to any Member requesting the same.

5.7 Drainage System Located in Common Property. The Association will be responsible for the maintenance, operation, and repair of such portion of the Drainage System as is located on Common Property. Maintenance means the exercise of practices that allow the system to provide drainage, water storage, conveyance, or other stormwater management capabilities as permitted by the Water Management District and the Florida Department of Environmental Protection. Any repair or reconstruction of the Drainage System shall be as permitted or, if modified, as approved by the Water Management District or the Florida Department of Environmental Protection.

## ARTICLE VI - GRANT AND RESERVATION OF EASEMENTS

Every Owner has the benefit of certain easements and the responsibility for others.

6.1 Owners' Easement of Enjoyment of the Common Property. Every Owner will have a right and easement of enjoyment in and to the Common Property, subject to the restrictions imposed in this Declaration or in the Rules. This easement will be appurtenant to and shall pass with title to every Lot. Any Owner, subject to the provisions of this Declaration, the Articles, the Bylaws, and the Rules, may delegate the Owner's right to enjoyment of the Common Property to the Owner's

family, tenants and guests.

6.2 Easements in Favor of Declarant and Association. Declarant reserves for itself, its successors and assigns, and for the Association, the following perpetual easements:

(a) Utilities. Easements, for ingress, egress, installation, replacement, repair, and maintenance of all public and private utilities and conveniences, upon all property subject to utility easements as shown on the Plat; across, over, through, and under the Common Property, and five feet in width along the front, rear, and side line of each Lot. This easement shall be automatically deemed abandoned as to the interior side Lot lines if two or more Lots are combined into a single building site.

(b) Police Powers; Security. A blanket easement throughout Cypress Breeze Plantation for police powers and services supplied by the local, state, and federal governments and for any security services that may be provided by the Association.

(c) Construction Easement. An exclusive easement is hereby reserved for the benefit of Declarant, its agents, employees, successors and assigns, for the purposes of completing construction on any existing Lot, and for new construction on any property annexed hereto pursuant to the annexation provisions described in this Declaration..

(d) Future Easements. Declarant reserves the right to impose further restrictions and to grant or dedicate easements and rights of way on any Lot within the Property owned by the Declarant. In addition, Declarant hereby expressly reserves the right to grant easements and rights of way over, under and through the land now or later annexed other than the Lots, so long as the Declarant shall own any portion of Cypress Breeze Plantation, or property to be annexed.

## ARTICLE VII - ASSOCIATION ORGANIZATION

Although Declarant will control the Association during the development stage, the Owners eventually will be responsible for the continuation of the Association.

7.1 Membership. Every Owner is a mandatory Member of the Association. Membership is appurtenant to and may not be separated from title to any Lot.

7.2 Voting Rights. The Association will have two classes of voting membership:

(a) Class A. Class A Members are all Owners of Lots other than Declarant, while Declarant is a Class B Member. Class A Members will be entitled to one vote for each Lot owned.

(b) Class B. The Class B Member is Declarant, which shall be entitled to 10 votes in all matters for each Lot owned by the Class B Member or its affiliates. Declarant may assign its Class B Membership. The Class B Membership will end and be converted to Class A Membership three months after the first to occur of the following events:

(i) The total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership;

(ii) All phases of Cypress Breeze Plantation have been completed and made subject to this Declaration.

(iii) Declarant chooses to become a Class A Member, as evidenced by instrument to such effect, executed by Declarant, which is recorded in the Public Records.


7.3 Exercise of Vote. When more than one person holds an interest in any Lot, all such persons shall be Members; however, the number of votes for that Lot will not be increased, and the Members must determine among themselves how the Lot's vote may be exercised. Corporations, partnerships, and other entities must notify the Association of the natural person who will be considered a Member of the Association and be entitled to exercise its vote.

7.4 Board of Directors.

(a) Composition. The Board initially will consist of at least three persons appointed by Declarant. Upon termination of the Class B Membership, the Board will consist of at least three directors, selected in accordance with the Articles and Bylaws.

(b) Classes. Each director will be appointed or elected to one of three classes to be known as Class 1, Class 2 or Class 3. Directors will be elected by class to provide for staggered terms. If the number of directors is increased as permitted by the Bylaws, each new position must be assigned to a class with the intention that each class will have as equal a number of directors as possible under the circumstances.

(c) Term of Office. The initial term for the Class 1 director will be for one year. The initial term for the Class 2 director will be for two years. The initial term for the Class 3 director will be for three years. Subsequent terms for directors of any class will be for three years; however, directors will always serve until resignation, removal, or the election of their successors.

(d) Qualifications. After termination of the Class B Membership, each director must be a Member. If a director ceases to be a Member during the term of office, such person will be automatically removed from the Board, effective upon such occurrence. Directors need not be Members. 

(e) Voting Procedure. At each Annual Meeting, the Members will elect the directors to replace the directors of the class whose term of office is then expiring. Each Class A Member will have one vote for each seat to be filled and the Class B Member will have 10 votes for each Lot owned by the Class B Member or its affiliates. No cumulative voting will be permitted. The candidate(s) receiving the highest number of votes will be declared elected. If there is a tie vote, the Class B Member will be given one additional vote and the opportunity to cast such vote to break the tie. The meeting will, in other respects, be conducted in accordance with the Articles and the Bylaws.

(f) Removal. Any director may be removed from office, with or without cause, by at least a majority vote of the Members.

(g) Vacancies; Replacement of Directors. Any vacancy occurring in positions as director may be filled by a majority vote of the remaining Board members. If the remaining Board

members do not constitute a quorum, a special meeting of the Association may be called by any officer or by any Member to elect new members to the Board.

(h) Compensation. Directors will not receive compensation for their services unless approved by the Members. This will not prevent a Class B Member or an affiliate of a Class B Member from being compensated for management or other services.

7.5 Relationship to Articles and Bylaws. The Articles and Bylaws will govern all matters of the Association not set forth in this Declaration. The terms of this Declaration will prevail over any conflicting provisions in the Articles and Bylaws.

#### ARTICLE VIII - OPERATION OF ASSOCIATION AND BOARD

Most day-to-day decisions about the maintenance of the Common Property and enforcement of the Declaration are the responsibility of the Board, acting on the Members' behalf. For those decisions requiring Members' approval, the Annual Meeting provides a public opportunity for discussion.

##### 8.1 Annual Meeting.

(a) When called. The Annual Meeting will be called every year for the election to the Board of the class of directors whose term then expires and for other business requiring approval of the Members. The meeting date shall be as set forth in Articles and the the Bylaws.

(b) **Quorum.** Voting at an Annual Meeting requires the presence of (i) Members (in person or by proxy) representing 30% of the voting interests of the entire membership, and (ii) Declarant or its representative so long as Declarant owns at least one Lot.

(c) Notice. Notice of the Annual Meeting may be given by (i) mailing a notice to each Member at the last address furnished to the Association, (ii) delivering notices to a Member's dwelling on a Lot, but only if the Member regularly lives in the dwelling, or (iii) posting conspicuous notices for the meeting in the Common Property. Notice should be given at least 30 days before the Annual Meeting.

## 8.2 Board Meetings.

(a) Board's Responsibility. Except as specifically provided in this Article or elsewhere in this Declaration, the Board has been delegated the power, and has the authority to act on behalf of the Association in all matters.

(b) Quorum. Voting at a Board meeting requires the presence in person or by telephone conference call of at least 50% of the directors. Except as prohibited by law, action required to be taken by vote of the Board may be taken in the absence of a meeting by obtaining the written approval of a majority of the Board.

(c) Notices. Notices of all meetings of the Board shall be posted in a conspicuous place in the Common Property at least 48 hours in advance of the date of the meeting, absent emergency. If the Board desires to levy an Assessment at a meeting, the notice must include a statement describing the Assessment being considered. All meetings must be open to the Members, except for meetings permitted by law to be closed.

8.3 Recordkeeping. The Board shall keep, or cause to be kept, a record of all meetings, both of the Board and of the Association. For each action taken, the record must state the vote and a description of the action approved, and, if applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record must be available for inspection by any Member, except for records of closed meetings of the Board. Officers may be elected by the Board by secret ballot.

## ARTICLE IX - ASSOCIATION BUDGET

The Board is responsible for the fiscal management of the Association.

9.1 Fiscal Year. The fiscal year of the Association will begin January 1 of each year and end on December 31 of that year. The Board must prepare an annual budget.

9.2 Budget. A copy of the budget must be provided to each Member or a notice must be given to the Members that a copy of the budget is available upon request and without charge. The annual budget will estimate total expenses to be incurred by the Association in carrying out its responsibilities. The budget must include:

(a) The cost of wages, materials, insurance premiums, services, supplies, and other expenses for the rendering of all services required or permitted under this Declaration;

(b) Reasonable amounts, as determined by the Board, for working capital for the Association and for reserves;

(c) Fees for professional management of the Association (which may include Declarant), legal counsel, and accounting;

(d) Taxes, if the Common Property is taxed separately from the Lots;

(e) An estimate of revenues from the General Assessment.



9.3 Reserves. The Association shall accumulate and maintain adequate reserves for working capital, contingencies, and replacements, to be included in the annual budget and collected as part of the annual General Assessment. This shall not occur until the termination of Declarant's guarantee described in Paragraph 10.2 of this document. Extraordinary expenses not originally included in the annual budget will be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose. If there is an excess of reserves at the end of a fiscal year, such excess may be used to reduce the General Assessments for the following year.

9.4 Preparation and Approval of Annual Budget.

(a) Initial Budget. Declarant will prepare the first annual budget.

(b) Subsequent Years. Budgets other than the initial budget will be prepared at the direction of the Board at least one month before the end of the fiscal year. The budget and the General Assessment must be adopted by a majority of the Board.

9.5 Effect of Failure to Prepare or Adopt Budget. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year will not waive or release a Member's obligation to pay a General Assessment, whenever the amount of such General Assessment is finally determined. In the absence of an annual budget, each Member shall continue to pay the General Assessment at the rate established for the previous fiscal period until notified otherwise.

9.6 Financial Reporting. The Board shall prepare an annual financial report for the Association as required by Florida law within 60 days of the close of the fiscal year and either provide each Member with a copy of the report or a notice that a copy is available without charge.

9.7 Capital Improvements. The Board shall determine whether capital improvements should be paid from General Assessments or by Special Assessments. If the cost of all capital improvements to be paid within a single calendar year totals more than 25% of the Association's annual budget, the capital improvements must be approved by majority vote of the Members. Any repair, maintenance or replacement of existing improvements will not be considered a capital improvement.

9.8. Reserves shall be kept separate from other Association funds. All other sums collected by the Board with respect to Assessments and charges of all types may be commingled in a single fund.

9.9 Amendment of Budget. The Board may amend the budget during any fiscal year and increase the amount of the General Assessment for such year if it appears that there will be insufficient income to meet the obligations of the Association.

## ARTICLE X - COVENANTS TO PAY ASSESSMENTS

The cost of fulfilling the Association's financial obligations is divided equitably among the Members by means of Assessments. To ensure that the Association has a reliable source of funds and to protect those Members who contribute their equitable share, Assessments are mandatory and are secured both by a lien on the Lots and the Member's personal obligation.

10.1 **Obligation for Assessments.** Declarant covenants for each Lot, and, by acceptance of a deed or other transfer instrument, whether or not expressed in such deed or instrument, each Owner of any Lot is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for expenses included in the budget,
- (b) Special Assessments for the purposes provided in this Declaration, and
- (c) Individual Lot Assessments for any charges particular to that Lot.

10.2 **Guarantee of Class B Member.** The Class B Member agrees that it will be obligated to pay any operating expenses of the Association in excess of the revenue derived from the Assessments, including any increases made during a fiscal year, until the end of the first fiscal year of the Association. This obligation is called the "Budget Guarantee." The Class B Member may elect, but shall not be required, to renew the Budget Guarantee on an annual basis. In return for the Budget Guarantee, the Class B Member and its affiliates will not be liable for any Assessments on any Lots they own. A Lot exempt from Assessments pursuant to this Paragraph is referred to as an "Exempt Lot."

10.3 **Equitable Division of Assessments.** The General Assessments and Special Assessments shall be assessed among all Lots as follows:

- (a) Exempt Lots will not be subject to assessment.
- (b) The General Assessment and Special Assessment will be payable equally among lots, whether vacant or improved. Each Lot will be subject to a sum equal to the respective General Assessment or Special Assessment divided by the number of all Lots, excluding Exempt Lots.

10.4 **General Assessments.**

(a) **Establishment by Board.** The Board will set the date or dates the General Assessments will be due, and it may provide for payment in monthly, quarterly, semiannual, or annual installments.

(b) **Proration Upon Sale of Exempt Lot or Loss of Exemption.** Upon conveyance of an Exempt Lot, or upon an Exempt Lot becoming subject to Assessments on account of the Class B Member not extending the Budget Guarantee, the annual General Assessment will become due for such Lot(s); provided however, that the General Assessment will be prorated on a monthly or daily basis, whichever the Board elects, and only the portion of the General Assessment attributable

to the remainder of the fiscal year will be due. The portion of the General Assessment attributable to the portion of the fiscal year in which the affected Lot was an Exempt Lot will not be assessed. If payment of the General Assessment is by installment, only the applicable portion of the current installment will be due.

(c) **Late Fee and Interest.** The Board may impose a reasonable late fee. The initial late fee for an installment shall be Twenty-five Dollars (\$25.00). Additionally, interest will accrue at the highest lawful rate on delinquent payments.

10.5 **Special Assessments.** In addition to the General Assessments, the Board may levy, in any fiscal year, a Special Assessment applicable as follows:

(a) **Capital Improvements.** Any capital improvement that has been approved in accordance with this Declaration.

(b) **Emergency Special Assessment.** By a 2/3 vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Declaration requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget, or unanticipated increases in the amounts budgeted).

(c) **Exemption.** Exempt Lots will not be subject to Special Assessments, nor will an Exempt Lot be subject to payment of any Special Assessment or any portion thereof declared or assessed while such Lot was an Exempt Lot even if payments for such Special Assessments are made in installments becoming due subsequent to the time such Lot no longer is considered an Exempt Lot. [For example if a Special Assessment is declared on January 1 while Lot 7 is an Exempt Lot, but the payment of the Special Assessment is not required until March of the same year, then even if Lot 7 is not an Exempt Lot as of February of such year, Lot 7 still will be considered exempt from such Special Assessment.]

10.6 **Individual Lot Assessments.** The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot or any other charges designated in this Declaration as an Individual Lot Assessment. An Individual Lot Assessment may be levied on account of any legal expenses (at trial or on appeal) and costs incurred by the Association in enforcing this Declaration or in enforcing any other declaration the Association is authorized to enforce.

10.7 **Effect of Nonpayment of Assessment; Remedies.**

(a) **Personal Obligation.** All Assessments, together with any late fees, interests, and costs of collection when delinquent, including reasonable attorneys' fees (at trial or on appeal) whether or not a lawsuit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Lot at the time the Assessment Charge was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) **Creation of Lien.** The Assessment Charge also shall be a continuing lien on the Lot against which the Assessment Charge is made, which lien is effective upon recording a claim of lien, but relating back to and having a priority as of the date of this Declaration. This lien in favor

of the Association will secure the Assessment Charge that is then due and any that may accrue subsequent to the recording of the claim of lien and before entry of final judgment of foreclosure. The lien in favor of the Assessment Charge is subject to the subordination provisions of this Paragraph.

(c) Lawsuit for Payment; Foreclosure of Lien. The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, or may foreclose the lien in a manner similar to foreclosure of a mortgage lien, or both. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage, and convey the Lot.

(d) Subordination of the Lien to Mortgages. The lien of the Assessment Charge will be inferior to the first mortgage lien of any Mortgagee. Sale or transfer of any Lot pursuant to foreclosure of such a mortgage, including a deed in lieu of foreclosure, shall extinguish the lien as to payments that became due before the sale or transfer.

(e) Other Remedies. The Association may assess fines and suspend the voting rights and right to use of the Common Property by an Owner for any period during which any Assessment against the Owner's Lot remains unpaid, but only as permitted by law.

(f) Waiver of Jury Trial. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DECLARATION OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING TO THE SUBJECT MATTER OF THIS DECLARATION AND THE SALE OF ANY LOT FROM DECLARANT, OR ITS SUCCESSORS AND ASSIGNS, TO AN OWNER THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS DECLARATION.

10.8 Certificate of Payment. The treasurer of the Association or the manager of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board or by the manager, if authorized by the Board, stating whether any Assessments are owed by that Owner. The Board may establish a reasonable fee for such certificate. Such certificate will be conclusive evidence of payment of an Assessment through the date of the certificate.

#### ARTICLE XI - INSURANCE AND INDEMNITY

Insurance is essential to protect the interests of the various Owners and to ensure that funds will be available for rebuilding after a casualty; however, because insurance costs may increase significantly or new types of coverage may be available, this Article gives some flexibility to the Board to select insurance coverage that is reasonable for the conditions that exist at that time.

11.1 Review of Coverage. The Board shall review limits of coverage for each type of insurance at least once every five (5) years.

11.2 Casualty Insurance. The Board shall be required to obtain and maintain fire insurance as appropriate. Endorsements for extended coverage, vandalism, malicious mischief, and windstorm

should be obtained if available at reasonable cost. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less than 80% of the insurable value (based upon replacement) of the improvements constructed on the Common Property.

11.3 Public Liability and Property Damage. The Board shall obtain public liability and property damage insurance in such limits as the Board may from time to time determine, insuring against any liability arising out of, or incidental to, the ownership and use of the Common Property and the activities of the Association as permitted by this Declaration. Whenever practicable, such insurance should be issued on a comprehensive liability basis and should contain a "severability of interest" endorsement that shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board, or other Owners. Such insurance must always name Declarant as an additional insured until 25 years after the date of this Declaration.

11.4 Director Liability Insurance. The Board may obtain liability insurance insuring against personal loss for actions taken by members of the Board in the performance of their duties. Such insurance shall be of the type and amount determined by the Board in its discretion.

11.5 Other Insurance. The Board shall obtain and maintain worker's compensation insurance if and to the extent necessary to meet the requirements of law, and such other insurance as the Board may deem prudent.

11.6 Repair and Reconstruction after Casualty. If casualty damages or destroys any of the Common Property, the Board shall arrange for and supervise its prompt repair and restoration. The Board shall obtain funds for such reconstruction first from any insurance proceeds, then from any reserves for the repair and replacement of such improvements, and then from any Special Assessments that may be necessary after exhausting insurance and reserves.

11.7 Indemnity of Declarant. In consideration of Declarant conveying the Common Property to the Association, the Association releases, indemnifies, and shall defend and hold Declarant, its officers, employees, and agents harmless from any and all liability arising out of the Common Property or construction and shall defend Declarant against all claims of any third party. Such indemnity and defense includes any attorneys' fees and costs incurred by Declarant at trial and on appeal. Declarant shall have the right to choose its own attorney(s).

## ARTICLE XII - GENERAL PROVISIONS

This article sets forth rules of interpreting the Declaration, provides for enforcement, and sets forth the procedure to amend the Declaration.

12.1 Incorporation of the Land Use Documents. Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

12.2 Release From Minor Violations. Declarant and the Architectural Review Committee or either of them shall have the right at any time, by written instrument recorded in the Public Records of Walton County, to release a Lot from minor violations of this Declaration including, without limitation (i) encroachments into easements, (ii) encroachments over building restriction lines, and (iii) construction of less than the required minimum square footage for the dwelling provided that the square footage is at least 90% of the required minimum.

### 12.3 Enforcement.

(a) The covenants and restrictions contained in this Declaration may be enforced by Declarant, any Owner, and any Mortgagee in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or lawsuit seeking damages, injunction, specific performance, or any other form of relief, against any person, firm, or entity violating or attempting to violate any covenant or restriction herein. The failure by any party to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of such covenant or restriction or of the right of such party to thereafter enforce such covenant or restriction. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees and court costs at all trial and appellate levels. Any dispute arising pursuant to benefits and obligations contained in this Declaration, or arising from the sale of Lots by Declarant to Owners, shall be determined by a judge and not a jury, with venue solely being in Walton County Circuit Court. All Owners specifically waive their right to a jury trial in any litigation arising out of this Declaration or arising from the sale of Lots by Declarant. In the event either party incurs any attorney's fees and costs in enforcing this Agreement, whether or not action is instituted, the defaulting party shall reimburse the non-defaulting party for such attorney's fees and costs upon demand. Prior to initiating any litigation, the parties shall submit their dispute(s) to non-binding mediation.

(b) The Florida Department of Environmental Protection will have the right to enforce, by proceedings at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Drainage System.

12.4 Assignment. Declarant shall have the right, from time to time, to assign any of its rights or obligations pursuant hereto in part or in whole.

12.5 Notices. Notices shall be given as to Owners by sending first class postage prepaid mail to the Owner's address maintained by the Association, and as to Declarant, by sending certified mail to the address of Declarant filed with the Florida Secretary of State.

### 12.6 Amendment.

(a) Subject to the provisions of Paragraph 12.7, Declarant specifically reserves the absolute and unconditional right, as long as Declarant owns any of the Lots, to amend this Declaration without the consent or joinder of any party to (i) conform to the requirements of the Florida Department of Environmental Protection or other governmental agency, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration,

Department of Housing and Urban Development, or any other generally recognized institution involved in the purchase and sale of home loan mortgages; (ii) conform to the requirements of mortgage lenders or title insurance companies; or (iii) perfect, clarify, or make internally consistent the provisions herein.

(b) Subject to the provisions of Paragraph 12.7, Declarant reserves the right to amend this Declaration in any other manner without the joinder of any party, as long as no Owner's right to the use and enjoyment of the Owner's Lot is materially altered.

(c) Subject to the provisions of Paragraph 12.7, this Declaration may be amended by consent of Owners of seventy-five percent (75%) or more of the Lots as evidenced by recording an instrument executed by said Owners in the Public Records, provided that no such amendment will be effective without the consent of Declarant, or its assigns, until Declarant and its affiliates own no Lots or other property within Cypress Breeze Plantation.

(d) Declarant, without the consent of any party, may bring within the scheme of this Declaration additional land by Supplementary Declaration in accordance with the procedures set forth in Paragraph 2.2.

(e) Any amendment to the Declaration that would alter the Drainage System must have the prior approval of the Florida Department of Environmental Protection.

12.7 Mortgagee's Consent to Amendments. This Declaration contains provisions concerning various rights, priorities, remedies, and interests of the Mortgagees. Such provisions are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by mortgages on the Lots. Accordingly, no amendment or modification of this Declaration impairing such rights, priorities, remedies, or interests of a Mortgagee shall be adopted without the prior written consent of Mortgagees holding liens on 5 or more of the Lots encumbered by mortgages to Mortgagees. Each Mortgagee agrees that it will either consent to a proposed amendment or give notice of refusal to consent by written notice to the party requesting such consent within 30 days after the request is received. If a Mortgagee does not respond within such time, the Mortgagee's consent will be deemed given, and an affidavit to such effect recorded in the Public Records by the party requesting the consent will be sufficient evidence to make the requested amendment; provided, that a photocopy of the documentation proving receipt of the request to the Mortgagee is attached to the affidavit. This Paragraph shall not apply or be construed as a limitation on those rights of Declarant, the Association, or the Owners to make amendments that do not adversely affect the Mortgagees.

12.8 Captions and Statement of Purpose. Captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only, and in no way shall such captions or headings define, limit, or in any way affect any of the terms or provisions of this Declaration. The Statement of Purpose is a summary of general information only and in no way shall such statement define, limit, or in any way affect any of the terms or provisions of this Declaration.

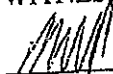
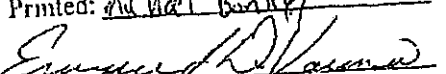
12.9 Gender and Plural Terms. Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine, or neuter form thereof, and the singular form of any noun or pronoun herein may be deemed to mean the corresponding plural form thereof and vice versa.

12.10 Severability; Amendments to Laws. If any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, that judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect. Without limitation of the foregoing, the invalidation of any of the covenants, restrictions, terms, or conditions of this Declaration; or a reduction in the term of the same by reason of the legal rule against perpetuities, shall in no way affect any other provision, which shall remain in full force and effect for such period of time as may be permitted by law. Any amendment to applicable law that has the effect of reducing the rights of Declarant or increases the liabilities of or duties imposed on Declarant, will not be incorporated into this Declaration by reference. All other references to applicable laws and regulations will incorporate amendments to those laws and regulations.

12.11 Duration and Renewal. This Declaration (but excluding the easements herein created, which are perpetual) and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens, and liens contained herein, including, without limitation, the provisions for assessment of Lots, shall run with and bind all of the Lots and inure to the benefit of Declarant, the Owners, and their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date hereof, after which time this Declaration shall be automatically renewed and extended for successive periods of 10 years each unless at least one year before the termination of the 50-year period or one year before the final year of each such 10-year extension, as the case may be, there is recorded in the Public Records an instrument agreeing to terminate this Declaration, which instrument is signed by at least 75% of all Owners and all Mortgagees, upon which event this Declaration shall be terminated as of the 1st day of January of the year following the year in which such instrument was recorded, as the case may be.

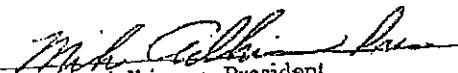
IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation to be executed the day and year first above written.

WITNESSES:

  
Printed: Michael Buckley  
  
Printed: ENRIQUE J. de VARONA

CYPRESS BREEZE, L.L.C.

BY: Destin Parks, Inc.,  
its Manager

By:   
Mike Adkinson, President

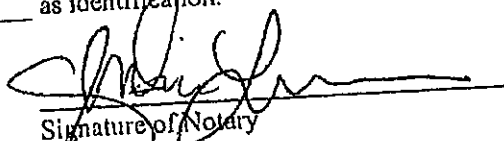


STATE OF FLORIDA  
COUNTY OF WALTON

The foregoing instrument was acknowledged before me this 19 day of November, 2001 by Mike Adkinson, as President of Destin Parks, Inc., Manager of Cypress Breeze, L.L.C. Such person did not take an oath and: *(Notary must check applicable box)*

- is personally known to me.
- produced a current Florida driver's license as identification.
- produced \_\_\_\_\_ as identification.

*(Notary Seal must be affixed)*

  
Signature of Notary

Shelsie Lawrence  
Name of Notary (Typed, Printed or Stamped)  
Commission Number (if not legible on seal): \_\_\_\_\_  
My Commission Expires (if not legible on seal): \_\_\_\_\_


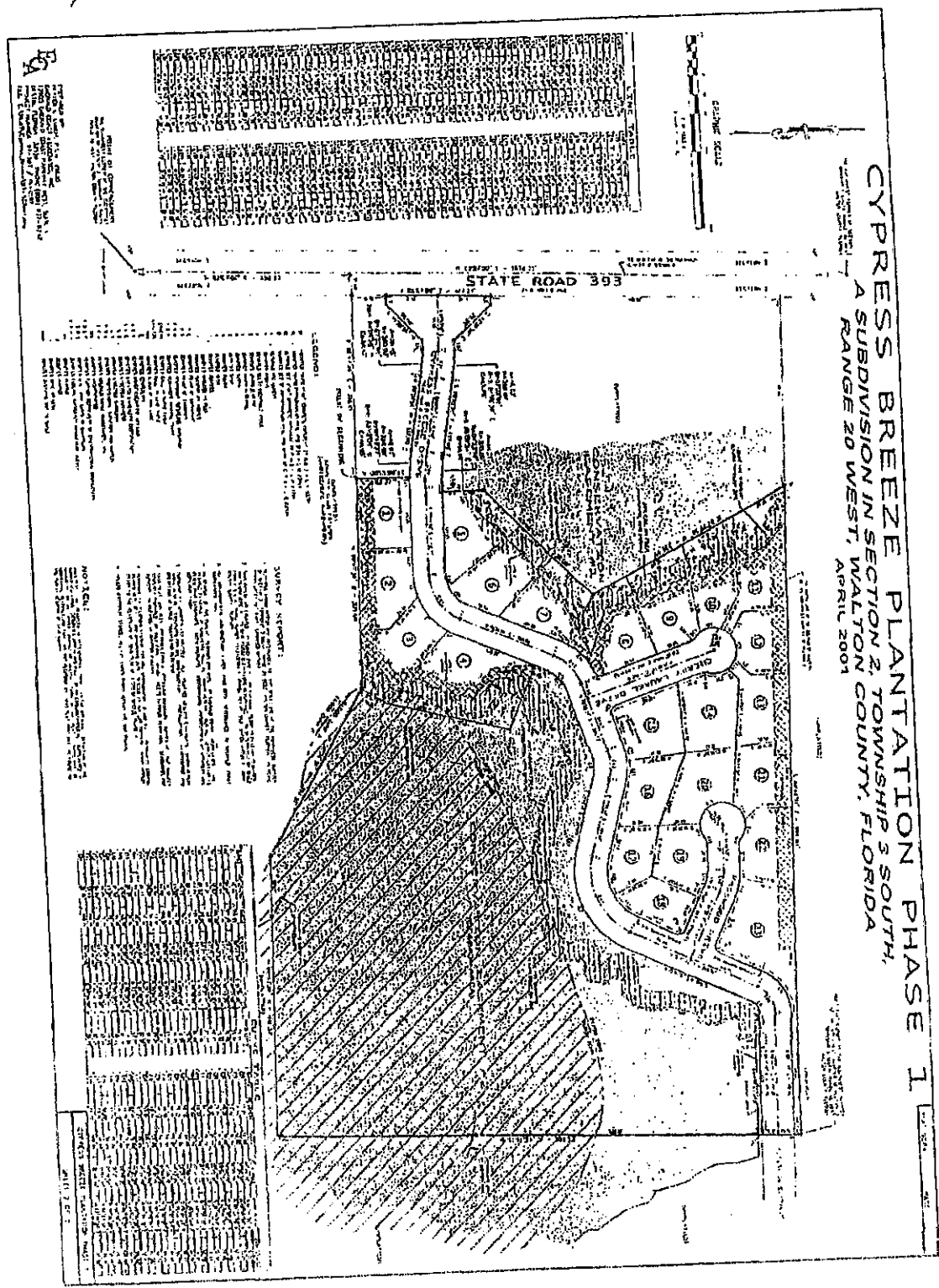
 Shelsie Lawrence  
My Commission CC983660  
Expires November 26, 2004

Exhibit A

FL 692855 B 2364 P 749  
CO:WALTON ST:FL



CYPRRESS BREEZE PLANTATION PHASE 1  
A SUBDIVISION IN SECTION 2, TOWNSHIP 3 SOUTH,  
RANGE 20 WEST, WALTON COUNTY, FLORIDA  
APRIL 2001

This Instrument Prepared By:  
Lori Ellen Ward  
Mathews & Hawkins, P.A.  
4475 Legendary Drive  
Destin, Florida 32541

(This Space Provided for Recording Information)

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR CYPRESS BREEZE PLANTATION  
RE: ANNEXATION OF PHASE II Rec

WHEREAS, Cypress Breeze, L.L.C. ("Declarant"), as Declarant, recorded a Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation, in Official Records Book 2364 at Page 724, and subsequently amended said Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation by virtue of that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation, recorded in Official Records Book 2452, at Page 816, all of the Public Records of Walton County, Florida (collectively, the "Declaration"); and

WHEREAS, Declarant desires to annex additional land under the provisions of the Declaration pursuant to the provisions of Section 2.2 of the Declaration; and

WHEREAS, Section 2.2 of the Declaration authorizes the Declarant to subject other real property adjacent to or abutting property shown on the Plat for Phase I of Cypress Breeze Plantation filed in Plat Book 14, Pages 93 and 93A of the Public Records of Walton County, Florida; and

WHEREAS, Declarant has filed a plat for Phase II of Cypress Breeze Plantation in Plat Book 15, Pages 80 and 80A of the Public Records of Walton County, Florida (the "Phase II Plat") which describes the property to be annexed and subjected to the provisions of the Declaration.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, the Declarant hereby amends the Declaration as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. The Declarant hereby specifically annexes all that property described in the Phase II Plat (the "Additional Property"), and subjects such Additional Property to the provisions of the Declaration. From the date of the recording of this Amendment to Declaration of Covenants, Conditions, Restrictions and Easements re: Phase II Annexation (the "Amendment"), the Additional Property shall be held, sold, occupied, transferred and mortgaged or otherwise encumbered pursuant to and subject to the covenants, conditions, restrictions and easements provided in the Declaration, which shall run with the title to such Additional Property and shall

be binding upon all persons having any right, title, or interest in such Additional Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Amendment shall be binding upon the Cypress Breeze Plantation Owner's Association, Inc. in accordance with the terms of the Declaration.

IN WITNESS WHEREOF, the Declarant has executed this Amendment this 3rd day of December, 2003.

WITNESSES

Manager  
Susan J. Ingram  
Printed: Susan J. Ingram  
Sandra W. Werner  
Printed: Sandra W. Werner

CYPRESS BREEZE, L.L.C.  
By Seacrest Ventures, Inc., its

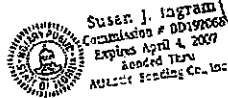
By: Enrique J. Del Valle  
ENRIQUE J. DEL VALLE  
its Vice President

STATE OF FLORIDA  
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 3rd day of December, 2003 by Enrique J. Del Valle as Vice President of Seacrest Ventures, Inc., as Manager of Cypress Breeze, L.L.C. Such person did not take an oath and: (Notary must check applicable box)

- is personally known to me.
- produced a current driver's license as identification.
- produced \_\_\_\_\_ as identification.

(Notary Seal must be affixed)



Susan J. Ingram  
Signature of Notary  
Susan J. Ingram  
Name of Notary (Typed, Printed or Stamped)

This Instrument Prepared By:

Mary K. Kraemer  
Matthews & Hawkins, P.A.  
35 Clayton Lane  
Santa Rosa Beach, Florida 32459

(This Space Provided for Recording Information)

**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR CYPRESS BREEZE PLANTATION** *Rec. 19.50*

WHEREAS, CYPRESS BREEZE, L.L.C. ("Declarant"), as Declarant, recorded a Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation, in Official Records Book 2364 at Page 724 of the Public Records of Walton County, Florida (the "Declaration"); and

WHEREAS, Declarant desires to amend the provisions of the Declaration pursuant to the provisions of Section 12.6 of the Declaration; and

WHEREAS, Section 12.6 (e) of the Declaration authorizes amendment of the Declaration upon the consent of Owners of seventy-five percent (75%) or more of the Lots as evidenced by recording an instrument executed by said Owners in the Public Records.

NOW, THEREFORE, pursuant to the Declaration, the Declaration is hereby amended by consent of Owners of seventy-five percent or more of the Lots as follows:

1. A new Paragraph 3.4 (j) shall be added as follows:

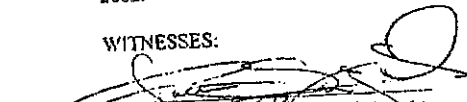

The gross floor area within an enclosed dwelling structure intended for occupancy or other use, including all heated and cooled areas, shall be a minimum of one thousand six hundred (1,600) square feet.

2. From the date of the recording of this First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements, the Lots shall be held, sold, occupied, transferred and mortgaged or otherwise encumbered pursuant to and subject to the covenants, conditions, restrictions and easements provided in the Declaration, as amended herein, which shall run with the title to the Lots and shall be binding upon all persons having any right, title, or interest in the Lots, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements shall be binding upon the Cypress Breeze Plantation Homeowners Association, Inc. in accordance with the terms of the Declaration.

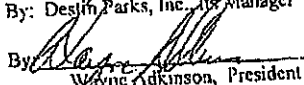
4. The above recitals are true and correct and are incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned Declarant, Concourse, Inc., Richard E. Rau and Susan M. Rau, as all of the owners of Lots in Cypress Breeze Plantation as of the date of recording of this First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation have executed same as of the 13 day of November, 2002.

WITNESSES:

  
Printed: Jose Miguel  
  
Printed: ENRIQUE J. DE VARONA

CYPRESS BREEZE, L.L.C.  
By: Destin Parks, Inc., its Manager


  
Printed: Wayne Adkinson, President

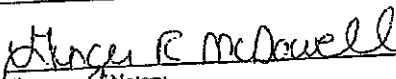
STATE OF FLORIDA  
COUNTY OF WALTON

The foregoing First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation was acknowledged before me this \_\_\_ day of November, 2002 by Wayne Adkinson, as President of Destin Parks, Inc., Manager of Cypress Breeze, L.L.C. Such person did not take an oath and: *(Notary must check applicable box)*

- is personally known to me.
- produced a current Florida driver's license as identification.
- produced \_\_\_\_\_ as identification.

*(Notary Seal must be affixed)*

 Ginger R McDowell  
My Commission CC958416  
Expires December 17 2004

  
Signature of Notary  
Ginger R McDowell  
Name of Notary (Typed, Printed or Stamped)

WITNESSES:

Maria J. Bridges  
Printed: Maria J. Bridges

Mary K. Kraemer  
Printed: Mary K. Kraemer

CONCOURSE, INC.

By: [Signature]  
Charles B. Barniv, President

STATE OF FLORIDA  
COUNTY OF OKALOOSA

The foregoing First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation was acknowledged before me this 15th day of November, 2002 by Charles B. Barniv, as President of Concourse, Inc., owner of Lots 1 and 2, Cypress Breeze Plantation Phase I. Such person did not take an oath and: *{Notary must check applicable box}*

- is personally known to me.
- produced a current Florida driver's license as identification.
- produced \_\_\_\_\_ as identification.

*{Notary Seal must be affixed}*

Mary K. Kraemer  
Signature of Notary

Name of Notary (Typed, Printed or Stamped)



Signature of Notary

Name of Notary (Typed, Printed or Stamped)

WITNESSES AS TO BER and SMR:

[Signature]

Richard E. Rau

Printed: Richard E. Rau Richard E. Rau

[Signature]

[Signature]

Printed: Susan M. Rau Susan M. Rau

STATE OF FLORIDA  
COUNTY OF WALTON

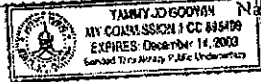
The foregoing First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Breeze Plantation was acknowledged before me this \_\_\_\_ day of November, 2002 by Richard E. Rau and Susan M. Rau, his wife, owners of Lot 18, Cypress Breeze Plantation Phase I. Such person did not take an oath and:  
(Notary must check applicable box)

- ?  are personally known to me.
- ?  produced a current Florida driver's license as identification.
- ?  produced \_\_\_\_\_ as identification.

{Notary Seal must be affixed}

[Signature]  
Signature of Notary

Stamped)



Name of Notary (Typed, Printed or