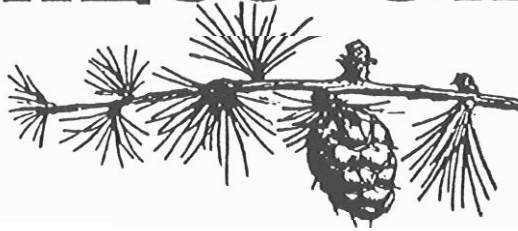


CYPRESS CREEK



Declaration of Covenants Conditions & Restrictions

**CYPRESS CREEK
Subdivision**

PHASE I

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR CYPRESS CREEK SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions is made this 7th day of OCTOBER, 1992, by RNR Properties, Ltd., a Florida Limited Partnership (herein "Developer"). Developer is the owner of the real property more particularly described in Exhibit "A" located in Brevard County, Florida, and known as CYPRESS CREEK SUBDIVISION. Developer desires to subject the Property to the provisions of this Declaration in order to create on the Property a residential community of single-family homes and to provide a flexible and reasonable method for the administration, operation, maintenance and development of the Property. Developer hereby declares that all of the Property described on Exhibit "A" together with any additional property which may be added by supplemental declaration, shall be held, sold and conveyed subject to the matters shown on the Plat of Cypress Creek Subdivision Phase one recorded herewith, and subject to the following covenants, conditions and restrictions, which shall run with the Property and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

1.1 Developer shall mean RNR Properties, Ltd., a Florida Limited Partnership, its successors and assigns, and any person or entity to whom succeeds the title of Developer to all or any part of the Property by sale or assignment of the interests of Developer in the Property if the instrument of sale or assignment so provides, or any person or entity to whom the power to enforce the provisions hereof has been assigned, as permitted by this Declaration. Any such person or entity shall be entitled to exercise all rights and powers conferred upon Developer by the Declaration, Articles of Incorporation, or Bylaws of the Association.

1.2 Association shall mean CYPRESS CREEK HOMEOWNERS ASSOCIATION OF BREVARD, INC., a Florida non-profit corporation or its successors and assigns.

1.3 ARC shall mean the Architectural Review Committee appointed by the Board of Directors of the Association.

1.4 The Property or the Real Property shall mean the property on Exhibit "A" and additions thereto, if any.

1.5 Lot shall mean any of the individual residential building sites identified on the Plat of CYPRESS CREEK SUBDIVISION.

1.6 Common Area shall mean the land identified on the Plat of CYPRESS CREEK SUBDIVISION and not contained within a Lot or a public road.

1.7 Owner shall mean the record owner or owners, whether one or more persons or entities, of the fee simple title to a Lot in the subdivision, in Phase One as well as any subsequent phase but excluding any party holding the fee simple title merely as security for the performance of an obligation. The term Owner shall not mean or refer to the mortgagee of any mortgage encumbering any of the Property, unless and until such mortgagee has acquired title pursuant to foreclosure or in lieu of foreclosure.

1.8 Member shall mean a person entitled to membership in the Association as provided herein.

1.9 Easements shall mean any portion of the Property including Lots or portion thereof which have heretofore or which hereafter may be set aside by the Developer or the Association for the limited or common use of the Developer, Owners, their invitees, guests, successors or assigns for ingress, egress, conservation preserves, utilities, water, sewer, lighting, drainage, or otherwise and for all purposes related to CYPRESS CREEK SUBDIVISION, or as may be indicated on any Plat filed among the Public Records of Brevard County, Florida.

1.10 Declaration shall mean this Declaration of Covenants, Conditions and Restrictions for CYPRESS CREEK SUBDIVISION recorded in the office of the Clerk of the Circuit Court of Brevard County, Florida, together with all supplements and amendments thereto.

1.11 Plat shall mean the plat for CYPRESS CREEK SUBDIVISION Phase One, and any subsequent phase, recorded in the office of the Clerk of the Circuit Court of Brevard County, Florida, together with all supplements and amendments thereto.

1.12 Surface Water or Stormwater Management System means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, Florida Administrative Code.

1.13 Conservation Easement Area means all of such areas designated as Nature and Conservation Preserves on the Plat of Cypress Creek Subdivision.

ARTICLE II
PROPERTY

2.1 The real property which shall henceforth be held, transferred, sold, conveyed and occupied subject to this Declaration is legally described on Exhibit A attached hereto and made a part hereof by reference, together with any additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

ARTICLE III
COMMON AREAS; RECREATION AREA

3.1 Developer may retain the legal title to all or a part of the Common Areas so long as it owns any lot in Cypress Creek Subdivision in all Phases which have been subjected to this Declaration. On or before conveyance by Developer of the last Lot in Cypress Creek Subdivision, Developer shall convey by deed or dedication any Common areas still owned by it to the Association, subject only to any restrictions, conditions, limitations, reservations and easements of record. During such time as Developer may own any Common Areas, the Association shall be responsible for insuring, repairing and maintaining any improved Common Areas. When Developer transfers and conveys the Common Areas to the Association, by deed or dedication, the Association shall accept such transfer or transfers.

3.2 Every Owner and the Association shall have a right and easement of use of the Common Areas, subject to this Declaration as it may be amended from time to time. Common Areas designated as "Tract R" on the plat of Cypress Creek Subdivision Phase I shall be for the recreational use of Owners, their families, and guests. Developer has improved Tract R with a tennis court, gazebo, two covered picnic shelters and a toddler play area. There shall be no fee charged for use of any of the Common Areas.

3.3 The property rights herein granted are subject to the right of the Developer or the Association:

A. to borrow money for the purpose of improving the Common Area or any portion thereof, for acquiring additional Common Areas, or for constructing or repairing any improvements located or to be located thereon, and to give as security for the payment of any such loan a mortgage encumbering all or any portion of the Common Area; provided, however, that the lien and encumbrance of any such mortgage shall be subject and subordinate to any and all rights, interests, easements and privileges herein reserved for the benefit of Developer, the Association, or any Owner, or the holder of any mortgage, whenever executed, given by Developer or any Owner encumbering any Lot located within the Property.

B. to grant easements or rights of way in and to the Common Area to any public agency, authority or utility.

C. to dedicate or transfer all or any portion of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be approved by the Developer or the Association.

ARTICLE IV ROADS; EASEMENTS

4.1 Public drainage and utility easements are dedicated ten feet along all side and rear lot lines and twenty feet along all front lot lines as shown on the Plat of Cypress Creek Subdivision Phase One. These easements are subservient to the easement set out in paragraph 4.2 below.

4.2 A tree preservation and landscape easement is hereby granted to Cypress Creek Homeowners Association of Brevard Inc. along the south forty feet of Lots 1, 2, 6, 7, 8, 9, 14, 15, 16, 17, 27, and 28, and the south fifty feet of Lot 22, and all of Tract "A". There shall be no alteration, trimming or removal of trees or vegetation in these areas without the prior written consent of Cypress Creek Homeowners Association of Brevard Inc.

4.3 Tracts A, B and C as shown on the Plat of Cypress Creek Subdivision Phase One are dedicated to the public as easements for the retention/detention of stormwater runoff.

4.4 All of the roads shown on the Plat of Cypress Creek Subdivision Phase One are dedicated to the public.

ARTICLE V SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM

5.1 The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management systems shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or, if modified, as approved by the St. Johns River Water Management District.

5.2 Any amendment to this Declaration which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Areas, must have the prior approval of the St. Johns River Water Management District.

5.3 The St. Johns River Water Management District shall have the right to enforce by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the

maintenance, operation and repair of the surface water or stormwater management system.

ARTICLE VI
CONSERVATION EASEMENT AREAS

6.1 Certain areas of the property, including certain Lots, are designated as Nature and Conservation Preserves on the Plat of Cypress Creek Subdivision and in the Deed of Conservation Easement from Developer to the St. Johns River Water Management District. These areas have been identified as sensitive wetlands by governmental agencies and are to remain in their natural state. There shall be no temporary or permanent alterations to these areas by construction, clearing, mowing, planting within, or vehicular or pedestrian traffic, except as allowed by permits for the initial construction of the subdivision or as may be hereafter permitted by the appropriate regulatory agencies. Existing vegetation and animal life shall remain undisturbed.

6.2 The Conservation Easement Areas shall and are hereby declared to be subject to a Conservation Deed Restriction pursuant to Section 704.06, F.S., in favor of the St. Johns River Water Management District ("District"), for the purpose of retaining and maintaining the Conservation Easement Areas in their predominantly natural condition as a wooded water recharge, detention, percolation and environmental conservation area. All the following uses of the Conservation Easement Areas are hereby prohibited and restricted without the prior written consent of the St. Johns River Water Management District its successors or assigns:

(a) The construction, installation or placement of signs, buildings, fences, walls, roads or any other structures and improvements on or above the ground of the Conservation Easement Areas,

(b) The dumping or placing of soil or other substances or materials as landfill or the dumping or placing of trash, waste or unsightly or offensive materials,

(c) The removal or destruction of trees, shrubs or other vegetation from the Conservation Easement Areas,

(d) The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Easement Areas,

(e) Surface use, except for purposes that permit the land or water area to remain in predominantly natural condition.

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, and

(g) Acts or uses detrimental to such retention of land or water areas.

The Conservation Easement Areas hereby created and declared shall be perpetual.

6.3 The District, its successors or assigns, shall have the right to enter upon the Conservation Easement Areas at all reasonable times and in a reasonable manner, to assure compliance with the aforesaid prohibitions and restrictions.

6.4 The Association, and all subsequent owners of the Conservation Easement Areas shall be responsible for the periodic removal of trash and other debris which may accumulate on such Conservation Easement Area.

6.5 The prohibitions and restrictions upon the Conservation Easement Areas as set forth in this section may be enforced by the St. Johns River Water Management District or its successor by proceedings at law or in equity including, without limitation, actions for injunctive relief. The provisions of this Conservation Easement Area restriction may not be amended without prior approval from the St. Johns River Water Management District, its successors or assigns.

6.6 All rights and obligations arising hereunder are appurtenances and covenants running with the land of the Conservation Easement Areas, and shall be binding upon and shall inure to the benefit of the District and its successors and assigns. Upon conveyance by the Developer to third parties of any land affected by this easement, the Developer shall have no further liability or responsibility hereunder, provided the deed restriction covering the Conservation Easement Areas is properly recorded.

ARTICLE VII MAINTENANCE

7.1 Maintenance of the Common Areas, including specifically but without limitation the recreation area, shall be the responsibility of the Association and the cost thereof shall be assessed equally to all lots in the same manner as herein provided for any other common or special assessments.

7.2 The Association shall maintain and manage the on site fire protection system. The fire protection system includes, but is not limited to, the standpipe structures, the transmission mains, and the catch basin intake structures (strainer). The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the fire protection system. These assessments shall be used for the maintenance and repair of the fire protection system, as required.

7.3 All maintenance of the Lots, unless specifically identified as being the responsibility of the Association, shall be the responsibility of the Owner of such Lot. Each Owner shall maintain in good repair all improvements and landscaping within the Lot.

7.4 Except as may be otherwise provided herein, the Association shall maintain and keep in good repair the Common Area, and any improvements located thereon, if any, by the Developer or the Association.

7.5 If the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly the Owner's obligations for the maintenance, repair, or replacement of items for which the Owner is responsible or that the need for maintenance, repair or replacement which is the responsibility of the Association is caused through the willful or negligent act of an Owner, the Owner's family, guests, lessees or invitees, then, the Association may, in the discretion of the Board of Directors provide such maintenance, repair or replacement at the Owner's expense. Except in an emergency the association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense, and setting forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have fifteen (15) days within which to complete the maintenance, repair or replacement. If any Owner does not comply, the Association may provide any such maintenance, repair or replacement at the Owner's sole cost and expense, and the cost together with interest at the highest lawful rate, costs and reasonable attorneys fees, shall be a lien against the Lot owned by such Owner, enforceable by the Association as provided in this Declaration.

ARTICLE VIII USE RESTRICTIONS, ARCHITECTURAL CONTROL

8.1 The Property subject to this Declaration may be used for residential, single family living units only.

8.2 No structure of any kind, including, without limitation, any building, fence, wall, screen enclosure, swimming pool, sewer, drain, disposal system, solar energy device, decorative building, landscaping, landscape device or object, or removal of existing trees, or other modification, or improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, removal, demolition, change or alteration thereof be made, unless the plans, specifications and location shall have been submitted to and approved in writing by the Architectural Review Committee (ARC). It shall be the responsibility of the Owner to ensure that all employees agents and contractors of Owner comply with all use restrictions and contractor rules.

8.3 The architectural review and control functions of the Association shall be administered and performed by the Architectural Review Committee (ARC) which shall be appointed by the Board of Directors of the Association. The Board of Directors shall adopt, and the Architectural Review Committee shall administer, Architectural Review Guidelines, which may be amended from time to time. The Board of Directors or the Architectural Review Committee shall provide a copy of the Architectural Review Guidelines to any owner upon request. It shall be the responsibility of the owner to obtain and review the Architectural Review Guidelines and all amendments prior to commencement of any improvement or alteration on any lot.

8.4 Lot owners shall submit two sets of complete plans and specifications including the full definition of colors and materials, landscape and irrigation plans, drainage plans and contemplated elevations, to the Architectural Review Committee for review and written approval. The application and review procedure shall be conducted as set out in the Architectural Review Guidelines. Because the quality of CYPRESS CREEK is dependent upon the quality and aesthetic appeal of the homes to be constructed, the Board of Directors, acting through the Architectural Review Committee, shall have broad authority and discretion to determine the suitability of a proposed residence and landscape plan. The Board of Directors, acting through the Architectural Review Committee, shall have complete authority, in its sole discretion, to decline to approve all or any part or parts of any plans, specifications, colors or materials, for any reason, including purely aesthetic reasons. Prior to approval or disapproval, the Architectural Review Committee may request additional details and clarifications with regard to plans, specifications, colors or materials and may request samples of materials. In the event written approval, disapproval or notice of need to extend review deadline is not issued by the Architectural Review Committee within 30 working days after proper and complete submission of the plans and specifications, including all clarifications and further information requested by the Architectural Review Committee, the property owner may consider the application to have been approved.

8.5 Single family residence buildings shall have a minimum of 2,000 square feet of air-conditioned space, not including the square footage of garages, porches or open patios. The maximum height of any building shall not exceed 35 feet above the crown of the road. The design of the front of the residence (the elevation) shall not be the same as the design of the adjacent residence, if any. No carports shall be permitted on any Lot. An enclosed garage with opaque garage door must be provided for not less than two nor more than four cars. No garage shall be enclosed or converted to other use. All garages must have doors that are to be maintained in a useful condition.

8.6 Main roof areas shall have slopes of 5:12 to 6:12 and 2:12 to 3:12 over porches. Roof overhangs shall be not less than

twenty-four inches and incorporate fascia of eight inches to twelve inches to provide scale to roof edges unless otherwise approved by the Architectural Review Committee.

a.7 Electrical Service, Cablevision and Telephone shall run underground from the dwelling to the appropriate service riser. There shall be no overhead, or exposed service line to any structure. Every front yard shall contain one post lamp which operates on a photo-sensitive cell, which shall be subject to the Architectural Review Committee's approval.

a.8 Driveways and parking areas may be constructed of brick, interlocking pavers, concrete or other materials of choice provided they are approved by the ARC. A natural or off-white concrete finish is preferred with scoring or header boards used to break up the expanse of concrete. Where possible, driveways should be ganged at lot lines and avoid the use of culvert crossings at the lot line. Gravel and/or asphalt surfaces are not permitted.

a.9 Buyer shall submit for approval of the Architectural Review Committee a complete landscaping plan. Shade trees are required on each lot. The perimeter of the house shall be fully landscaped and all unplanted areas other than natural areas approved by the Architectural Review Committee shall be Floratam or Bahia sod extending to the pavement line of the street. All lots are required to have an automatic, electric underground sprinkler system of sufficient size and capacity to irrigate all sodded or landscaped areas. Irrigation of bahia sod may be waived by the ARC but the irrigation of the landscaped areas is still required except for existing natural areas. Installation of irrigation and landscaping shall be concurrent with the completion of the dwelling house and must be approved before occupancy.

8.10 Prior to any Lot clearing or construction activity thereon, a deposit of Five Hundred Dollars (\$500) will be submitted and payable to Cypress Creek Homeowners Association of Brevard, Inc., by each Lot owner. This deposit will be returned in full (without interest) upon completion of all construction activity with no damage to curbs, roads or other subdivision improvements.

8.11 No business or commercial building may be erected on any Lot and no business, may be conducted on any part thereof. No Lot shall be divided, subdivided, or reduced in size. In the event more than one Lot is used as one building site, it shall be considered as a single Lot and shall not be further subdivided. No lot or any part of the Subdivision shall be used for access to any property not part of the Subdivision.

a.12 No tents, trailers, vans, or shacks shall be erected or permitted on any Lot.

8.13 Aerial, antenna, satellite dish or any similar devices shall be placed or erected upon any Lot in Zone 3 (rear yard),

except as may be specifically approved by the ARC. Electronic transmission devices are not permitted without the written approval of the ARC.

8.14 All boats, boat trailers, trucks and recreational vehicles shall be kept enclosed in garages and not visible from the street or stored in Zone 3 (rear yards) provided they are fully screened from view. No tractor-trailer truck or commercial vehicle of any type shall be permitted to be parked overnight on any Lot or street. No dismantled automobile shall be permitted to remain on any Lot or street. This provision shall include any motor vehicle without current license tag. Failure to comply with this paragraph shall be considered a nuisance which may be abated by the removal of the vehicle at the cost of the owner.

8.15 Any temporary or non-owner tenant of a residence shall be bound by all provisions herein.

8.16 No sign of any nature shall be displayed or maintained to public view on any Lot, except one Contractor sign or Developer sign per lot relating to the sale of improved or unimproved Lots, and one professionally painted sign of not more than six (6) square feet advertising the property for sale or rent, or for "open house."

8.17 No animals, birds or fowl shall be kept or maintained on any part of the property except dogs, cats and pet birds, which must be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants, but not for any commercial use or purposes. All pets must be kept under control, and under leash if off the property of the Owner, at all times and must not become a nuisance by any act.

8.18 There shall be no "boarding up" of houses except for storm protection only in the event of and during the period of time of a storm likely to cause damage to the house.

8.19 There shall be no change in the topography of the Lot either for construction or landscaping without the approval of the Architectural Review Committee.

8.20 No window or wall air conditioning units shall be permitted. All exterior pumps, motors, compressors, tanks or similar mechanical devices shall be properly screened from view by such means as shall be approved by the ARC.

8.21 No time sharing, interval ownership, or other similar division of the fee simple ownership of any Lot or any single family dwelling erected thereon shall be permitted. However, this provisions shall not prevent the leasing of any single family dwelling to a tenant for normal single family residential purposes.

8.22 All garbage or trash containers, oil tanks, bottled gas tanks, and water softening equipment must be placed in closed areas, and must be hidden from view by a structure so that they shall not be visible from adjoining Lots or the streets of the subdivision. Solar heating systems may be installed with the approval of the ARC only on side or rear elevations, not visible from the street.

8.23 No weeds or other unsightly growth shall be permitted to grow or remain upon and Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon; and in the event that any Owner shall fail or refuse to keep Owner's Lot free from weeds, underbrush or refuse piles or unsightly growth or objects, then the Association may enter upon the Lot and remove them at the expense of the Owner, and such entrance shall not be deemed a trespass. Absolutely no burning of trash and garbage shall be permitted on any Lot.

8.24 Owners of Lots shall be directly financially responsible to the Developer, the abutting Lot owners, the Association and/or to the owner or provider of utilities or television cable for damage to any of the Property, utilities, television cable, sewer or water systems or installation, landscape materials, sod and drainage systems or other improvements, resulting from the actions of the Owner or contractors furnishing labor or materials to or for the Owner. In the event the Developer or the abutting Owner or Association or any utility or television cable company must repair or replace any utilities, including sewer, water, drainage system, electrical, television cable, telephone lines, sod, landscaping materials, sidewalks, paving, shrubbery, trees, fences or other improvements as a result of the actions of any Owner or contractor furnishing labor or materials to or for the Owner, then in that event, the Owner shall pay for the cost of the repair or replacement including labor and materials. In the event the Association advances funds for repair and replacement of damaged property, the amount together with interest, court costs, and attorney's fees and paralegal fees shall be included in the lien rights as set forth in this Declaration.

8.25 The Board of Directors may establish reasonable rules concerning the use of the Lots, and Common Areas, if any. Copies of such rules shall be furnished to all Owners. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents.

8.26 It shall be expressly permissible for Developer and any person or entity designated by Developer to maintain and carry on, during the period of construction and/or sale of the Lots, upon such portion of the Common Area as the Developer may deem necessary, such facilities and activities as in the sole opinion of Developer may be reasonably required, convenient, or incidental to the construction or sale of such Lots and residences, including, but without limitation, business offices, signs, and models, and

activities shall include the right to use residences owned by Developer or any person or entity designated by Developer as models and/or sales offices.

8.27 Developer reserves the right to grant easements upon, across, and under all of the Common Area for the development of the Property and/or for ingress, egress, conservation preserves, installation, replacing, repairing and maintaining master television antenna systems, security and similar systems, and all utilities, including, but not limited to street lighting, water, sewers, drainage, cable television, telephones and electricity. By virtue of any such easement, it shall be expressly permissible for the providing utility company or other supplier of service to erect and maintain the necessary poles and other utility wires, circuits and conduits on, above, across and under the roofs and exterior walls of the residences.

8.28 During the time that Developer has the right to elect a majority of the members of the Board of Directors of Cypress Creek Homeowners Association of Brevard Inc., the Board shall have the right, in its sole discretion, to permit variances from the use restrictions and architectural controls herein provided when the Board determines that such variance is desirable in a particular instance and will not impair the overall quality and aesthetic appeal of Cypress Creek Subdivision. Any such variance, if granted, shall be in writing and must be approved by a majority of the Board. Granting or not granting a requested variance shall not alter any use restrictions or architectural controls herein provided and shall not be binding on the Board to grant or not grant a subsequent variance under the same or similar circumstances. Anything provided herein to the contrary notwithstanding, the Board shall not have the authority to permit more than one single family residence on any Lot, nor permit any variance which would be a violation of zoning or other requirements of any governmental authority.

8.29 Storm drainage systems may be located under certain lots. Any such storm drainage shall be maintained in good order and repair by the Association unless dedicated to and accepted by any private utility or public authority. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each Lot for the purpose of providing connection of that Lot with the storm drainage system most convenient thereto. Each Lot shall be subject to easements in favor of all of the other Lots providing for the passage through any portion of such Lot of necessary storm drainage systems.

8.30 Lot grading for all lots must be in a manner which will ensure storm water runoff will be properly directed.

ARTICLE IX
INSURANCE; INDEMNITY

9.1 The Association's Board of Directors or its duly authorized agent shall obtain and maintain insurance for all insurable improvements on the Common Area, if any, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost less any deductible of any repair or reconstruction in the event of damage or destruction from any such hazard, and may also obtain a public liability policy covering all the Common Area and all damage or injury caused by the negligence of the Association or any of its agents. Premiums for all such insurance shall become expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face value of the policy in determining whether the insurance equals at least the full replacement cost.

9.2 Developer shall be indemnified and held harmless by Cypress Creek Homeowners Association of Brevard Inc. from any expense, claim or demand for loss or damage to any person or property arising from use of any part of the Property.

ARTICLE X
MEMBERSHIP AND VOTING RIGHTS

10.1 Every person who is the record Owner of a fee interest in any Lot shall be deemed to have a membership in the Association. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation. There shall be only one membership per Lot. The vote of the Owners of a Lot owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the Owners and filed with the Secretary and such certificate shall be valid until revoked.

10.2 The Association shall have two classes of voting membership:

A. Class A members shall be owners of single family lots in CYPRESS CREEK SUBDIVISION. Each Class A member shall have one (1) vote per single family lot.

B. Class B members shall be the Developer (as defined in Article I). The Class B member shall be entitled to five (5) votes for each vote it would be entitled to as a Class A member owning lots in CYPRESS CREEK SUBDIVISION. Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

ARTICLE XI
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

11.1 The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, as well as such other personnel as the Association shall determine to be desirable for the proper operation of the Association, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services desirable in connection with the operation of the Association or the enforcement of this Declaration. The Association may but shall not be required to arrange as an Association expense with others to furnish water, street lighting, trash collection, sewer service and other common services to each Lot. The Association shall be permitted but shall not be required to contract with the Developer for the provision of all such services which the Association is required or permitted by this Declaration to perform.

11.2 The Association through action of its Board of Directors may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise.

11.3 The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots and of the Common Area and improvements, if any, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Enforcement may include the imposition of reasonable fines which if not paid when due shall constitute a lien.

11.4 The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE XII
ASSESSMENTS

12.1 The assessments for common expenses provided for herein shall be used for the general purposes of promoting the health, safety, welfare, common benefit and enjoyment of the Owners and occupants of residences and maintaining the Common Areas and improvements, if any, all as may be more specifically authorized from time to time by the Board of Directors.

12.2 If any assessments, including annual assessments, special assessments, or assessments for maintenance costs and expenses as provided in this Declaration, are not paid on the date due, such assessment shall then become delinquent and shall

together with interest, costs and attorneys and paralegal fees, become a continuing lien on the lot against which such assessment is made. Such lien shall bind the lot while owned by the Owner, or the Owner's heirs, devisees, personal representatives, assigns, successors, and successors in title, and shall also be a continuing personal obligation of the Owner. If the assessment is not paid within ten days after the due date, which date shall be set by the Board' of Directors, the assessment shall bear interest from the date due at the highest rate permitted by law, and the Association may at any time thereafter bring an action to foreclose the lien against the Lot in the same manner as a foreclosure of a mortgage on real property and may also or in the alternative, bring a suit on the personal obligation of the Owner. There shall be added to the amount of any such assessment the cost of preparing and filing the complaint in such action, including reasonable attorneys fees and paralegal fees. If a judgement is obtained, such judgment shall include interest on the assessment at the highest lawful rate, and a reasonable attorneys fees and paralegal fees to be determined by the court, together with costs of the action. Such lien shall be effective from and after the time of recording the claim of lien in the Public Records of Brevard County, Florida. A claim of lien shall continue as a lien in effect until all sums secured thereby, including all costs of foreclosure or collection, whether suit shall be brought or not, have been fully paid.

1.2.3 Each owner, by acceptance of a deed to a lot, vests in the Association or its agents, the right and power to bring all actions against the owner personally for the collection of such charges as a debt of the owner or to foreclose the lien as herein provided in the same manner as other liens for the improvement of real property. The power to bid on the lot at any foreclosure sale, or to acquire, hold, lease, mortgage, and convey the lot shall be held by the Association on behalf of all of the other owners. No owner may waive or otherwise avoid or seek to avoid liability for the assessments provided in this Declaration in any manner, including without limitation, abandonment of the lot.

12.4 The lien for assessments as provided in this Declaration shall be subordinate to the lien of any first mortgage to a bank, life insurance company, federal or state savings and loan association, or real estate investment trust. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such lot pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage. No sale or transfer shall relieve any lot from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment.

12.5 All property other than property which is platted into individual residential Lots shall be exempt from assessments.

12.6 The Association shall, upon request, furnish to an owner a certificate in writing signed by an officer of the association stating whether or not there are any unpaid assessments by the association on the Lot.

12.7 The total amount necessary to cover the costs of the Association shall be estimated annually by the Board of Directors and a budget therefor shall be prepared not less than thirty days prior to the end of each fiscal year of the Association and shall be delivered to each Owner. A notice to each owner setting forth the amount of assessment due and payable with respect to each lot shall be delivered with the copy of the budget. The regular assessment shall be payable in an annual installment unless quarterly installments are provided for and set out in the notice sent to each owner. The initial annual regular assessment for lots is \$50.00 per lot, per year. Such assessment shall not be increased prior to January 1, 1994. Until January 1, 1994 the Developer will pay all regular budget costs in excess of assessments paid by Owners.

12.8 In addition to the annual assessments, the Association may levy special assessments for the purpose of defraying the cost of any new construction or repair or replacement of a capital improvement of the Association, or the need for additional services: provided, however, any such special assessment must first be approved by a majority vote of the members present in person or by proxy at a meeting called to consider the special assessment. Written notice of any such meeting at which a special assessment will be considered shall be sent to all members at least thirty days in advance of such meeting and the notice shall set forth the purpose of the meeting and the amount and purpose of the proposed special assessment. The date or dates on which such special assessment shall be due shall be fixed by the Board of Directors, and may be payable in installments over a period which may, in the discretion of the Board, extend in excess of the year in which adopted.

12.9 Annual and special assessments must be fixed at a uniform rate for all lots.

ARTICLE XIII ENFORCEMENT OF RULES

13.1 The Board of Directors shall have the authority to make and to enforce reasonable rules and regulations governing the conduct, use and enjoyment of the Lots and the Common Area. If any Owner violates this Declaration, the Bylaws or any rules and regulations duly adopted hereunder, the Board of Directors of the Association shall have the power to impose reasonable fines which shall constitute a lien upon the Lot owned by such Owner and to suspend an owner's right to vote and to use the Common Area and facilities, if any. Such suspension may be for the duration of the infraction and may continue for an additional period thereafter not

to exceed thirty (30) days. The Board shall be authorized and empowered to begin any action in any court on behalf of the Association and all Owners to abate any nuisance or otherwise enforce this Declaration.

13.2 The Board of Directors of the Association shall not seek to enforce this Declaration for violations of rules unless and until the following procedure is followed:

A. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(1) The alleged violation:

(2) The action required to abate the violation;

and

(3) A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

B. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice of Hearing to be held by the Board in session. The notice shall contain:

(1) The nature of the alleged violation:

(2) The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;

(3) An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf.-

C. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

ARTICLE XIV
DURATION: AMENDMENT

14.1 Except as otherwise specifically provided herein, the covenants, provisions, agreements and restrictions of the Declaration shall run with the title to the Property and be binding on and inure to the benefit of the Association, each Owner and their respective legal representatives, heirs, successors and assigns for a period of fifty (50) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years each, unless instruments signed by the then Owners of two-thirds of the Lots have been recorded, agreeing to change or terminate the covenants, provisions, agreements and restrictions herein contained in whole or in part.

ARTICLE XV
ASSIGNMENT BY DEVELOPER

15.1 Developer may assign any and all of its rights, title, interest, powers, duties, obligations and privileges under this Declaration to the Association or to any other corporation, association or person.

ARTICLE XVI
GENERAL PROVISIONS

16.1 Each Owner shall comply strictly with the Bylaws and with the rules and regulations adopted pursuant thereto, as they may be amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the Deed to the Lot, if any. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief or both, maintainable by the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

16.2 Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

16.3 If an Owner sells, leases, mortgages, or executes a contract for deed of any Lot, the Owner shall give to the Association in writing the name of the purchaser, lessee or mortgagee of the property.

16.4 The Developer or the Association, or an owner shall have the right in addition to any other remedies to proceed at law or in equity to compel compliance with the terms of any conditions, covenants, restrictions, or provisions of this Declaration and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner of the portion of

the Property alleged to be in violation provided such proceeding results in the finding that such Owner was in violation of said covenants, provisions or restrictions. Such expenses of litigation shall include reasonable attorneys' fees incurred by the Developer or the Association in seeking such enforcement at the trial and appellate level.

16.5 The Association shall indemnify every officer and director against any and all expenses, including reasonable counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors to which he or she may be made a party by reason of being or having been an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers 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 others 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 or director, or former officer or director, may be entitled. The Association may as a common expense maintain adequate general liability and officers and directors liability insurance to fund this obligation.

ARTICLE XVII
EFFECTIVE DATE

17.1 This Declaration shall become effective upon its recordation in the Public Records of Brevard County, Florida.

IN WITNESS WHEREOF, the Developer has caused these presents to be executed the day and year first above written.

RNR Properties, Ltd., A Florida
Limited Partnership
RINEL CORP., A Florida Corporation
General Partner

[Signature]
Witness Ann H. Blumhagen

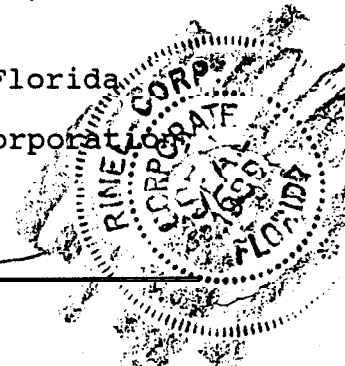
[Signature]
Witness John M. Rock

[Signature]
Witness John M. Rock

[Signature]
Witness Ann H. Blumhagen

[Signature]
Daniel W. Nelson
President

[Signature]
H. Wade Riley, III Secretary



STATE OF FLORIDA
COUNTY OF Palm Beach

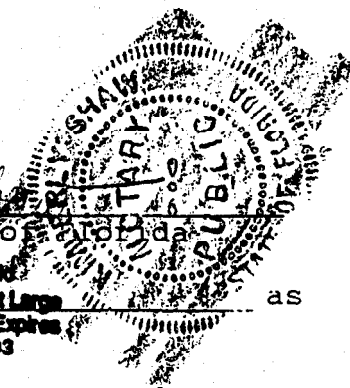
BEFORE ME, personally appeared Daniel W. Nelson, as President and H. Wade Riley, III, as Secretary of RINEL CORP., a Florida Corporation, General Partner of RNR Properties, Ltd., A Florida Limited Partnership, and they acknowledged executing the foregoing instrument freely and voluntarily, under authority duly vested in them by the said corporation as general partner of the said limited partnership.

Dated this 7th day of October, 1992.

Kimberly Shaw
Notary Public, State of Florida

Personally known ☒ or produced ☐ identification.

Notary Public
State of Florida at Large
My Commission Expires
May 16, 1993



JOINDER AND ACCEPTANCE BY ASSOCIATION

CYPRESS CREEK HOMEOWNERS ASSOCIATION OF BREVARD INC., hereby joins in the foregoing Declaration of Covenants, Conditions and Restrictions for Cypress Creek Subdivision and accepts and agrees to each of the covenants contained herein on the part of the Association to be kept and performed.

Witnesses:

[Signature] Assoc. Sec. & Treasurer
[Signature]
JAN M. TUCK
[Signature]
JAN M. TUCK
[Signature]
Assoc. Sec. & Treasurer

CYPRESS CREEK HOMEOWNERS ASSOCIATION OF BREVARD INC.
A Florida Non-Profit Corporation

By: [Signature]
Daniel W. Nelson, President

By: [Signature]
H. Wade Riley III, Secretary

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

BEFORE ME, the undersigned authority, personally appeared Daniel W. Nelson, as President and H. Wade Riley, III, as Secretary of CYPRESS CREEK HOMEOWNERS ASSOCIATION OF BREVARD INC., a Florida Non-Profit Corporation, and they acknowledged executing the foregoing instrument freely and voluntarily under authority duly vested in them by the said corporation.

Dated this 7th day of October, 1992.

[Signature]
Notary Public, State of Florida.
Notary Public
State of Florida at Large
My Commission Expires
May 16, 1993

Personally known ✓ or produced _____ as
identification.

EXHIBIT A

CYPRESS CREEK - PHASE I

Description

That portion of Tracts 2, 3, 4, 5, 6, 11, 12, 13, 14, 15, 19, 20, 21 and 22 of "Florida Indian River Company Plat in Section 29, Township 29 South, Range 38 East", according to the Plat thereof, recorded in Plat Book 1, Page 166, of the Public Records of Brevard County, Florida, lying and being in Brevard County, Florida, described as follows:

Commence at the Southeast corner of said Section 29; thence run North 00 degrees 11' 08" East, along the East line of said Section 29, for 50.00 feet, to the North line of the 100 foot wide right of way of Grant Road; thence run North 89 degrees 57' 37" West, along the North right of way line of said Grant Road, on a line 50 feet North of and parallel with the South line of said Section 29, 1100.77 feet, to the Point of Beginning; thence continue North 89 degrees 57' 37" West, along the North right of way line of said Grant Road, 2855.11 feet; thence run North 00 degrees 09' 49" East, along the West lines of said Tracts 6, 11 and 22, 3911.10 feet; thence run North 89 degrees 59' 38" East, along the North lines of said Tracts 22, 21 and 20, 1747.44 feet; thence run South 32 degrees 21' 10" East, 1153.97 feet; thence run South 07 degrees 11' 04" East, 1019.23 feet; thence run South 16 degrees 32' 57" East, 1491.37 feet; thence run South 00 degrees 02' 23" West 207.65 feet, thence run North 89 degrees 57' 37" West, 122.94 feet; thence run South 00 degrees 02' 23" West, 240.00 feet to the point of curvature of a circular curve to the left, concave Northeasterly, having a radius of 50.00 feet; thence run Southeasterly, along the arc of said curve, through a central angle of 90 degrees 00' 00" 78.54 feet, to the Point of Beginning.

Cypress Creek

September 1, 1994

In the future RNR Properties, Ltd. (RNR) will be purchasing 71.4 acres adjacent to Cypress Creek, Phase III. RNR will be deeding this property to Cypress Creek Homeowners' Association of Brevard, Inc. This property will have a blanket Conservation Easement as RNR has agreed to a Mitigation Plan requiring the purchase of the 71.4 acres. This is a condition to sell and continue to develop Cypress Creek by the United States Fish and Wildlife Service (USFWS) to preserve habitat for the native Florida Scrub Jay bird. It is anticipated that this conservation property will be used for passive recreation by all phases of Cypress Creek residents. A Management Plan and maintenance fee schedule are being prepared by our environmental consultants to coincide with USFWS requirements.