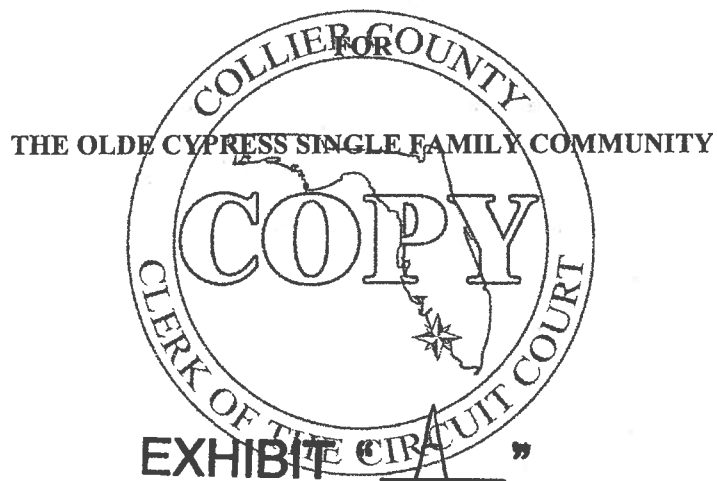


**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS**



Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103  
Naples, FL 34108

**TABLE OF CONTENTS**

**AMENDED AND RESTATED DECLARATION OF COVENANTS,**

**CONDITIONS, RESTRICTIONS AND EASEMENTS**

**FOR**

**THE OLDE CYPRESS SINGLE FAMILY COMMUNITY**

**PAGE NO.**

|                                                  |   |
|--------------------------------------------------|---|
| 1. <u>DEFINITIONS</u>                            | 1 |
| 1.1 <u>Architectural Review Committee</u>        | 1 |
| 1.2 <u>Assessment</u>                            | 1 |
| 1.3 <u>Association</u>                           | 1 |
| 1.4 <u>Board of Directors</u>                    | 1 |
| 1.5 <u>Common Area</u>                           | 1 |
| 1.6 <u>Common Expenses</u>                       | 1 |
| 1.7 <u>Declaration</u>                           | 2 |
| 1.8 <u>Family or Single Family</u>               | 2 |
| 1.9 <u>Guest or Guests</u>                       | 2 |
| 1.10 <u>Homeowners Association Documents</u>     | 2 |
| 1.11 <u>Institutional Mortgagee</u>              | 2 |
| 1.12 <u>Lease</u>                                | 2 |
| 1.13 <u>Lot</u>                                  | 2 |
| 1.14 <u>Master Association</u>                   | 2 |
| 1.15 <u>Master Association Declaration</u>       | 2 |
| 1.16 <u>Master Association Documents</u>         | 3 |
| 1.17 <u>Member</u>                               | 3 |
| 1.18 <u>Owner</u>                                | 3 |
| 1.19 <u>Property</u>                             | 3 |
| 1.20 <u>Residence</u>                            | 3 |
| 1.21 <u>Rules and Regulations</u>                | 3 |
| 1.22 <u>Single Family Residence</u>              | 3 |
| 1.23 <u>Tenant or Tenants</u>                    | 3 |
| 1.24 <u>Voting Interest</u>                      | 3 |
| 2. <u>MASTER ASSOCIATION AND PUD</u>             | 3 |
| 3. <u>ASSOCIATION: MEMBERSHIP: VOTING RIGHTS</u> | 3 |
| 3.1 <u>Articles of Incorporation</u>             | 4 |
| 3.2 <u>Bylaws</u>                                | 4 |

Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103  
Naples, FL 34108

|      |                                                                             |    |
|------|-----------------------------------------------------------------------------|----|
| 3.3  | <u>Delegation of Management</u>                                             | 4  |
| 3.4  | <u>Membership</u>                                                           | 4  |
| 3.5  | <u>Voting Interests</u>                                                     | 4  |
| 3.6  | <u>Approval or Disapproval of Matters</u>                                   | 4  |
| 3.7  | <u>Change of Membership</u>                                                 | 5  |
| 3.8  | <u>Termination of Membership</u>                                            | 5  |
| 3.9  | <u>Association Real Property</u>                                            | 5  |
| 3.10 | <u>Limitation on Liability</u>                                              | 5  |
| 3.11 | <u>Board of Directors</u>                                                   | 5  |
| 3.12 | <u>Powers and Duties</u>                                                    | 5  |
| 4.   | <u>COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS</u>                          | 5  |
| 4.1  | <u>Creation of Lien and Personal Obligation for Assessments and Charges</u> | 5  |
| 4.2  | <u>Establishment of Liens</u>                                               | 6  |
| 4.3  | <u>Priority of Liens</u>                                                    | 7  |
| 4.4  | <u>Collection of Assessments and Charges</u>                                | 7  |
| 4.5  | <u>Certificate</u>                                                          | 8  |
| 4.6  | <u>Special Assessments</u>                                                  | 8  |
| 4.7  | <u>Individual Assessment</u>                                                | 8  |
| 4.8  | <u>Resale Assessments</u>                                                   | 8  |
| 4.9  | <u>Master Association Assessments</u>                                       | 8  |
| 4.10 | <u>Enforcement Against Tenants</u>                                          | 9  |
| 5.   | <u>ARCHITECTURAL AND AESTHETIC CONTROL</u>                                  | 9  |
| 5.1  | <u>Necessity of Architectural Review and Approval</u>                       | 9  |
| 5.2  | <u>Powers and Duties of the ARC</u>                                         | 10 |
| 5.3  | <u>No Waiver</u>                                                            | 10 |
| 5.4  | <u>Variances</u>                                                            | 10 |
| 5.5  | <u>No Liability</u>                                                         | 11 |
| 5.6  | <u>Other Approvals Required</u>                                             | 11 |
| 6.   | <u>PROPERTY RIGHTS: EASEMENTS</u>                                           | 11 |
| 6.1  | <u>Use of Common Area</u>                                                   | 11 |
| 6.2  | <u>Easements</u>                                                            | 11 |
| 6.3  | <u>Partition: Separation of Interest</u>                                    | 12 |
| 6.4  | <u>Additional Easements</u>                                                 | 12 |
| 7.   | <u>MAINTENANCE OF COMMON AREA, LOTS AND RESIDENCES</u>                      | 12 |
| 7.1  | <u>Association Maintenance</u>                                              | 12 |
| 7.2  | <u>Owner Maintenance</u>                                                    | 12 |
| 7.3  | <u>Alterations and Additions to Common Area</u>                             | 13 |
| 7.4  | <u>Enforcement of Maintenance</u>                                           | 13 |
| 7.5  | <u>Negligence: Damage Caused by Condition in Residence</u>                  | 13 |

Falk Law Firm, P.A.  
7400 Tamiami Trail North, Suite 103  
Naples, FL 34108

|                                                                    |    |
|--------------------------------------------------------------------|----|
| 8. <u>INSURANCE</u>                                                | 13 |
| 8.1 <u>Association Insurance</u>                                   | 13 |
| 8.2 <u>Owner's Insurance Responsibility</u>                        | 14 |
| 9. <u>USE RESTRICTIONS</u>                                         | 14 |
| 9.1 <u>Residential Purposes</u>                                    | 14 |
| 9.2 <u>Signs</u>                                                   | 15 |
| 9.3 <u>Nuisance</u>                                                | 15 |
| 9.4 <u>Underground Utility Lines and Services</u>                  | 15 |
| 9.5 <u>Pets and Animals</u>                                        | 15 |
| 9.6 <u>Vehicles</u>                                                | 15 |
| 9.7 <u>Antennas and Flagpoles</u>                                  | 16 |
| 9.8 <u>Outdoor Equipment</u>                                       | 17 |
| 9.9 <u>Air Conditioning and Heating Equipment</u>                  | 17 |
| 9.10 <u>Solar Collectors</u>                                       | 17 |
| 9.11 <u>Walls, Fences, Window Coverings and Hurricane Shutters</u> | 17 |
| 9.12 <u>Lighting, Sound Equipment and Seasonal Decorations</u>     | 17 |
| 9.13 <u>Clothes Drying Area/Clotheslines</u>                       | 17 |
| 9.14 <u>Pools</u>                                                  | 17 |
| 9.15 <u>Subdivision of Lots</u>                                    | 17 |
| 9.16 <u>Hurricane Season</u>                                       | 18 |
| 9.17 <u>Wells</u>                                                  | 18 |
| 9.18 <u>On-Site Fuel Storage</u>                                   | 18 |
| 9.19 <u>Golf Carts</u>                                             | 18 |
| 9.20 <u>Compliance with Laws</u>                                   | 18 |
| 9.21 <u>Approval/Consent</u>                                       | 18 |
| 9.22 <u>Additional Restrictions, Exhibits</u>                      | 18 |
| 10. <u>ASSOCIATION'S EXCULPATION</u>                               | 18 |
| 11. <u>ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS</u>    | 18 |
| 11.1 <u>Legal Action</u>                                           | 19 |
| 11.2 <u>Entry by Association</u>                                   | 19 |
| 11.3 <u>Fines</u>                                                  | 19 |
| 12. <u>LEASING OF UNITS</u>                                        | 19 |
| 12.1 <u>Procedures</u>                                             | 19 |
| 12.2 <u>Term of Lease and Frequency of Leasing.</u>                | 21 |
| 12.3 <u>Occupancy During Lease Term</u>                            | 21 |
| 12.4 <u>Occupancy in Absence of Tenant</u>                         | 21 |
| 12.5 <u>Regulation by Association</u>                              | 21 |
| 12.6 <u>Fees for the Lease of Residences</u>                       | 21 |
| 12.7 <u>Unapproved Leases</u>                                      | 21 |

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Naples, FL 34108

|                                                            |    |
|------------------------------------------------------------|----|
| 13. <u>DURATION OF COVENANTS: AMENDMENT OF DECLARATION</u> | 21 |
| 13.1 <u>Duration of Covenants</u>                          | 21 |
| 13.2 <u>Procedure</u>                                      | 22 |
| 13.3 <u>Vote Required</u>                                  | 22 |
| 13.4. <u>Certificate; Recording</u>                        | 22 |
| 14. <u>GENERAL PROVISIONS</u>                              | 23 |
| 14.1 <u>Waiver</u>                                         | 23 |
| 14.2 <u>Severability</u>                                   | 23 |
| 14.3 <u>Headings</u>                                       | 23 |
| 14.4 <u>Interpretation</u>                                 | 23 |
| 14.5 <u>Gender</u>                                         | 23 |



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Naples, FL 34108

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

### FOR

### THE OLDE CYPRESS SINGLE FAMILY COMMUNITY

#### KNOW ALL BY THESE PRESENTS:

That heretofore, the original Declaration of Covenants, Conditions, Restrictions and Easements for The Olde Cypress Single Family Community was recorded in O.R. Book 2546, Page 973, Public Records of Collier County, Florida. The original Declaration of Covenants, Conditions, Restrictions and Easements for The Olde Cypress Single Family Community, as it has previously been amended, is hereby further amended and restated.

This Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easement is made by Olde Cypress Homeowners' Association, Inc., a Florida corporation not for profit. All of the real property legally described in Exhibit "A" attached hereto and made a part hereof shall be held, sold and conveyed only subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the above described property, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof and Olde Cypress Homeowners' Association, Inc.

1. **DEFINITIONS.** The terms used in this Declaration and its recorded exhibits shall have the definitions set forth in Chapter 720, Florida Statutes (2015) (the "Act"), unless otherwise defined below (it being the intent hereof that future amendments to Chapter 720, Florida Statutes (2015) not be retroactively applied to impair substantive rights of the Association set forth herein).

1.1 "Architectural Review Committee," means and refers to the committee described in Section 5 herein.

1.2 "Assessment" shall have the meaning set forth in Section 720.301, Florida Statutes (2015).

1.3 "Association" shall mean and refer to Olde Cypress Homeowners' Association, Inc., a Florida corporation not for profit.

1.4 "Board of Directors" means and refers to the Board of Directors of the Association.

1.5 "Common Area" means and refers to all real property which is now or hereafter owned or leased by the Association or dedicated for use or maintenance by the Association or its Members, including, regardless of whether title has been conveyed to the Association: real property the use of which is dedicated to the Association or its Members by a recorded plat; or real property committed by this Declaration to be leased or conveyed to the Association.

1.6 "Common Expenses" means and refers to all expenses properly incurred by the Association in the performance of its duties.

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1.7 "Declaration" means and refers to this Declaration of Covenants, Conditions, Restrictions and Easements, and any amendments hereto.

1.8 "Family" or "Single Family" shall refer to one natural person (as opposed to an artificial entity); or a group of 2 or more natural persons living together each of whom is related to each of the others by blood, marriage, legal custody or adoption; or not more than 2 persons not so related, who reside together as a single housekeeping unit, along with their children, if any.

1.9 "Guest" or "Guests" means any person or persons physically present in, or occupying a Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration, or using the Common Area at the invitation of an Owner or other legally permitted occupant.

1.10 "Homeowners Association Documents" means and refers to this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations, Architectural Review Guidelines and resolutions of the Association, as they may be amended from time to time. In the event of a conflict in the interpretation of the Homeowners Association Documents, they shall be applied in the order of priority stated above.

1.11 "Institutional Mortgagee" means the mortgagee or assignee of a first mortgage against a Lot, which mortgagee or assignee is a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Lot, which mortgage is guaranteed or insured (as evidenced by a recorded instrument) by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private agency engaged in the business of purchasing, guaranteeing or insuring residential mortgage loans, and their successors and assigns. An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a Lot.

1.12 "Lease" means the grant by an Owner of a temporary right to occupy the Owner's Residence for valuable consideration.

1.13 "Lot" means any platted lot within the Property upon which a Single Family Residence has or may be constructed. Wherever herein the term "Lot" is used in this Declaration, it shall be interpreted as if followed by the words "and Residence constructed thereon" except where the context clearly requires otherwise.

1.14 "Master Association" means and refers to Olde Cypress Master Property Owners Association, Inc., the Florida corporation not for profit that is the homeowners association for the overall community known as "Olde Cypress".

1.15 "Master Association Declaration" means and refers to the Master Declaration of Covenants, Conditions, Restrictions and Easements for Olde Cypress, recorded in O.R. Book 2539, Page 2902, Public Records of Collier County, Florida, as amended from time to time.

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1.16 "Master Association Documents" means and refers to the Master Declaration and the Articles of Incorporation, Bylaws, rules and regulations, architectural control criteria, resolutions and any other Master Association governing documents, as they may be amended from time to time.

1.17 "Member" means and refers to all persons who are members of the Association as provided in the Homeowners Association Documents.

1.18 "Owner" means and refers to any person or persons, entity or entities, who is or are the record owner(s) of the fee simple title to any Lot in the Property.

1.19 "Property" means and refers to the real property that is subject to this Declaration.

1.20 "Residence" means and refers to any or all the residences which are or may be constructed on the Lots, each intended for use and occupancy as a Single Family Residence.

1.21 "Rules and Regulations" means and refers to the rules and regulations, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

1.22 "Single Family Residence" means and refers to a Residence which is restricted to occupancy only by the Owner and his or her Family, Guests and Tenants as further provided herein.

1.23 "Tenant" or "Tenants" means and refers to one who Leases from an Owner and holds temporary possession of a Residence.

1.24 "Voting Interest" means and refers to the voting rights distributed to the Members pursuant to the Homeowners Association Documents. The Members are entitled to one vote for each Lot they own. Each Lot has one "Voting Interest". There are 185 Lots in the Property and therefore there are a total of 185 Voting Interests in the Association.

2. MASTER ASSOCIATION AND PUD. The Property is subject to the Master Association Documents and the Planned Unit Development Ordinance for Olde Cypress No. 96-64, as the same may be amended from time to time ("PUD"). All Owners, by virtue of their ownership of Lot, shall automatically be members of the Master Association. Voting rights and the method of casting votes in Master Association matters is set forth in the Master Association Documents.

The provisions of the Homeowners Association Documents shall be cumulative with the provisions of the Master Association Documents; however, in the event of conflict between or among the provisions of the Homeowners Association Documents and the Master Association Documents, the latter shall be superior to the Homeowners Association Documents. The foregoing priorities shall not prevent enforcement by the Association of provisions of the Homeowners Association Documents that are stricter than those of the Master Association Documents.

3. ASSOCIATION: MEMBERSHIP: VOTING RIGHTS. The administration, management and ownership of the Common Area shall be by the Association, which shall perform its functions pursuant to the following:

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3.1 Articles of Incorporation. A copy of the Articles of Incorporation is attached as Exhibit "B".

3.2 Bylaws. A copy of the Bylaws is attached as Exhibit "C".

3.3 Delegation of Management. The Association may contract for the management and maintenance of the Property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Area, with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Master Association Documents.

3.4 Membership. Every person or entity who is an Owner shall be a Member. Membership shall become effective upon the occurrence of the last to occur of the following events.

(A) Recording in the Public Records of a deed or other instrument evidencing legal title to a Lot.

(B) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title to the Lot.

However, if a Lot is subject to an agreement for deed, the purchaser in possession shall be considered the Owner for purposes of determining voting and use rights.

The failure to comply with the prerequisites set forth in (B) above shall not release the Owner from the obligation to comply with the Homeowners Association Documents, but shall otherwise preclude such Owner from obtaining the benefits of membership, including, without limitation, the right to receive notices and the right to vote on Association matters. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

3.5 Voting Interests. The Members are entitled to one vote for each Lot they own. The total number of votes shall not exceed the total number of Lots subject to this Declaration. The vote of a Lot is not divisible. If a Lot is owned by one natural person, his right to vote shall be established by the record title. If a Lot is owned jointly by 2 or more natural persons who are not acting as trustees, that Lot's vote may be cast by any one of the record Owners. If 2 or more Owners of a Lot do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner is a corporation, partnership, limited liability company, trust, trustee or other entity other than a natural person, the vote of that Lot shall be cast by any officer, director, partner, manager, managing member or trustee, as the case may be.

3.6 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Lot is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Lot at an Association meeting as stated in Section 3.5 above, unless the joinder of all Owners is specifically required.

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3.7 Change of Membership. A change of membership shall be established as provided in Section 3.4 above; and the membership of the prior Owner shall thereby be automatically terminated.

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

3.9 Association Real Property. The Association has the power to acquire real property and to convey and mortgage such real property, with approval of 2/3 of the Voting Interests. However, membership approval shall not be required for the Association to purchase a Lot at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid Assessments or by deed in lieu of foreclosure, or for the Lease, mortgage or conveyance of such Lot.

3.10 Limitation on Liability. Notwithstanding the duty of the Association to maintain and repair the Common Area, the Association shall not be liable to Owners for property damage other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Owners or other persons.

3.11 Board of Directors. Except as otherwise provided by law or by the Homeowners Association Documents, the Association shall act through its Board of Directors and its officers, and no vote of the Members shall be required. The Officers and Directors of the Association have a fiduciary relationship to the Members. An Owner does not have the authority to act for the Association by virtue of being an Owner.

3.12 Powers and Duties. The powers and duties of the Association include those set forth in the Homeowners Association Documents, the Act and the Florida Not for Profit Corporation Act.

#### 4. COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS.

4.1 Creation of Lien and Personal Obligation for Assessments and Charges. Subject to the limitations on assessment liability set forth elsewhere in this Declaration, each Owner of a Lot (including any purchaser at a judicial sale) or purchaser thereof, as applicable, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(A) the Lot's pro rata share of annual Assessments based on the annual budget adopted by the Association;

(B) the Lot's pro rata share of Special Assessments for Association expenditures not provided for by annual Assessments;

(C) any charges against less than all of the Lots specifically authorized in this Declaration or the Bylaws ("Individual Assessments");

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(D) Resale Assessments; and

(E) the Lot's pro rata share of Master Association assessments and other amounts owed to the Master Association (collectively referred to as "Master Association Assessments").

Assessments and charges shall be established and collected as provided herein and in the Bylaws. The Assessments and charges, together with interest, costs, and reasonable attorneys' fees shall bind such property in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid Assessments and charges coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor the amounts paid by the transferee.

All Common Area, and any property dedicated to and accepted by any governmental authority, taxing district, or public or private utility, and all property owned, leased, managed, maintained and/or controlled by the Master Association shall be exempt from payment of Assessments.

4.2 Establishment of Liens. Any and all Assessments and charges levied by the Association in accordance with the provisions of the Homeowners Association Documents, together with interest at the highest rate allowed by law, late fees, and costs of collection (including, but not limited to reasonable attorneys' fees) are hereby declared to be a charge and continuing lien upon the Lot against which such Assessment(s), charge(s) and Master Association Assessments are made, and shall also be the personal obligation of the Owner of such Lot. This lien is superior to any homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for Assessments and charges, or release his Lot from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area, or by abandonment of his Lot. The continuing lien may be perfected by the Association recording a Claim of Lien in the Public Records of Collier County, Florida, setting forth the description of the Lot, the name of the Owner, the name and address of the Association and the amount and due date of each unpaid Assessment, charge or Master Association Assessment as of the date the Claim of Lien is recorded. The Claim of Lien may be executed by either an officer of the Association or its legal counsel. The effectiveness of the Claim of Lien shall relate back to May 12, 1999. However, with respect to first mortgages of record, the Association's lien is effective from and after recording of a Claim of Lien in the Public Records of Collier County, Florida. A Claim of Lien shall secure payment of all Assessments, charges and Master Association Assessments due at the time of recording (including interest, late fees, costs and attorneys' fees as provided above), as well as all Assessments, Master Association Assessments interest, late fees, costs and attorneys' fees coming due subsequently, until the Claim of Lien is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a Satisfaction of Lien. If any Special Assessment or installation of a regular Assessment as to a Lot is delinquent, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Lot's Assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien is recorded in the Public Records of Collier County, Florida. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys' fees and costs as provided by law, and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Unit Owner a notice of the exercise, which notice shall be sent by certified or registered mail

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to the Unit Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose, as required by the Act, or may be sent separately.

4.3 Priority of Liens. The foregoing notwithstanding, the Association's lien for unpaid Assessments and charges shall be subordinate and inferior to the lien of all municipal, county, state and federal taxes, assessments and other levies which by law would be superior thereto. The Association's lien shall be subordinate and inferior to: all taxes, and other levies which by law would be superior thereto; the Master Association's continuing lien; and the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded prior to the first mortgage, but shall be superior to, and take priority over any other mortgage or lien regardless of when recorded. Any Lease of a Residence shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the Lease was executed. When a first mortgagee or its successor or assignee as a subsequent holder of the first mortgage obtains title to a Lot as a result of a foreclosure of its first mortgage in which it sues the Owner and initially joins the Association in the mortgage foreclosure action, or obtains title to a Lot as a result of a deed in lieu of foreclosure, such first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which acquires title shall be liable for unpaid Assessments and charges except as may be limited by the Act as it now exists and as it may be amended from time to time, plus interest, late fees, collection costs and attorneys' fees and costs incurred by the Association. Any Assessments and charges that such first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which acquires title to a Lot is not obligated to pay the Association pursuant to the Act shall be deemed to be Common Expenses collectible from Owners of all of the Lots in the Property, including such acquirer, its successors and assigns. However, if the Association's Claim of Lien was recorded prior to the first mortgage, the first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which obtains title shall be liable for all unpaid Assessments and charges plus interest, late fees, collection costs and attorneys' fees.

4.4 Collection of Assessments and Charges. If any Owner fails to pay any Assessment or charge, or installment thereof, within 10 days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

- (A) To charge interest on such Assessment or charge, from the date it becomes due until paid at the highest rate allowed by law, as well as to impose a late fee not to exceed the greater of \$25.00 or 5% of the amount of each Assessment installment that is paid past the due date. The late fee shall not be considered a fine as provided for in Section 11.3, and the procedural requirements for levying fines set forth therein shall not apply.
- (B) To deny Association approval of any proposed Lease of the Owner's Residence.
- (C) To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the manner set forth in the Act.
- (D) To bring an action at law for a money judgment against the Owner without waiving its right to foreclose its lien.

Falk Law Firm, P.A.  
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4.5 Certificate. Within 15 days after the date on which a request for an estoppel certificate is received from an Owner or mortgagee, or his or her designee, the Association shall provide a certificate signed by an officer or authorized agent of the Association stating all Assessments and other moneys owed to the Association by the Owner or mortgagee with respect to the Lot. The Association may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate. Any person other than an Owner who relies upon a certificate receives the benefits and protection thereof.

4.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses, pursuant to the procedure set forth in Section 6.5 of the Bylaws. Special Assessments shall be paid in installments or in a lump sum, as the Board may determine from time to time.

4.7 Individual Assessment. Any expense the Association incurs: which is the Owner's obligation; on behalf of the Owner; or with respect to the maintenance of high need or exotic landscaping on a Lot, shall be an Individual Assessment and shall become a lien against such Lot which may be foreclosed or otherwise collected in the same manner as any other Assessment. Notice of the amount and due date of such Individual Assessment shall be sent to the Owner subject to such Individual Assessment. A fine levied pursuant to Section 8.1 of the Bylaws shall become an Individual Assessment against the Lot if it is in the amount of at least \$1,000.00.

4.8 Resale Assessments. Unless otherwise prohibited by FNMA, VA, HUD, FHA, FHLMC, or other similar governmental or quasi-governmental agency, a Resale Assessment shall be due and payable to the Association by the transferee upon the conveyance of title to a Lot by an Owner. The Board of Directors shall determine the amount of the Resale Assessment for a particular calendar year. The Resale Assessment will be collected at closing and, upon payment, may be used to pay any Common Expenses. Payment of the Resale Assessment shall be the legal obligation of the transferee of the Lot. Notwithstanding the foregoing, the following conveyances shall be exempt from payment of the Resale Assessment: (i) to any person who was a co-Owner immediately prior to such conveyance; (ii) to the Owner's estate, surviving spouse or other heirs, resulting from the death of the Owner; (iii) to a trustee or the Owner's current spouse, solely for bona fide estate planning or tax reasons; and (iv) to an Institutional Mortgagee or the Association pursuant to a Final Judgment of Foreclosure or deed in lieu of foreclosure. Provided, however that upon a conveyance that occurs following the exempt transfers described in (i) through (iv) above, the Resale Assessment shall be due and payable.

4.9 Master Association Assessments. The Association shall collect Master Association Assessments. The Association shall remit these assessments and other amounts owed to the Master Association within 10 days of its receipt along with an accounting of the Owners who have made payments and the amounts thereof. In the event any amount owed to the Master Association is not timely paid to the Master Association, the Master Association shall have the right to enforce its rights against the Owner(s) whose payment has not been received by the Master Association, or against the Association. The Association shall have the option of collecting Master Association Assessments in the same manner as Assessments. The Association shall have no right of set-off or diminution of abatement with respect to Master Association Assessments. The Master Association adopts Master Association Assessments, and the Association has no control over the amount or timing of such assessments and other amounts.

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Naples, FL 34108

**4.10 Enforcement Against Tenants.** Subject to the procedures and limitations set forth in Section 720.3085(8) of the Act, if a Lot is occupied by a Tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay the subsequent rental payments and continue to make such payments until all monetary obligations of the Owner related to the Lot have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. The Association may evict the Tenant if the Tenant fails to make a required payment to the Association.

In the event that Section 720.3085(8) is removed from the Act, the remainder of this Section 4.10 shall be applicable to the Association's ability to collect rent from a Tenant. If an Owner has leased his Lot and the Owner becomes delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the Owner related to the Lot have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. If the Tenant paid rent to the Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within 14 days after receiving the demand, the Tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Owner until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. The liability of the Tenant may not exceed the amount due from the Tenant to the Owner. The Owner shall provide the Tenant a credit against rents due to the Owner in the amount of moneys paid to the Association. The Association may evict the Tenant if the Tenant fails to make a required payment to the Association. However, the Association shall not be considered a landlord under Chapter 83, Florida Statutes. The Tenant shall not, by virtue of payment of monetary obligations to the Association, have any of the rights of an Owner. The Board shall have the authority as a condition of approving a Lease to require that the Tenant and the Owner enter into a Lease addendum that provides that all Lease payments shall be paid to the Association during such time as the Owner is delinquent in paying any monetary obligation owed to the Association. Alternatively, the Association may require that such language be included in the Lease.

## **5. ARCHITECTURAL AND AESTHETIC CONTROL.**

**5.1 Necessity of Architectural Review and Approval.** No "Improvement" (which term shall include without limitation, any improvement such as a building, fence, wall, sign, site paving, grading, pool, parking and building addition, alteration, exterior painting, exterior lighting, gas tank installation, screen enclosure, sewer, drain, disposal system, decorative building, landscaping, landscape device or object) shall take place until the requirements below have been fully met and approval obtained from the Architectural Review Committee ("ARC"). The Board of Directors shall appoint all members of the ARC, which shall consist of at least 3 but not more than 5 persons. Members of the ARC shall serve terms of one year, which shall expire at the first meeting of the Board of Directors that occurs after the Annual Meeting of the Members. Members of the ARC may include architects or similar professionals who may or may not be Owners. This Section 5 shall not apply to construction on or improvements or modifications to the Common Areas made by or on behalf of the Association.

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Naples, FL 34108

5.2 Powers and Duties of the ARC. The ARC shall have the following powers and duties:

(A) To enact initial architectural control criteria and any amendments thereto from time to time ("Architectural Review Guidelines"), subject to approval from the Board of Directors. The Architectural Review Guidelines shall be consistent with the provisions of this Declaration. The Association shall make the Architectural Review Guidelines available to Owners as set forth in Section 720.303 of the Act.

(B) To require submission of one complete set of all plans and specifications for any proposed Improvement, the construction, installation or modification of which is proposed upon any Lot, together with a copy of any required governmental permits. The ARC may also require submission of samples (e.g., building materials and colors proposed for use on any Lot) and may require such additional information as reasonably may be necessary for the ARC to evaluate the proposed Improvement in accordance with this Declaration and the Architectural Review Guidelines. Upon request by the ARC, the proposed contractor(s) shall supply a copy of all required business licenses and evidence of insurance with such coverage and amounts as the ARC may reasonably require. Within 45 days of its receipt of all required plans, specifications and other required information, the ARC shall provide the Owner with written notice of its approval or disapproval of the proposed Improvement (in the latter case, the written notice shall include the reason(s) for disapproval). Failure to provide written notice within said 45 days shall be deemed an approval and the ARC shall issue a written notice of approval upon receipt of a written demand from the Owner.

The Owner may appeal the ARC's decision to disapprove a proposed Improvement by sending written notice of such appeal to the Board of Directors within 10 days of receipt of the written disapproval. The Board of Directors shall render a decision on such appeal within 20 days of its receipt of the written notice of appeal. The Board of Directors' ruling on appeal shall be final.

(C) To monitor construction to verify compliance with the provisions hereof and any approvals and conditions of the ARC. If the Owner constructs, installs or modifies an Improvement without complying with the approved plans and specifications and other conditions of approval, the Owner shall, upon receipt of a written demand, remove the Improvement or make it conform with the approved plans and specifications and other conditions of approval, and shall bear all costs and expenses of such restoration, including all costs and attorneys' fees the Association has incurred. The Association may take enforcement action with respect to non-compliance through equitable remedy or self-help and assess the Owner for all of its costs and attorneys' fees as an Individual Assessment.

5.3 No Waiver. The approval by the ARC of any plans and specifications shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval or consent.

5.4 Variances. The ARC may authorize variances from compliance with the Architectural Review Guidelines when circumstances such as topography, natural hardship, or aesthetic or environmental considerations require. No variance shall be effective unless in writing, or stop the ARC from denying a variance in other circumstances.

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7400 Tamiami Trail North, Suite 103  
Naples, FL 34108

5.5 No Liability. No review or approval by the ARC shall imply or be deemed to constitute an opinion by the ARC, nor impose upon the ARC, the Association, the Board of Directors and the Association's Officers and agents, or any other party, any liability for the design, installation or construction of Improvements, including, but not limited to, structural integrity, design, quality of materials, and compliance with building code or life and safety requirements. Approval by the ARC does not constitute governmental approval. It is the sole responsibility of the Owner to obtain the necessary permits and meet all governmental requirements, including applicable building and design codes. The scope of review and approval by the ARC and the Board of Directors, if any, is limited solely to whether the Improvements comply with the Architectural Review Guidelines.

5.6 Other Approvals Required. Owners must obtain any approval required from the Master Association's Construction Committee and comply with the Master Association's architectural control criteria. The Master Association's architectural control criteria shall prevail over any conflicting provisions in the Architectural Review Guidelines. However, the Architectural Review Guidelines may be more restrictive than the Master Association's architectural control criteria.

## 6. PROPERTY RIGHTS: EASEMENTS

6.1 Use of Common Area. Every Owner and his Family, Tenants, Guests and invitees shall have a perpetual non-exclusive easement for ingress, egress and access in, to and over the sidewalks, walkways and private roads which may be contained within the Common Area for use in common with all other Owners, their Families, Tenants, Guests and invitees. Each Owner and his Family, Tenants, Guests and invitees shall have a perpetual non-exclusive easement for the use and enjoyment of such lands as in such manner as may be regulated by the Association. These easements shall be appurtenant to and shall pass with the title to every Lot subject to the following:

(A) The right and duty of the Association to levy Assessments against each Lot for the maintenance, repair, replacement or betterment of the Common Area and improvements thereon.

(B) The right of the Association to dedicate or transfer or grant an easement covering all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board of Directors. No such easement shall materially interfere with the non-exclusive easement rights described in this Section 6.1.

6.2 Easements. The Association, acting through its Board of Directors, shall have the right to grant such electric, telephone, gas, water, sewer, irrigation, drainage, cable television or other easements, and to relocate any existing easement in any portion of the Property as the Board of Directors shall deem necessary or desirable. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Lots and Residences. Each Lot shall be subject to an easement in favor of all other portions of the Property for the location of utilities and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement of public or private utility lines and other similar or related facilities serving other Lots and portions of the Property. In addition, if, by reason of original construction, shifting, settlement or movement, any Residence encroaches upon the Common Area or upon any other Lot, an easement shall exist to the extent of that encroachment as long as the encroachment exists. In the event that any structure is partially or totally

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Naples, FL 34108

destroyed, then rebuilt, the Owners and the Association agree that encroachments on adjacent Lots or on Common Area due to construction shall be permitted and that an easement for such encroachments and the maintenance of the structure shall exist, but such encroachments shall be only to the extent permitted by the original construction, shifting, settlement or movement. The Association and its vendors, contractors and employees, are granted a blanket easement over the Common Area and Lots for repair and maintenance and for carrying out the Association's responsibilities pursuant to this Declaration. Each Lot shall be subject to an access easement in favor of the adjoining Owner(s) and their contractors and agents for purposes of bringing materials and construction equipment to the rear or side of the Lot for construction of pools or other structures. The adjoining Owner shall restore the Lot to its previous condition following completion of such construction.

6.3 Partition: Separation of Interest. There shall be no judicial partition of the Common Area, nor shall any Owner or any other person acquiring any interest in the Property, or any part thereof, seek judicial partition thereof. Nothing herein shall be construed to prevent judicial partition of any Lot and Residence owned on co-tenancy. The ownership of any Lot and the ownership of the Residence constructed thereon may not be separated or separately conveyed.

6.4 Additional Easements. The Property (including the Lots) shall be subject to and benefited by any and all easements which are set forth in the Homeowners Association Documents or any plat or other recorded instrument (including the Master Association Documents) encumbering all or a portion of the Property, including, without limitation, utility easements for the installation, maintenance and repair by any utility company and drainage easements. The Property (including the Lots) shall also be subject to a public service easement for police protection, fire protection, emergency services, postal services and meter reading.

## 7. MAINTENANCE OF COMMON AREA, LOTS AND RESIDENCES.

7.1 Association Maintenance. The Association is responsible for the management, maintenance, insurance and operation of the Common Area. The Association shall be responsible for the maintenance of the lawns and landscaping (including irrigation equipment) located on Lots, with the exception of landscaping installed without approval from the Association and the Master Association, provided that the Association shall also be responsible for repair and replacement if necessary due to the negligence of the Association's landscaping contractor or if the Association's landscaping contractor is contractually obligated for such repair and replacement. In no event will the Association be responsible for repair and replacement caused by an act of God, including, without limitation, a hurricane or extraordinary pests/disease. All maintenance, repair and replacement which is the responsibility of the Association shall be a Common Expense, unless the Association undertakes maintenance, repair or replacement of a Lot and Residence due to an Owner's failure to undertake the maintenance, repair or replacement or the Association undertakes maintenance of high need or exotic landscaping installed by or on behalf of the Owner or his predecessors in title. All areas not covered by structures, walkways, sidewalks, pavement or driveways shall be maintained as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. No stone, gravel, *artificial grass/turf* or paving of any type shall be used as a substitute for grass in a lawn.

7.2 Owner Maintenance. Owners shall maintain, repair and replace their Lots, Residences and any other improvements, modifications and additions thereto in a safe, clean, orderly and attractive

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Naples, FL 34108

condition (including, without limitation, periodic cleaning of roofs, exterior surfaces of the homes and lanais), except for those portions to be maintained, repaired and replaced by the Association. Whenever an Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Lot or Residence, whether with or without approval from the Association, such Owner shall be deemed to have warranted to the Association and its Members that his contractor is properly licensed and fully insured and that the Owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance. Owners shall maintain, repair and replace the sidewalks and driveways located on their Lots, including keeping them clean (including by pressure washing as necessary) and free from impediments to pedestrian traffic.

**7.3. Alterations and Additions to Common Area.** Material alterations or substantial additions to the Common Area may be undertaken and funds necessary levied only upon approval by a majority of the Board of Directors.

**7.4 Enforcement of Maintenance.** In the event that an Owner fails or refuses to comply with his maintenance obligations pursuant to this Declaration, after 14 days' notice and demand from the Association and the Owner's failure to comply, the Association shall have the authority (but not the obligation) to take whatever action is reasonably necessary in its judgment to bring the Lot and Residence into conformity and the expenses of doing so shall be an obligation of the Owner collectable as an Individual Assessment against that Lot. In the alternative, the Association may institute legal proceedings to compel the Owner to observe his obligations set forth in the Homeowners Association Documents.

**7.5 Negligence: Damage Caused by Condition in Residence.** The Owner of each Lot shall be liable for the expenses of any maintenance, repair or replacement of Common Area, other Lots and Residences and personal property made necessary by his act or negligence, or by that of any member of his Family or his Guests, Tenants and invitees. Each Owner has a duty to maintain his Lot, Residence and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Lots, Residences, the Common Area and personal property. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Lots, Residences, the Common Area or personal property, the Owner shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. The Association may, but is not obligated to repair the damage and hold the responsible party liable for all costs, secured by a lien against the applicable Lot, which lien may be foreclosed in the same manner as the Association's Claim of Lien.

## 8. INSURANCE.

**8.1 Association's Insurance Responsibility.** The Association shall obtain and maintain adequate insurance for the Common Area (with provisions for deductibles) as follows:

(A) Casualty. To the extent that there is Common Area containing any improvements, the coverage shall afford protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and such other risks as are customarily covered with respect to improvements on the Common Area, including, but not limited to, flood (if required by law), vandalism, or malicious mischief. All or any part of such coverage may be extended to include the Association's

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Naples, FL 34108

personal property as the Board of Directors may deem desirable. The Association shall act as agent of the Owners and shall adjust all losses on their behalf with respect to the Common Area.

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to an Owner, if obtainable at reasonable cost.

(C) Directors and Officers Liability Insurance Coverage. Directors and Officers liability insurance coverage in such amounts and with such coverage as the Board of Directors deems appropriate.

(D) Fidelity Bond or Insurance. A fidelity bond or insurance to the extent required by the Act.

(E) Other Insurance. The Board of Directors may also obtain such other insurance coverage as it deems appropriate.

8.2 Owner's Insurance Responsibility. Each Owner, at his own expense, is obligated to obtain and maintain hazard and liability insurance on his Lot, Residence and personal property. In the event of a partial loss or damage resulting in less than the total destruction of his Residence and any other improvements, the Owner shall remove all debris within 60 days and complete repair or reconstruction of the damaged Residence and any other improvements within 1 year. In the event that the Residence is totally destroyed, the Owner may decide not to rebuild, in which case the Owner shall clear the Lot of all debris and any remaining improvements and return the Lot to substantially the natural state in which it existed prior to the construction of the Residence and any other improvements. Thereafter, the Association shall maintain the Lot in a neat and attractive condition.

## 9. USE RESTRICTIONS.

9.1 Residential Purposes. No Lot shall be used for other than Single-Family residential purposes. No trade or business may be conducted in or from any Residence, except that an Owner or occupant residing in a Residence may conduct business activities within the Residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activity conforms to all zoning requirements; (c) the business activity involves only telephone calls and correspondence to and from the Residence and does not involve persons coming into the Property who do not reside in the Property or door-to-door solicitation of occupants of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other occupants of Residences. Leasing a Residence shall not be considered a trade or business within the meaning of this Section 9.1. The use of a Residence as a public lodging establishment or for timeshare or other similar uses shall be deemed a business or trade use. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

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Naples, FL 34108

9.2 Signs. No sign or advertisement of any kind, including, without limitation, those of realtors, contractors and subcontractors, shall be erected within the Property without the prior written consent of the ARC or in accordance with the standards and guidelines established pursuant to the Master Association Declaration, except as may be required by legal or zoning proceedings. Signs which are permitted within the Property may be restricted as to the size, color, lettering, materials and location of such signs. The Board of Directors shall have the right to erect signs in the Common Area as they deem appropriate. Under no circumstances shall signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Property be permitted. No sign shall be nailed or otherwise attached to trees. Pursuant to Section 720.304(6) of the Act, an Owner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to his or her Residence.

9.3 Nuisance. Nothing shall be done upon any Lot or in the Common Area which may be or may become an annoyance or nuisance to any person. No obnoxious, unpleasant or offensive activity shall be carried on, nor shall anything be done which can be reasonably construed to constitute a nuisance, public or private in nature. All residents shall observe the vehicular speed limits and any rules posted on signs in the Common Area.

9.4 Underground Utility Lines and Services. All electric, telephone, gas and other utility lines shall be installed underground, except for temporary lines as required during construction or if required by law.

9.5 Pets and Animals. No horses, livestock or poultry of any kind (including, without limitation, pigs, goats and chickens) shall be raised, bred or kept on any Lot except for commonly accepted household pets such as dogs, cats and birds. Pets may not be kept, bred or maintained for any commercial purposes. All pets shall be contained in Residences and shall not be permitted to run freely. When outside a Residence, all pets must be carried or secured with a hand held leash. However, a pet may be kept within an enclosed (i.e., screened) lanai while the Owner or other occupant of the Residence is also within the enclosed lanai. A pet may not be left unattended on a lanai. The Owner, pet's owner or handler, as applicable, must pick up all of the pet's solid waste and deposit it in an appropriate trash container. In the event that any pet becomes a nuisance, the Board of Directors may order the Owner and the pet's owner, as applicable, to permanently remove the same from the Residence and shall if necessary, have the right to seek injunctive relief requiring the Owner and the pet's owner, as applicable, to remove the pet in the event the pet is not removed after receipt of such notice. Tenants and Guests are permitted to keep pets in Residences.

#### 9.6 Vehicles.

(A) No commercial vehicles, or campers, mobile homes, motor homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, house trailers, golf carts, stretch limos, vehicles with lettering on them, or vans shall be permitted to be parked or to be stored on any portion of the Property except within enclosed garages or areas, if any, designated by the Master Association for that purpose. For the purpose of this Section 9.6(A), "commercial vehicles" shall mean those which are not designed and used for customary personal/family purposes. "Vehicles" are defined to include only passenger automobiles and golf carts. Golf carts and vehicles must be parked in the garage overnight. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as

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Naples, FL 34108

to whether it is a commercial vehicle. The prohibitions on parking contained above in this Section 9.6(A) shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services.

No parking on lawns shall be permitted. No vehicle shall be parked anywhere but on paved areas intended for that purpose, garages, or as approved by the Master Association for construction purposes. Owners shall park their vehicles overnight in their garages. No more than two automobiles or minivans may be parked in a driveway overnight without the written consent of the Master Association. If a resident has more vehicles than garage spaces, they must fill their garage spots with vehicles, then up to two additional vehicles can be parked in the driveway overnight. If a resident has more than one golf cart, they must all be parked together in a single garage stall. If the garage spaces are not fully occupied by vehicles and there is a vehicle parked overnight in the driveway, the resident will be considered to be in violation of the parking rules. After proper warning, this may result in fines or towing.

Overnight visitors may park in the driveway overnight. The visitor's pass from the security gate must be displayed on the dashboard. If more than two vehicles (exclusive of visitor vehicles) are parked in the driveway overnight without proper authorization, the resident will be considered in violation of the parking rules. "Residents" are defined as any persons who reside, or are anticipated to reside, in the home for more than one month.

(B) Notwithstanding anything to the contrary contained in this Section 9.6, no commercial vendor vehicle of any kind shall be permitted to be parked in the Property for a period of more than 12 daylight hours unless such vehicle is necessary and being used in the actual construction or repair of a structure. Commercial vendor vehicles may not be parked in roadways or Common Areas overnight.

(C) Subject to applicable laws and ordinances, any vehicle parked in violation of this Section 9.6 or other provision in the Homeowners Association Documents, may be towed by the Association or its agent at the sole expense of the owner of such vehicle, if it remains in violation for a period of 24 hours from the time a notice of violation is personally given to the owner of such vehicle or other legally authorized person in control of the vehicle.

9.7 Antennas and Flagpoles. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Residence, or is located on the side or rear yard of the Lot. The ARC may require that a Reception Device be painted or screened by landscaping in order to blend into the Residence and removed from view from the street and other Residences. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the ARC, but no Owner shall be prevented from displaying one portable, removable official United States flag or official flag of the State of Florida in a respectful manner, or on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, a portable, removable US Army, Navy, Air Force, Marine Corps or Coast Guard flag. The permitted flags shall not exceed 4.5' x 6'. Notwithstanding the foregoing, no one shall be permitted to display the United States flag in a manner that violates: (i) Federal law or any rule or custom as to the proper display or use

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Naples, FL 34108

of the United States flag; or (ii) any reasonable restriction pertaining to the time, place and manner of displaying the flag. The restriction must be necessary to protect a substantial interest of the Association.

9.8 Outdoor Equipment. All oil tanks, bottled gas tanks, swimming pool equipment, housing and sprinkler pumps and other such outdoor equipment must be walled-in or placed in sight-screened or fenced-in areas so that they shall not be readily visible from any adjacent streets or Residences. Otherwise, adequate landscaping shall be installed and maintained around these facilities. All trash containers shall be stored in the garage except on trash "pick up" days. No jungle gyms, swing sets or other playground equipment, including, without limitation, basketball hoops and backboards, shall be permitted to be permanently installed on any Lot without prior approval from the ARC. Portable basketball hoops are permitted but must be stored out of sight when not in use.

9.9 Air Conditioning and Heating Equipment. All air conditioning and heating units shall be shielded and hidden so that they shall not be readily visible from any adjacent streets or Residences. Window or wall air conditioning and heating units are prohibited.

9.10 Solar Collectors. The ARC must approve the location of the materials used in the construction of solar collectors, including all ancillary equipment and installation materials.

9.11 Walls, Fences, Window Coverings and Hurricane Shutters. No dog runs, animal pen, fences or walls of any kind are permitted on any Lot. Walls and fences are prohibited. The ARC shall have the authority to adopt hurricane shutter specifications, which may include color, style, time periods in which shutters may be kept closed, and other factors deemed relevant by the ARC. Laminated glass and window film architecturally designed to function as hurricane protection which complies with the applicable building code, may be used in place of hurricane shutters, except that reflective window coverings are prohibited. No Owner may install hurricane shutters or other type of hurricane protection without the prior approval of the ARC.

9.12 Lighting, Sound Equipment and Seasonal Decorations. Except for seasonal decorative lights, the exterior lighting of a Lot shall be accomplished in accordance with a lighting plan approved by the ARC. Seasonal decorative lights may be displayed between the day after Thanksgiving and January 10<sup>th</sup> only. No light, sound or odor shall be emitted from any Lot which is obnoxious or offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than devices used exclusively for security, fire prevention or fire control purposes, shall be permitted.

9.13 Clothes Drying Area/Clotheslines. No outdoor clothes drying area or clotheslines are permitted.

9.14 Pools. Above ground pools are prohibited.

9.15 Subdivision of Lots. No Lot may subdivided into 2 or more Lots and no Lot may be combined with 1 or more additional Lot(s) without prior approval from the Board of Directors and after full compliance with all applicable zoning and subdivision requirements. All Assessments and voting rights shall be calculated as such Lot(s) were originally designated on the plat, notwithstanding the fact that a Lot has been subdivided or combined with one or more additional Lot(s). It shall be the Owner's

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Naples, FL 34108

or Owners' responsibility to secure approval from any mortgagee(s) holding a mortgage or mortgages on the applicable Lot(s). This Section 9.15 shall not require approval from the Board of Directors in the case of corrective deeds or other instruments necessary to resolve boundary disputes.

9.16 Hurricane Season. An Owner who intends to be absent from his Residence during the hurricane season (June 1<sup>st</sup> through November 30<sup>th</sup> of each year) shall prepare his Residence prior to his departure by: removing all furniture, potted plants, and other movable objects from his Lot; and designating a person or firm, satisfactory to the Association, to care for his Residence should it suffer hurricane damage.

9.17 Wells. Private wells are prohibited.

9.18 On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Property, except for fuel contained in permitted vehicles, emergency generators, barbeque gas grills and other similar tools and equipment and used for pool heating. On-site underground storage of heating fuel, stored in a tank which is designed for the type of pool constructed on a Lot and which meets applicable governmental requirements and Architectural Review Guidelines, shall be permitted for use in heating a pool.

9.19 Golf Carts. Golf carts may be operated in the Property, subject to any requirements in the Master Association Documents. Golf carts must be parked in the Owner's garage when not in use.

9.20 Compliance with Laws. Each Owner shall comply with the provisions of all applicable laws, regulations, ordinances and other governmental or quasi-governmental regulations.

9.21 Approval/Consent. Whenever the words "approval", "consent" or the like are used anywhere in Section 9 or the Homeowners Association Documents, they shall be deemed to include the words, "written" or "in writing".

9.22 Additional Restrictions: Exhibits. The Property, including the Common Area, Lots and Residences, are subject to those restrictions set forth in the exhibits attached hereto, the Master Association Declaration and any other instruments of record.

10. ASSOCIATION'S EXCULPATION. The Association may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without incurring liability of any nature to the Owners or any other person for any reason whatsoever. Any permission or approval granted shall be binding upon all persons.

11. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS. Every Owner and the Owner's Family members, Tenants, Guests and invitees shall at all times comply with all the covenants, conditions and restrictions of the Homeowners Association Documents. All violations of the Homeowners Association Documents shall be reported immediately to the Association's property manager. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Homeowners Association Documents,

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shall be presented to and determined by the Board of Directors, whose interpretation and/or whose remedial action shall control. If any person, firm or entity subject to the Homeowners Association Documents fails to abide by them, as they are interpreted by the Board of Directors, the Association or any Owner shall have the ability to take any action to compel compliance as set forth below.

11.1 Legal Action. Judicial enforcement of the Homeowners Association Documents shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate the Homeowners Association Documents, to restrain violation and/or to recover damages, or against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If such action is instituted, the prevailing party shall, in addition, be entitled to recover its costs and attorneys' fees incurred in enforcing the Homeowners Association Documents. Certain disputes must be submitted to dispute resolution procedures conducted by the Division of Florida Land Sales, Condominiums and Mobile Homes ("Division") as more particularly set forth in Section 720.311 of the Act.

11.2 Entry by Association. Violation of any conditions or restrictions, or breach of any covenant, herein contained or in any of the Homeowners Association Documents, shall also give the Association and its manager or other authorized agent(s) or representative(s), in addition to all other remedies, the right to enter upon the Lot where such violation or breach exists and in the event of an emergency, summarily abate and remove, at the expense of the Owner any construction or other violation that may be or exist thereon. The Association and its manager and authorized agent(s) and representative(s) shall not thereby become liable in any manner for trespass, abatement or removal.

11.3 Fines. The Board of Directors may impose a fine or fines against an Owner or any Owner's Tenant, Guest, or invitee for the failure of the Owner or an occupant, licensee, or invitee of the Owner's Lot to comply with any covenant, restriction, rule, or regulation contained herein or promulgated pursuant to the Homeowners Association Documents.

12. LEASING OF RESIDENCES: In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of Residences by their Owners shall be restricted as provided in this Section 12. All Leases of Residences must be in writing. An Owner may Lease only his or her entire Residence, and then only in accordance with this Section 12, after receiving the approval of the Association. The Tenant must be a natural person as opposed to an artificial entity such as a corporation, partnership or a limited liability company. Timeshare or other similar occupancy of a Residence is prohibited.

#### 12.1 Procedures.

(A) Notice by the Owner. An Owner intending to Lease his or her Residence shall give to the Board or its designee written notice of such intention at least 30 days prior to the first day of occupancy under the Lease together with the name and address of the proposed Tenant, a fully executed copy of the proposed Lease, and such other information as the Board may reasonably require. The applicant must sign for having received copies of the Homeowners Association Documents.

(B) Board Action. After the required notice and all information or interviews requested

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have been provided, the Board shall have 30 days in which to approve or disapprove the proposed Lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the Tenant.

(C) Disapproval. A proposed Lease shall be disapproved only if a majority of the entire Board or the Association's Leasing Committee so votes, and in such case the Lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

(1) the Owner is delinquent in the payment of Assessments at the time the application is considered;

(2) the Owner has a history of leasing his or her Residence without obtaining approval, or leasing to troublesome tenants and/or refusing to control or accept responsibility for the occupancy of his or her Residence;

(3) the application on its face indicates that the prospective Tenant intends to conduct himself or herself in a manner inconsistent with the Homeowners Association Documents;

(4) the prospective Tenant has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(5) the prospective Tenant has a history of conduct which evidences disregard for the rights and property of others;

(6) the prospective Tenant has a record of financial irresponsibility, including without limitation, prior bankruptcies, foreclosures or bad debt;

(7) the prospective Tenant, during previous occupancy, has evidenced an attitude of disregard for the Homeowners Association Documents;

(8) the prospective Tenant gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees are not paid; or

(9) the Owner fails to give proper notice to the Board of his or her intention to Lease the Residence.

(D) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board or the Association's Leasing Committee, at either's election, may approve or disapprove the Lease. Any Lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the Tenant and other occupants of the Residence without securing consent to such eviction from the Owner.

(E) Applications: Assessments. Applications for authority to Lease shall be made to the Board or the Association's Leasing Committee on such forms and include such terms as the Board may provide from time to time. The Owner may not delegate legal responsibility for paying Assessments to the Tenant. This restriction shall not prohibit the Association from exercising its rights pursuant to

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Section 4.10 hereof.

(F) Committee or Manager Approval. To facilitate approval of Leases proposed during times when many of the Directors are not in residence, the Board may by resolution delegate its approval powers (but not disapproval) to a committee or the Association's manager.

12.2 Term of Lease and Frequency of Leasing. The minimum Lease term is 60 consecutive days. Section 10.13 of the Master Association Declaration provides that no Owner may create more than 4 leasehold interests in the same Lot in the same calendar year. No Lease may be for a period of more than 1 year, and no option for the Tenant to extend or renew the Lease for any additional period shall be permitted unless approved by the Board. No subleasing or assignment of Lease rights by the Tenant is allowed.

12.3 Occupancy During Lease Term. Guests shall not occupy leased Residences unless the Tenant and/or his or her Family are in residence.

12.4 Occupancy in Absence of Tenant. If a Tenant absents himself or herself from the Residence for any period of time during the Lease term, his or her Family authorized to occupy the Residence who are already in residence may continue to occupy the Residence and may have Guests subject to all of the restrictions set forth in this Declaration. If the Tenant and all of the Family members mentioned in the preceding sentence are absent, no other person may occupy the Residence.

12.5 Regulation by Association. All of the provisions of the Homeowners Association Documents shall be applicable and enforceable against any person occupying a Residence to the same extent as against the Owner. A covenant on the part of each occupant to abide by the Homeowners Association Documents, designating the Association as the Owner's agent with the authority to terminate any Lease and evict the Tenants and other occupants in the event of breach of such covenant, shall be deemed to be included in every Lease, whether oral or written, and whether specifically expressed in such agreement or not.

12.6 Fees for the Lease of Residences. Whenever herein the Board's approval is required to allow the Lease of a Residence, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a Lease with the same Tenant.

12.7 Unapproved Leases. Unapproved leases shall be void and unenforceable unless subsequently approved by the Board and shall constitute a valid basis for an eviction action.

### 13. DURATION OF COVENANTS: AMENDMENT OF DECLARATION:

13.1 Duration of Covenants. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period to expire on the 30<sup>th</sup> anniversary of the date of recordation of this Declaration (as amended to that date by the Members as provided elsewhere herein). Upon the expiration of the initial period, this Declaration shall be automatically renewed and extended for successive 10 year periods. The number of 10 year

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renewal periods hereunder shall be unlimited, with this Declaration being renewed and extended upon the expiration of each 10 year renewal period for an additional 10 year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent 10 year renewal period, 90% of the Voting Interests, at a duly held meeting of Members, vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at 45 days in advance of said meeting. If the Members vote to terminate this Declaration, the President or Vice President of the Association shall execute a certificate with the formalities of a deed, which shall set forth the Book and Page of the Public Records of Collier County, Florida in which this Declaration is recorded, the resolution of termination so adopted, the date of the meeting of the Association, the total number of votes cast in favor of such resolution and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

13.2 Procedure. Upon any amendment being proposed as provided above, the proposed amendment shall be submitted to a vote of the Members not later than the next Annual Meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or a notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See Declaration, Section [ ] for present text."

13.3 Vote Required. Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved by at least a majority of the Voting Interests, provided that notice of the proposed amendment has been given to the Members in accordance with the Act and this Declaration. This Declaration shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of this Declaration. The Board of Directors shall have the authority to amend this Declaration in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend this Declaration to correct scrivener's errors or omissions, and amend and restate this Declaration in order to consolidate into one document amendments previously adopted by the members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of Directors meeting, with adoption of the amendments set forth on the agenda. No amendment affecting the "Water Management System" (as such term is defined in the Master Association Declaration) shall be of any force and effect unless the South Florida Water Management District consents to the same.

13.4. Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to this Declaration, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

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14. GENERAL PROVISIONS.

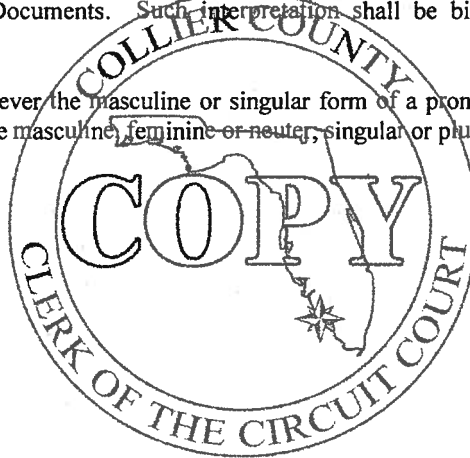
14.1 Waiver. Any waiver by the Association of the breach of any provisions of the Homeowners Association Documents must be in writing and shall not operate or be construed as a waiver of any other provision or of any subsequent breach.

14.2 Severability. If any section, subsection, sentence, clause, phrase or portion of the Homeowners Association Documents is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions.

14.3 Headings. The headings of the sections in the Homeowners Association Documents are for convenience only, and shall not affect the meaning or interpretation of the contents thereof.

14.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of the Homeowners Association Documents. Such interpretation shall be binding upon all parties unless wholly unreasonable.

14.5 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, as the context requires.



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EXHIBIT "A"

Lots 1 through 12, Tract 1; Lots 1 through 31, Tract 4; Lots 1 through 18, Tract 10; Olde Cypress, Unit One, according to the plat thereof recorded in Plat book 32, Page 1, Public Records of Collier County, Florida.

Olde Cypress, Unit Two, according to the plat thereof recorded in Plat Book 32, Page 66, Public Records of Collier County, Florida.

Olde Cypress, Unit Three, according to the plat thereof recorded in Plat Book 32, Page 84, Public Records of Collier County, Florida.



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2476266 OR: 2546 PG: 1004

RECORDED in OFFICIAL RECORDS at COLLIER COUNTY, FL  
05/12/1999 at 01:29PM DWIGHT H. BROCK, CLERK

REC #22 46.50

EXHIBIT " B "

Retn:  
QUARLES & BRADY  
4501 TAMIAKI TR N #300  
NAPLES FL 34103 3062

2

# State of Florida



I certify the attached is a true and correct copy of the Articles of Incorporation of  
**OLDE CYPRESS HOMEOWNERS ASSOCIATION, INC.**, a Florida corporation,  
filed on February 19, 1999, as shown by the records of this office.

The document number of this corporation is N99000001099.

RETURN TO:  
LEO J. SALVATORE  
QUARLES & BRADY  
SUITE 300  
4501 TAMIAKI TRAIL N.  
NAPLES, FLORIDA 34103



CR2EO22 (1-99)

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Twenty-third day of February, 1999

*Katherine Harris*

Katherine Harris  
Secretary of State