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744217

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September 30, 2002

Personal and Confidential
Thelma Lewis
Department of State
409 East Gaines Street
Tallahassee, Florida 32301

Via Federal Express

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Dear Ms. Lewis:

Re: Merger of Frenchman's Creek Country Club, Inc., into
Frenchman's Creek Property Owners' Association, Inc.
With its Name Changed to Frenchman's Creek, Inc.

Enclosed please find the original and one copy of Articles of Merger of Frenchman's Creek Country Club, Inc., into Frenchman's Creek Property Owners' Association, Inc., the surviving corporation. Please file the original and return the copy to me certified. My check in the amount of \$78.75 to cover the \$35.00 filing fee for Frenchman's Creek Country Club, Inc., the \$35.00 filing fee for Frenchman's Creek Property Owners' Association, Inc., and the \$8.75 for the certified copy.

Also enclosed are the original and one copy of the Amended and Restated Articles of Incorporation of Frenchman's Creek, Inc. (changing the name of the foregoing surviving corporation, Frenchman's Creek Property Owners' Association, Inc., to Frenchman's Creek, Inc.), as well as my check in the amount of \$43.75 to cover the \$35.00 filing fee and the \$8.75 fee for the certified copy. Please file the original amendment and return the copy to me certified.

If you have any problems with this filing, please telephone me collect.

Sincerely yours,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.

By

John B. McCracken

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Enclosures

www.jones-foster.com

SINCE 1924

merger
T. Lewis
10/1/02

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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FILED

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& STUBBS, P.A.**
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E-Mail: jmccracken@jones-foster.com

October 1, 2002

Personal and Confidential

Via Federal Express

Thelma Lewis
Department of State
409 East Gaines Street
Tallahassee, Florida 32301

Dear Ms. Lewis:

Re: Merger of Frenchman's Creek Country Club, Inc., into
Frenchman's Creek Property Owners' Association, Inc.
With its Name Changed to Frenchman's Creek, Inc.

Pursuant to our conversation of today, I enclose two copies of the exhibits to the Plan and Agreement of Merger as above described which include:

Exhibit "A" – Amended and Restated Articles of Incorporation of Frenchman's Creek, Inc.

Exhibit "B" – Amended and Restated By-Laws of Frenchman's Creek, Inc.

Exhibit "C" – Amended and Restated Declaration of Covenants and Restrictions for Frenchman's Creek.

Exhibit "D" – Notice of Special Joint Meeting of Members of Frenchman's creek Country Club, Inc., and Frenchman's Creek Property Owners' Association, Inc.

I understand that you will attach one copy of the exhibits to the Plan and Agreement of Merger which is attached to the Articles of Merger and file the Articles of Merger effective October 1, 2002. I would appreciate your attaching the other copy of the exhibits to the copy for certification and return to me.

Thank you for your personal attention to this matter. If you have any further questions on this filing, please telephone me collect.

Sincerely yours,

JONES, FOSTER, JOHNSTON & STUBBS, P.A.

By 

John B. McCracken

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Enclosures

www.jones-foster.com

S I N C E 1 9 2 4

ARTICLES OF MERGER
Merger Sheet

MERGING:

FRENCHMAN'S CREEK COUNTRY CLUB, INC., a Florida entity, N23208

INTO

FRENCHMAN'S CREEK PROPERTY OWNERS' ASSOCIATION, INC. which
changed its name to

FRENCHMAN'S CREEK, INC., a Florida entity, 744217

File date: October 1, 2002

Corporate Specialist: Thelma Lewis

ARTICLES OF MERGER

of

FRENCHMAN'S CREEK COUNTRY CLUB, INC.

A Florida Not for Profit Corporation

into

FRENCHMAN'S CREEK PROPERTY OWNERS' ASSOCIATION, INC.

A Florida Not for Profit Corporation, the Survivor

with its name changed to:

FRENCHMAN'S CREEK, INC.

A Florida Not for Profit Corporation and Homeowners' Association

FILED
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Frenchman's Creek Country Club, Inc. ("Club") and Frenchman's Creek Property Owners' Association, Inc. ("POA" or "Survivor"), after approval by their members, execute and file these Articles of Merger pursuant to F.S. 617.1105 as follows:

1. The Club shall merge into the POA, which shall be the Survivor and shall assume and be liable for all of Club's assets and liabilities, including the equity owed to Club Members. The Members of the Club are all members of the POA and, upon the effective date of the merger, shall exchange their Membership Certificates in the Club for Recreational Certificates in the Survivor. Holders of Recreational Certificates shall have the exclusive right, pursuant to the terms and conditions of the By-Laws and Rules and Regulations of the Survivor, to enjoy the Club facilities, which, after filing and recording of these Articles of Merger, shall be titled in the name of the Survivor.

2. The Club Members approved these Articles of Merger by a vote of 447 to 7 at a Special Joint Meeting of Members held September 13, 2002.

The POA Members approved these Articles of Merger by a vote of 462 to 9 at a Special Joint Meeting of Members held September 13, 2002.

The number of votes cast by the Members of both the Club and the POA was sufficient for approval of the Plan of Merger and these Articles of Merger.

3. The merger shall be effective October 1, 2002.

4. The name of the Survivor shall be Frenchman's Creek, Inc., a Florida not for profit corporation and homeowners' association.

FRENCHMAN'S CREEK COUNTRY
CLUB, INC.

By


George E. Murphy, President

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FRENCHMAN'S CREEK PROPERTY
OWNERS' ASSOCIATION, INC.

By


George E. Murphy, President

**F.S. 617.1101
PLAN OF MERGER OF
FRENCHMAN'S CREEK COUNTRY CLUB, INC.
INTO
FRENCHMAN'S CREEK PROPERTY OWNERS' ASSOCIATION, INC.
WITH THE SURVIVOR RENAMED
FRENCHMAN'S CREEK, INC.
A Florida Not for Profit Homeowners' Association**

1. Frenchman's Creek Country Club, Inc., a Florida not for profit corporation ("Club") shall merge into Frenchman's Creek Property Owners' Association, Inc., a Florida not for profit homeowners' association ("POA"), and the survivor shall be renamed Frenchman's Creek, Inc., a Florida not for profit homeowners' association ("Survivor").

2. The Club shall merge into the POA, which shall be the Survivor and shall assume and be liable for all of the Club's assets and liabilities, including the equity owed to the Club Members. The Members of the Club are all Members of the POA and, upon the effective date of the merger, their equity certificates shall be exchanged for Recreational Certificates. Holders of Recreational Certificates shall have the exclusive right, pursuant to the terms and conditions of the By-Laws and Rules and Regulations of the Survivor, to enjoy the Recreational Facilities, which, after filing and recording of the Articles of Merger, shall be titled in the name of the Survivor.

3. Included in membership equity of the Survivor will be Recreational Certificates which shall be stated at the recognized refundable equity contribution amount and shall have a preference on dissolution as set forth in the By-Laws of the Survivor. In addition, a portion of the equity contribution will be designated for capital expenditures.

4. The Articles of Incorporation of the Survivor shall be changed as set forth in Exhibit "A" attached.

5. The By-Laws of the Survivor shall be changed as set forth in Exhibit "B" attached.

6. The Declaration of Covenants and Restrictions for Frenchman's Creek, as amended, shall be further changed as set forth in Exhibit "C".

7. This Plan of Merger as required by F.S. 617.1103(1)(a) was unanimously passed by the Board of Governors of the Club and the POA on July 5, 2002, by resolutions directing that it be submitted to a vote at a Special Joint Meeting of the Members of the Club and the POA on Sept 13, 2002, at 2:30 p.m., at the Clubhouse of the Club in Palm Beach Gardens, Florida.

8. Written notice of the Special Joint Meeting of the Members set forth above shall be given to all Members of the Club and to all Members of the POA in the form of the Notice attached as Exhibit "D".

9. Copies of this Plan of Merger shall be made available to any Member of the Club or the POA at the POA office in Palm Beach Gardens, Florida, on request.

Unanimously approved by the Board of Governors of the Club and the POA on July 5, 2002.

FRENCHMAN'S CREEK COUNTRY
CLUB, INC.

By George E. Murphy
George E. Murphy, President

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FRENCHMAN'S CREEK PROPERTY
OWNERS' ASSOCIATION, INC.

By George E. Murphy
George E. Murphy, President

EXHIBIT "A"

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF FRENCHMAN'S CREEK, INC.

A Florida Not for Profit Corporation and Homeowners' Association

Frenchman's Creek Property Owners' Association, Inc., on unanimous vote of its Board of Governors and a majority vote of its Members, absorbed Frenchman's Creek Country Club, Inc., by merger and amends and restates its Articles of Incorporation as follows:

ARTICLE I

NAME

The name of this Association shall be FRENCHMAN'S CREEK, INC.

ARTICLE II

PURPOSE

The purposes of the Association are to serve as the instrumentality of Owners in the Property for the purpose of controlling and regulating the use of the amenities therein; of promoting, assisting, and providing adequate and proper maintenance of the Property for the benefit of all Owners therein; of providing and promoting recreational activity within the Property through the acquisition and ownership of Club facilities for the recreation, pleasure and benefit of Members (whether by fee simple ownership, leasehold or other possessory use interest), the maintenance of the land and facilities, of enhancing the quality of life and property values within Frenchman's Creek by actions inside or outside Frenchman's Creek and such other means and methods as it may deem in the best interest of its Members and Owners; to exercise all powers and discharge all responsibilities granted to it as a corporation and as a homeowners' association under the laws of the State of Florida, its Articles of Incorporation, these By-Laws, and the Amended Declaration; to acquire, hold, convey and otherwise deal with the real and/or personal property in the Association's capacity as a homeowners association; and to otherwise engage in such additional lawful activities for the benefit, use convenience and enjoyment of its Members as it may deem proper and as contemplated by a certain Amended Declaration of Covenants and Restrictions for Frenchman's Creek has been recorded in the Public Records of Palm Beach County, Florida, in Official Record Book 4981, page 0784, as modified (the "Amended Declaration"), that amends in total the Declaration of Covenants and Restrictions for Frenchman's Creek as recorded in Official Record Book 2918, page 0325, Public

Records of Palm Beach County, Florida, and as may be amended from time to time hereafter.

ARTICLE III

PRINCIPAL OFFICE AND MAILING ADDRESS

The Principal Office and the Mailing Address of the Association is 13495 Tournament Drive, Palm Beach Gardens, Palm Beach County, Florida 33410.

ARTICLE IV

REGISTERED AGENT AND REGISTERED OFFICE

The Registered Agent of this Association is John B. McCracken, located at the Registered Office of the Association at Suite 1100, 505 South Flagler Drive, West Palm Beach, Palm Beach County, Florida 33401.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any residential lot which becomes subject to the covenants, restrictions, easements, charges and liens set forth in the Declaration of Covenants and Restrictions for Frenchman's Creek, P.U.D., as amended and restated, shall be a member of the Association. Membership in the Association shall be automatic with and appurtenant to such lot ownership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

The Association shall also have a class of members described as "Club Members" who shall be Members of the Association who qualify under the By-Laws as Club Members and who may enjoy the Country Club Facilities of the Association.

Club Membership Certificates shall be included in the membership equity of the Association which are stated at the recognized refundable equity amount and are refundable in accordance with the By-Laws. The Board of Governors shall recognize a portion of the Club Membership equity contribution as refundable equity when a Member is accepted for Club Membership and the Club Membership Certificate is issued. In addition, the Board of Governors shall earmark a portion of the contribution for capital expenditures.

ARTICLE VI

VOTING RIGHTS

A. Members shall be entitled to one (1) vote for each residential lot owned. When more than one (1) person, or entities other than natural persons, hold interests in any lot, the vote for such lot shall be determined as set forth in the By-Laws.

B. Club Members shall have no right to vote as such.

ARTICLE VII

TERM OF EXISTENCE

This Association shall have perpetual existence.

ARTICLE VIII

SUBSCRIBERS

The names and addresses of the original subscribers were:

<u>Name</u>	<u>Address</u>
Elmer A. Holmgren	1001 Park Avenue, Lake Park, Florida
B.D. Underwood	1001 Park Avenue, Lake Park, Florida
Ella H. Peterson	1001 Park Avenue, Lake Park, Florida

ARTICLE IX

MANAGEMENT OF ASSOCIATION

The affairs and business of the Association shall be conducted and managed by the Board of Governors which shall be elected as set forth in the By-Laws. The Board of Governors shall appoint the officers and govern as otherwise set forth in the By-Laws.

ARTICLE X

OFFICERS

The names of the officers who presently serve and shall serve until their successors are chosen as set forth in the By-Laws are:

George Murphy
13839 Le Mans Way
North Palm Beach, FL 33410

President

Larry Sherman
13893 Rivoli Drive
North Palm Beach, FL 33410

First Vice President

William Silver
13853 Le Havre Drive
North Palm Beach, FL 33410

Second Vice President

Adele Shamban
3330 Degas Drive West
North Palm Beach, FL 33410

Secretary

Jay Bramson
13228 Verdun Drive
North Palm Beach, FL 33410

Treasurer

ARTICLE XI

GOVERNORS

The Governors who presently serve and shall serve until their successors are chosen as set forth in the By-Laws are:

George Murphy
13839 Le Mans Way
North Palm Beach, FL 33410

Martin Cohen
3731 Toulouse Drive
North Palm Beach, FL 33410

Larry Sherman
13893 Rivoli Drive
North Palm Beach, FL 33410

Blanche Davidson
3300 Monet Drive West
North Palm Beach, FL 33410

William Silver
13853 Le Havre Drive
North Palm Beach, FL 33410

Robert Habush
3040 Miro Drive South
North Palm Beach, FL 33410

Adele Shamban
3330 Degas Drive West
North Palm Beach, FL 33410

Richard Masters
13378 Deauville Drive
North Palm Beach, FL 33410

Jay Bramson
13228 Verdun Drive
North Palm Beach, FL 33410

Mark Pritch
2811 Calais Drive
North Palm Beach, FL 33410

Irving Wiseman
13141 Burgundy Drive South
North Palm Beach, FL 33410

Donald Schilling
13046 Redon Drive
North Palm Beach, FL 33410

Peter Weiss
13741 Le Havre Drive
North Palm Beach, FL 33410

Denise Siegel
13767 Le Bateau Lane
North Palm Beach, FL 33410

Ed Zimmerman
13652 Rivoli Drive
North Palm Beach, FL 33410

ARTICLE XII

INDEMNIFICATION OF GOVERNORS, OFFICERS, AND COMMITTEE MEMBERS

Every duly elected Governor, elected or appointed officer, employee or committee member and any other person acting on behalf of the Association or at the direction of an officer or Board of Governors of the Association shall be indemnified by the Association against all expense and liability, including counsel fees reasonably incurred by or imposed upon them in connection with any proceeding to which he/she may be a party, or in which he/she may become involved by reason of being or having been in any such position at the time such expenses were incurred, except in such cases where the said individual is adjudged guilty of willful malfeasance in the performance of duty, in which case there will be no such reimbursement. The foregoing right of indemnification shall be in addition to and not exclusive of any other rights to which such individuals may be entitled.

ARTICLE XIII

BY-LAWS

The By-Laws of the Association may be made, amended, altered, or rescinded in accordance with the provisions of such By-Laws.

ARTICLE XIV

AMENDMENTS

Amendments to the Articles of Incorporation shall be adopted by a majority vote of the Board of Governors at any regular or special meeting called for that purpose and proposed by the Board of Governors to the membership. A majority vote of all members present and entitled to vote at a duly-constituted meeting of the membership

called for that purpose, at which a quorum of thirty percent (30%) of the members entitled to vote are present, shall be necessary to amend the Articles of Incorporation.

ARTICLE XV

DISSOLUTION

In the event of liquidation and/or dissolution of the Association, the equity of Club Members outstanding shall be paid and satisfied before Members may receive any distributions.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, acknowledged and filed the foregoing Amended and Restated Articles of Incorporation under the laws of the State of Florida, this 28~~TH~~ day of SEPT, 2002.

FRENCHMAN'S CREEK, INC.

By George E. Murphy
George E. Murphy, President

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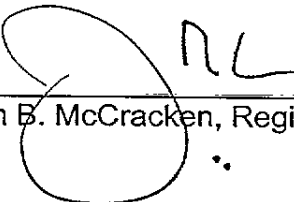
CERTIFICATE DESIGNATING PLACE OF
BUSINESS OR DOMICILE FOR THE SERVICE
OF PROCESS WITHIN THIS STATE, NAMING
AGENT UPON WHOM PROCESS MAY BE SERVED

In pursuance of Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

That FRENCHMAN'S CREEK, INC., desiring to organize under the laws of the State of Florida, has named JOHN B. McCracken, located at the Registered Office of the Association at Suite 1100, 505 South Flagler Drive, West Palm Beach, Palm Beach County, Florida 33401, as its Registered Agent to accept service of process within this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-stated Association at the place designated in this Certificate, I hereby agree to act in this capacity, and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.



John B. McCracken, Registered Agent

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EXHIBIT "B"

AMENDED AND RESTATED BY-LAWS OF FRENCHMAN'S CREEK , INC.

A Florida Not for Profit Corporation and Florida Homeowners' Association

These Amended and Restated By-Laws of Frenchman's Creek, Inc., formerly known as Frenchman's Creek Property Owners' Association, Inc., a Florida Not for Profit Corporation under F.S. Chapter 617 and Homeowners' Association under F.S. Chapter 720, were adopted by the Members of the Association effective October 1, 2002.

ARTICLE I

IDENTITY

SECTION 1. NAME

The name of this corporation is FRENCHMAN'S CREEK , INC., hereinafter referred to as the "Association".

SECTION 2. CORPORATE SEAL

The seal of the Association shall be circular in form and bear the words "Frenchman's Creek , Inc., Corporate Seal 1987 Florida". The Corporate Seal shall be in the possession of the Secretary and shall be affixed to all documents relating to the Official Acts of the Association, as required by law.

ARTICLE II

PURPOSES

The purposes of the Association are to serve as the instrumentality of the Members for the purpose of controlling and regulating the use of the Property; of promoting, assisting, and providing adequate and proper maintenance of the Property for the benefit of all Members therein; of providing and promoting recreational activity within the Property through the acquisition and ownership of facilities for the recreation, pleasure and benefit of Members (whether by fee simple ownership, leasehold or other possessory use interest), the maintenance of the land and facilities, of enhancing the quality of life and property values within Frenchman's Creek by actions inside or outside

Frenchman's Creek and such other means and methods as it may deem in the best interest of its Members; to exercise all powers and discharge all responsibilities granted to it as a corporation and as a homeowners' association under the laws of the State of Florida, its Articles of Incorporation, these By-Laws, and the Amended Declaration; to acquire, hold, convey and otherwise deal with the real and/or personal property in the Association's capacity as a homeowners association; and to otherwise engage in such additional lawful activities for the benefit, use convenience and enjoyment of its Members as it may deem proper and as contemplated by a certain Amended Declaration of Covenants and Restrictions for Frenchman's Creek has been recorded in the Public Records of Palm Beach County, Florida, in Official Record Book 4981, page 0784, as modified (the "Amended Declaration"), that amends in total the Declaration of Covenants and Restrictions for Frenchman's Creek as recorded in Official Record Book 2918, page 0325, Public Records of Palm Beach County, Florida, and as may be amended from time to time hereafter.

These Amended and Restated By-Laws are the By-Laws referred to in the Amended Declaration and all terms used herein that are defined in the Amended Declaration shall have the same meaning herein as therein.

ARTICLE III

MEMBERSHIP AND VOTING

SECTION 1. QUALIFICATION FOR MEMBERSHIP

The qualification for membership, and the manner of admission to membership and termination of such membership, shall be as follows: A person or entity shall automatically become a Member of the Association upon acquisition of fee simple title to any Parcel, by filing a deed therefore in the public records of Palm Beach County, Florida and, except for properties described in Exhibits "AA" and "BB" of the Fifth Amendment to the Amended Declaration, as may be amended from time to time, by paying the required fees, charges, assessments and/or equity to become a Member. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred or conveyed by operation of law, at which time membership, with respect to the Parcel conveyed, shall automatically be conferred upon the transferee, subject to such transferee's payment of all fees, charges, assessments and/or equity to become a Member. Membership shall be appurtenant to, and may not be separated from, ownership of property subject to the Amended Declaration. No person or entity holding an interest of any type or nature whatsoever in a Parcel only as security for the performance of an obligation, shall be a Member of the Association.

SECTION 2. RECREATIONAL FACILITIES

(A) Members are required to pay equity payments and fees to enjoy the Recreational Facilities and shall receive a Recreational Certificate. Such Certificates shall be in a form approved by the Board of Governors, shall state that the same are issued subject to the By-Laws and Rules and Regulations of the Association as they

now or may be amended and shall be subscribed by the President or a Vice President and Secretary and under the Seal of the Association.

(B) Recreational Certificates are not redeemable or transferable except as specifically provided for by these By-Laws and then only through the Association. Whenever any person shall cease to be a Member, such cessation shall operate to authorize the Treasurer of the Association to effectuate the redemption, cancellation, purchase or sale of the Recreational Certificate of such Member, but only in accordance with and in the manner prescribed by these By-Laws.

(C) A Recreational Certificate represents an equity in the Recreational Facilities which is stated at the returnable equity contribution amount and is returnable in accordance with the By-Laws. The Board of Governors shall determine from time to time, but always in advance of any transfer request, what percentage of the Recreational Certificate is to be allocated to returnable equity and what percentage is to be non-returnable and allocated to the capital reserve account.

(D) Members who hold Recreational Certificates shall be entitled to full enjoyment of all Recreational Facilities in accordance with the Association's Rules and Regulations. Members who hold Tennis Recreational Certificates may not enjoy the golf courses under any circumstances.

SECTION 3. VOTING

Members shall be entitled to one vote for each Parcel or contiguous Parcels which contain one Dwelling thereon, owned by such Member as to matters on which the membership shall be entitled to vote, which vote may be exercised or cast by that Member in person, by proxy, mail or other approved means. Proxies or votes other than in person must be filed with the Secretary of the Association by a time specified by the Board of Governors prior to a meeting. A proxy shall be valid and entitle the holder thereof to vote if it is dated, signed and states the date, time and place of the meeting for which it was given. Proxies are only effective for the meeting for which they are given, or any adjournment if such adjournment is within ninety (90) days of the date of the meeting for which given. Any Member who owns more than one Parcel shall be entitled to exercise or cast one vote for each such Parcel. When more than one person holds the ownership interest required for membership, the vote of such Parcel shall be exercised by the individual who is designated as the Member of the Association. With respect to each Parcel owned by more than one (1) person or by other than a natural person, or persons, the Members shall file with the Secretary of the Association a notice designating the name of an individual who shall be authorized to cast the vote of such Owner. In the absence of such designation, the Owner shall not be entitled to vote on any matters coming before the membership.

With respect to Parcels owned by husband and wife, as tenants by the entireties, no certificate need be filed with the Secretary of the Association naming the person authorized to cast votes for such Parcel, and either spouse, but not both, may vote in person or by proxy, unless, prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Parcel at the meeting, in which case the certificate requirements set forth above shall apply.

ARTICLE IV

MEMBERS MEETING

SECTION 1. ANNUAL MEETING

An Annual Meeting of the Members of the Association shall be held once a year for the purpose of receiving reports of the president and others, to elect a Board of Governors and for such other business as may be properly brought before the meeting.

SECTION 2. DATE AND PLACE OF ANNUAL MEETING

Annual Meetings shall be held on the second Saturday in the month of March at 2:30 p.m. Meetings shall be held at such place within the State of Florida as the Board of Governors may designate provided that said Annual Meetings shall not be conducted more than five miles from the Frenchman's Creek Clubhouse. Adjournments of Annual Meetings may be made as permitted by law.

SECTION 3. SPECIAL MEETINGS

Special Meetings of the Members may be called by the President, a majority of the members of the Board of Governors or upon the written petition of at least sixty (60) Members then entitled to vote. Such a petition shall be submitted to the President and he/she shall be required to call a Special Meeting to be held, subject to the provisions of the last sentence of this Section 3, within forty-five (45) days of the date he/she receives the same. No business may be transacted at a Special Meeting other than as set forth in the notice of such meeting. Adjournments of Special Meetings may be made as permitted by law. Except upon a majority vote of the Board of Governors, Special Meetings shall only be called between October 1 and May 31 of any year (to allow for the maximum participation in the decision of an issue.)

SECTION 4. NOTICES

The Secretary shall give not less than thirty (30) days prior notice, by prepaid mail to each Member at the Member's address as it appears on the books of the membership office stating the time, place and purpose of any Annual or any Special Meeting. Notice of any Annual or Special Meeting shall also be posted on the official bulletin board of the Clubhouse on the date of its mailing to the Members. On a date prior to a Special Meeting, an open Town Meeting shall be scheduled to review the issues to be voted on at the Special Meeting and to allow Members to ask questions and express their ideas and opinions.

SECTION 5. QUORUM

The presence, either in person, by proxy, mail or other approved means, of Members having thirty (30%) percent of the votes then entitled to be voted shall constitute a quorum at any meeting of the Members.

SECTION 6. VOTING

Except for election of Members to the Board of Governors and as otherwise provided for under Article VII or Article XX of these By-Laws, the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting, either in person, by proxy, by mail, or by electronic or technologic means as may be approved by the Board of Directors, shall be necessary for the passage of any motion.

SECTION 7. DESIGNATION OF PERSON ENTITLED TO VOTE

Only Members or designated individuals eligible pursuant to Article III shall be entitled to vote.

SECTION 8. ASSESSMENTS

An assessment may not be levied pursuant to Member approval unless the notice of meeting includes a statement that assessments will be considered and the nature of the assessments.

ARTICLE V

BOARD OF GOVERNORS

SECTION 1. NUMBER AND QUALIFICATIONS

The affairs of the Association shall be managed by a Board of Governors (the "Board of Governors") which shall consist of fifteen (15) natural persons, five of whom shall be elected each year for a three-year term and who shall be Members of the Association in good standing.

A member of the Board of Governors shall be limited to two consecutive three-year terms.

A member of the Board of Governors who has served two consecutive three-year terms shall again be eligible for election to the Board after two years of being off the Board.

Any member of the Board of Governors appointed by the Board to fill a vacancy on the Board shall remain eligible to serve until the next Annual Meeting of the Members, at which time a Member (which may be the Member previously appointed to fill the vacancy) shall be nominated by the Nominating Committee and if elected by the Members shall serve for the remainder of the unexpired term originally created by said vacancy. Any member of the Board of Governors appointed or elected for less than a three-year term shall be eligible to serve two consecutive additional three-year terms.

The immediate past President, if not then serving as an elected Governor, shall be an ex-officio member of the Board of Governors, without the right to vote, for a period of one year from the date of his termination as President.

SECTION 2. NOMINATING COMMITTEE

(A) The Nominating Committee shall be comprised of eleven Members plus two (2) non-voting Members: one (1) selected by the Board of Governors and one (1) selected by the previous Nominating Committee (who shall serve as temporary chairman). The accountant for the Association shall supervise a random selection of one hundred (100) Members in good standing (Members who are current in all financial obligations to the Association and who are not subject to sanction or suspension). A letter or fax shall be sent to each Member selected to ascertain whether the Member or his or her spouse would be willing to serve on the Nominating Committee. The letter shall state that the responder must agree to be available for a minimum of two weeks for interviews during the period of December 1 through January 7, and recommend that responder has been active in community affairs, served on a committee of the Association, and have knowledge of community needs. A second random selection shall be made from those responding affirmatively. The first eleven selected shall be designated as members of the Nominating Committee. The temporary chairman will be responsible for calling the first meeting of the Nominating Committee. At that meeting a permanent chairman will be elected. To be eligible for selection to the Nominating Committee, a Member (or spouse thereof) must also have owned a dwelling in Frenchman's Creek for a minimum of three full years by November 1st preceding selection, they or their spouse may not be a member of or a candidate for the Board of Governors. Except for the non-voting Members referred to above, members of the Nominating Committee may not serve two (2) consecutive years on such Committee.

(B) Duties of the Nominating Committee:

1. The presence of seven (7) members of the Nominating Committee shall constitute a quorum at any meeting for the purpose of transacting any business.
2. The Nominating Committee shall elect a voting Member as permanent chairperson as its first order of business.
3. The Nominating Committee shall send a letter to all Members setting forth the criteria for Board membership, and asking Members to recommend candidates for the Committee's consideration, or to apply.
4. The Nominating Committee shall actively seek out candidates for the Board.
5. The Nominating Committee shall set aside a minimum of two weeks for interviews during the period December 1 through January 7.
6. If a Member is not available to be present for any interview meetings, that Member shall be responsible for seeking an interview with the candidates interviewed by the committee at such meeting. If the number of Members on the Committee should drop

below five Members, the next Member in the random selection will become a Member of the Committee.

7. The Nominating Committee shall prepare and send to each potential candidate a number of questions that he or she will be expected to respond to at the time of the interview.
8. The Nominating Committee shall set a "Meet the Candidate" town meeting to be held on the second Saturday in February.

(C) The Nominating Committee shall provide, on or before January 7, a number of candidates equal in amount to two times the number of vacancies to be filled (who may not be Members of the Nominating Committee or spouses of Members of the Nominating Committee or spouses of members of the Board of Governors who will continue to serve in office past the Annual Meeting) who are Members of the Association in good standing, selected in a secret ballot by the greater of a majority or four (4) votes of the Nominating Committee, to be submitted to the Members of the Association at their Annual Meeting for election to the Board of Governors for three-year terms. The Nominating Committee shall also nominate two candidates to fill any vacancies occurring by reason of death, resignation or otherwise of a Board member for the period running from the date of the next Annual Meeting for the balance of the unexpired term of said vacating Board member. Within five days after the Nominating Committee has completed its nominations, the names of the Members so nominated shall be posted on the official bulletin board of the Association and also mailed to the membership accompanied by a report explaining the rationale for their selection and why these particular candidates were chosen. This notice shall also state the final date by which petitions must be filed.

(D) Forty (40) Members in good standing of the Association who are not on the Nominating Committee may also nominate candidates who are Members in good standing for election to the Board of Governors for specific terms, by petition signed by them and filed with the Secretary by January 28. Each household may not sign more than two separate petitions.

(E) The names of such nominees proposed by the Members' petition, after the Secretary or any other officer certifies that they are qualified for election and have been nominated in accordance with the provisions of these By-Laws, shall after the expiration of the deadline for filing of petitions, be both posted on the official bulletin board of the Association and mailed to the members at least twenty-five (25) days prior to the date of the annual meeting. This mailing shall include instructions for voting.

(F) A candidates brochure shall be prepared listing the resumes of all candidates for the Board of Governors and the report of the Nominating Committee. The brochure shall be mailed to the membership along with a return proxy within five (5) business days following the Meet-the-Candidates Town Meeting. The Nominating Committee shall obtain from each candidate in the form and at a designated length answers to questions prepared by the committee that shall accompany the ballot mailed to the membership.

SECTION 3. ELECTIONS

- (A) There shall be no cumulative voting for Board members.
- (B) Voting shall be either in person, by proxy, by mail, or by such electronic or technologic means as may be approved by the Board of Governors.
- (C) In the election for Governors there shall be more candidates than vacancies to be filled, therefore the names of all nominees shall be listed in alphabetical order. The nominees of the Nominating Committee and nominees by petition shall be identified as to the origin of nomination. Each ballot or proxy voted at such election shall contain a vote for each vacancy to be filled during that particular election. Any ballot or proxy which contains votes for a number less or more than the number of candidates to be elected at that particular election shall be deemed void and shall be of no force or effect. Since there are more nominees than vacancies, all voting shall be by secret ballot or proxy using the "double envelope" technique whereby Members' identification appear only on the outer-envelope. Proxies and ballots shall be tabulated by the association's independent auditors.
- (D) In a contested election, the number of candidates necessary to fill the available open slots for each term on the Board of Governors receiving the highest number of votes at the Annual Meeting of the Members shall be declared elected in descending order until a full slate is elected for each term.

(E) There shall be no campaigning or written advertising in the form of placards, posters or circulars by or on behalf of any candidate.

SECTION 4. SPECIAL PROVISIONS

(A) No Governor shall receive or be entitled to any compensation for his services as Governor but Governors shall be entitled to reimbursement for all expenses incurred as such, if approved by the Board.

(B) All Governors and Officers must be Members in good standing..

SECTION 5. RESIGNATION, VACANCY, REMOVAL

(A) Resignation. Any Governor or Officer may resign at any time, by instrument in writing. Resignations shall take effect at the time specified therein, and if no time is specified, resignations shall take effect at the time of receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective.

(B) Governor Vacancy. A vacancy occurring on the Board of Governors shall be filled by the remaining members of the Board at their next meeting by electing a person who shall serve until the next Annual Meeting of Members.

(C) Officer Vacancy. When a vacancy occurs in an office for any reason before an officer's term has expired, the office shall be filled by the Board at its next

meeting by electing a person to serve for the unexpired term or until a successor has been elected by the Board and shall qualify.

(D) Removal. Any Governor may be removed with or without cause, upon a petition in writing signed by a majority of the Members or at a meeting of Members called at least in part for this purpose, by the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting either in person, by proxy, mail or other approved means. At any such meeting, the Officer or Governor whose removal is sought shall be given the opportunity to be heard.

SECTION 6. INDEMNIFICATION OF GOVERNORS, OFFICERS AND COMMITTEE MEMBERS.

Every duly elected Governor, elected or appointed officer, employee or committee member and any other person acting on behalf of the Association or at the direction of an officer or Board of Governors of the Association shall be indemnified by the Association against all expense and liability, including counsel fees reasonably incurred by or imposed upon them in connection with any proceeding to which he/she may be a party, or in which he/she may become involved by reason of being or having been in any such position at the time such expenses were incurred, except in such cases where the said individual is adjudged guilty of willful malfeasance in the performance of duty, in which case there will be no such reimbursement. The foregoing right of indemnification shall be in addition to and not exclusive of any other rights to which such individuals may be entitled.

ARTICLE VI

MEETINGS OF BOARD OF GOVERNORS

SECTION 1. ANNUAL MEETING

Within ten (10) days after the Annual Meeting of the Members, the Board of Governors shall hold its organizational Annual Meeting to elect officers of the Association and to consider any other matters as may be properly brought before the meeting.

SECTION 2. QUORUM

A majority of the Board of Governors at any meeting shall constitute a quorum for the transaction of business. A meeting of the Board of Governors takes place whenever a majority of the Board of Governors gathers to conduct Association business.

SECTION 3. MEETINGS/SUNSHINE

(A) Frequency. The Board of Governors shall have a minimum of six regular meetings in each year to be held at such times, as the Board of Governors shall determine.

(B) Sunshine. All meetings of the Board of Governors must be open to all Members except for meetings between the Board and its attorneys with respect to proposed or pending litigation where the content of the discussion would otherwise be governed by the attorney-client privilege or other meetings which may be closed according to Florida law.

SECTION 4. NOTICE/POSTING

(A) Notice. Notice of regular meetings shall be given to each Governor personally or by mail, telephone, telegram or telecommunications facsimile at least seven days prior to the date named for such meeting. Not less than three days notice of a Special Meeting shall be given each Governor personally or by mail, telephone, telegram or telecommunications facsimile which notice shall include the purpose of the meeting. A Governor may waive in writing his right to receive the notice for a particular meeting.

(B) Posting. Notices of all Board meetings must be posted in the Clubhouse at least 48 hours in advance of a meeting, except in an emergency.

SECTION 5. ASSESSMENTS

An assessment may not be levied at a meeting of the Board of Governors unless the notice of meeting includes a statement that assessments will be considered and the nature of the proposed assessments.

SECTION 6. VOTING

Voting by Governors may not be by proxy or by secret ballot, except that secret ballots may be used in the election or removal of officers.

ARTICLE VII

POWERS OF THE BOARD OF GOVERNORS

SECTION 1. MANAGEMENT OF THE ASSOCIATION

The Board of Governors shall exercise all powers of the Association and do all acts and things necessary to carry out the purposes of the Association.

SECTION 2. DUTIES AND POWERS

The Association shall have all powers granted to it by common law, Florida Statutes, the Amended Declaration, the Articles of Incorporation, and these By-Laws, all of which shall be exercised by its Board of Governors unless the exercise thereof is otherwise restricted in the Amended Declaration, these By-Laws or by law; the powers of the Association shall include, but not be limited to, the following:

(A) All of the powers specifically provided for in the Amended Declaration and in the Articles of Incorporation.

(B) The power to levy and collect Assessments against Parcels as provided for in the Amended Declaration, subject to notice as required by these By-Laws and Florida law.

(C) The power to expend monies collected for the purpose of paying the Common Expenses of the Association.

(D) The power to purchase equipment, supplies and material required for the maintenance, repair, replacement, operation and management of the Common Property.

(E) The power to insure and keep insured the buildings and Improvements of the Association and other Improvements within the Property.

(F) The power to pay utility bills for utilities serving the Common Property.

(G) The power to contract for the management of the Association, and to delegate to contractors as manager and otherwise, all of the powers and duties of the Association, except those matters that must be approved by Members.

(H) The power to make reasonable rules and regulations and to amend them from time to time, including rules and regulations relating to the use of the Recreational Facilities by Members and their guests.

(I) The power to improve the Common Property, subject to the limitations of the Amended Declaration.

(J) The power to enforce by any legal means the provisions of the Articles of Incorporation, the By-Laws, the Amended Declaration and the Rules and Regulations promulgated by the Association.

(K) The power to collect delinquent Assessments and charges by suit or otherwise, and to abate nuisances and enjoin or seek damages from Members for violation of the provisions of the Amended Declaration, the Articles of Incorporation, these By-Laws or the Rules and Regulations.

(L) The power to pay all taxes and assessments which are liens against the Common Property.

(M) The power to control and regulate the use of the Common Property by the Members, and to promote and assist adequate and proper maintenance of that property.

(N) Subject to the provisions of Article XX, Section 2, of these By-Laws, the power to borrow money and the power to select depositories for the Association's funds, and to determine the manner of receiving, depositing, and disbursing those funds and the form of check and the person or persons by whom the same shall be signed, when not signed as otherwise provided by these By-Laws.

(O) The power to acquire real and personal property for the benefit and use of its Members and to dispose of the property in accordance with the Amended Declaration and the Articles of Incorporation.

(P) The power to enter into a long term contract with any person, firm, corporation or real estate management agent of any nature or kind, to provide for the maintenance, operation, repair and upkeep of the Common Property and of any facilities on lease to the Association or otherwise provided for the Members' usage. The contract may provide that the total operation of the managing agent, firm or corporation shall be at the cost of the Association as a Common Expense. The contract may further provide that the managing agent shall be paid from time to time a reasonable fee either stated as a fixed fee or as a percentage of the total costs of maintenance, operation, repair and upkeep out of the total funds of the Association handled and managed by the managing agent. Such fee, if any, shall be another of the management function costs to be borne by the Association, as a Common Expense, unless the contract provides to the contrary.

(Q) The power to establish additional Officers and/or Governors of this Association and to appoint all Officers, except as otherwise provided herein.

(R) The power to approve committee chairpersons and appoint such committees as the Board of Governors may deem appropriate and to establish the duties of such committees.

(S) The power to determine from time to time the payment which shall be required to purchase a Recreational Certificate and enjoy the Recreational Facilities, which shall include that amount allocated to returnable equity with the remaining balance to be allocated to the capital reserve account and to determine other charges, assessments and capital assessments for enjoyment of such facilities.

(T) The power to replace any Governor who shall fail to attend three (3) consecutive, regularly-scheduled Board of Governors meetings in any one fiscal year. Said replacement, if made, shall be valid until a nomination is made by the Nominating Committee to fill the vacancy at the next Annual Meeting of the Members.

(U) The power, subject to the provisions of Florida law, the Declaration of Covenants and Restrictions of Frenchman's Creek, and the Rules and Regulations, to discipline and suspend Members.

(V) The power to enforce the Amended Declaration as applicable to the purposes and operations of the Association.

(W) The power to possess, employ and exercise all powers necessary to implement, enforce and carry into effect the powers above described, including the power to acquire, hold, convey and deal in real and personal property.

(X) Except in case of casualty loss, as to the Common Property other than the Recreational Facilities, the Board of Governors shall not incur liabilities or sign contracts for the expenditure of more than One Hundred Thousand Dollars (\$100,000.00) for a

single capital project or item during a fiscal year and a maximum of Two Hundred Thousand Dollars (\$200,000.00) for all capital expenditures during a fiscal year without Member approval; and as to the Recreational Facilities, the Board of Governors shall not incur liabilities or sign contracts for the expenditure of more than One Hundred Thousand Dollars (\$100,000.00) for a single capital project or item during a fiscal year and a maximum of Two Hundred Thousand Dollars (\$200,000.00) for all capital expenditures during a fiscal year without Member approval. Any capital expenditures for capital projects during a fiscal year over and above the limitations set forth above shall require the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting, either in person or by proxy, at its Annual Meeting or at a Special Meeting for the Members at which meeting approval of the proposed capital projects and the cost thereof shall be on the agenda. During the course of a fiscal year, as to the Common Property other than the Recreational Facilities, the Board of Governors may approve unbudgeted capital expenditures of less than One Hundred Thousand Dollars (\$100,000.00) for any single project or item, provided total unbudgeted capital expenditures do not exceed Two Hundred Thousand Dollars (\$200,000.00); and as to the Recreational Facilities, the Board of Governors may approve unbudgeted capital expenditures of less than One Hundred Thousand Dollars (\$100,000.00) for any single project or item, provided total unbudgeted capital expenditures do not exceed Two Hundred Thousand Dollars (\$200,000.00).

(Y) In the management of the Association, the Board of Governors shall be aided by the Strategic Plan as approved by the membership.

SECTION 3. INTERPRETATION OF BY-LAWS

The Board of Governors subject to the limitations otherwise set forth herein shall have the corporate powers to generally do everything permitted by not-for-profit corporations and homeowners' associations by law, by statute, by charter and by these By-Laws, and to determine the interpretation or construction of these By-Laws, the Amended Declaration, the Articles of Incorporation of this Association, or any parts thereof, which may be in conflict or of doubtful meaning, and their decision shall be final and conclusive.

SECTION 4. APPOINTMENT AND EMPLOYMENT OF EXECUTIVE LEVEL EMPLOYEES

The Board of Governors shall approve the hiring of the Executive Director. The Executive Director, subject to the approval of the Board of Governors, shall hire all other executive level employees. The Executive Director shall be the chief operating executive of the Association.

ARTICLE VIII

OFFICERS

The Board of Governors after each Annual Meeting shall elect from among the members of the Board of Governors, to serve for a period of one year or until their successors shall be elected, a President, a First Vice President, a Second Vice

President, a Secretary and a Treasurer of this Association , and such other officers as the Board from time to time determines appropriate. The term of the President shall be limited to two consecutive one-year terms.

ARTICLE IX

DUTIES OF OFFICERS

SECTION 1. PRESIDENT

The President shall preside at all meetings, enforce observation of the provisions of these By-Laws and the Amended Declaration, and shall have such other duties and powers as directed by the Board of Governors. The President may call Special Meetings of the Board of Governors as provided for in these By-Laws and shall be an ex-officio member of all committees without vote but shall specifically not be an ex-officio member of the Nominating Committee and the Audit Committee. The President shall appoint the chairperson of all committees, except the Nominating Committee, subject to the approval of the Board of Governors.

SECTION 2. FIRST VICE PRESIDENT

In the absence or disability of the President, the First Vice President shall perform and carry out the duties and responsibilities of the President and in addition, thereto, he/she shall have other duties and powers as directed by the Board of Governors.

SECTION 3. SECOND VICE PRESIDENT

The Second Vice President shall assist the President and the First Vice President in carrying out their duties and responsibilities and in the absence or disability of the President and the First Vice President shall perform and carry out the duties and responsibilities of the President and in addition thereto he/she shall have other duties and powers as directed by the Board of Governors.

SECTION 4. SECRETARY

The Secretary shall keep records and minutes of all Board of Governors and membership meetings; and the Secretary shall be responsible for giving all required notices of such meetings. The Secretary shall have custody of the Seal of the Association; and all membership records shall be kept under the Secretary's supervision.

SECTION 5. TREASURER

The Treasurer shall cause to be collected, held and disbursed under the direction of the Board of Governors, all monies of the Association; and it shall be the Treasurer's duty to collect monies due the Association, assessments and all other monies from Association Members, and all amounts due from others. The Treasurer shall keep or cause to be kept regular books of account and all financial records of the Association

and shall have prepared for and submitted to the Board of Governors any proposed budgets and financial statements, when and in the form requested by the Board of Governors. The Treasurer shall deposit or cause to be deposited all monies of the Association in an account or accounts in the Association's name, in a bank or banks designated by the Board of Governors. Any person or persons having access to monies of the Association or its bank accounts shall be bonded in such amounts as shall reasonably be required by the Board of Governors who shall also determine check signing authority.

SECTION 6. OTHER OFFICERS

The Board of Governors may appoint additional officers and assign their duties.

SECTION 7. DUTIES OF OFFICERS

Any officer may be given additional assignments and duties by the Board of Governors.

SECTION 8. REMOVAL FROM OFFICE

Following written notification, any officer may be removed from office, with or without cause, by a two-thirds (2/3) vote of the full Board of Governors, at a meeting of the Board called at least in part for the purpose of considering such removal. The vote shall be by secret ballot.

ARTICLE X

COMMITTEES

SECTION 1. STANDING COMMITTEES

Standing committees shall observe the Sunshine, Posting and Voting provisions set forth in Article VI, Sections 3(B); 4(B), and 6, and their specific duties and powers are described below:

(A) Executive Committee. The Executive Committee shall consist of the President as Chairperson, the First Vice President, the Second Vice President, and two other members of the Board of Governors elected by the Board of Governors. The Executive Committee shall meet as required in intervals between Board meetings and shall have the power of the Board of Governors to act in emergency situations. Any action by the Executive Committee shall be submitted to the Board for ratification no later than the next regular Board meeting. A majority of the members of the Executive Committee shall constitute a quorum. Actions and resolutions by the Executive Committee require majority approval of the Members present with a minimum of three affirmative votes required to effectuate any action or resolution.

(B) Nominating Committee. The Nominating Committee shall have the duties and powers described in Article V, Section 2.

(C) Audit Committee. The Audit Committee of three persons shall meet with the Association's independent auditors prior to their annual engagement to review the intended scope of the audit and to evaluate the independence of the auditors. Subsequent to completion of the audit, the committee shall meet with the auditors to review findings including the adequacy of controls. The Audit Committee shall report to the Board of Governors from time to time. No member of the Audit Committee shall be a member of the Board of Governors. The Audit Committee shall submit an annual report to the membership. The Chairman and members of the Audit Committee shall, subject to approval by the Board of Governors, be designated by the President.

(D) The Architectural Review Board. The primary responsibility of the Architectural Review Board ("ARB") is to provide systematic and uniform review of all proposed new construction and exterior alterations as provided for and formerly designated the New Construction Committee (N.C.C.) in the Amended Declaration and in accordance with the Frenchman's Creek, Inc., Architectural Review Board Manual of Procedures and Criteria as amended by the Board of Governors from time to time. By establishing and maintaining design criteria regarding such proposed plans, the ARB will help preserve the harmonious design and appearance of the community, as well as those standards developed by the ARB under the authority of the Association's documents. The Chairman and members of the ARB shall, subject to approval by the Board of Governors, be designated by the President. The ARB shall be subject to review and direction by the Board of Governors.

(E) Real Estate Subsidiary – Frenchman's Creek Realty, Inc. The Board of Governors will elect the directors of the real estate subsidiary as provided in its By-Laws.

SECTION 2. OPERATING COMMITTEES

Each year, after the first Annual Meeting, the President, subject to the approval of the Board of Governors, shall designate the Chairpersons of all Operating Committees. The President is encouraged to seek qualified Members of the community who are not Board Members to serve as Committee Chairpersons. However, the President may determine, in the community's best interest to select Board members to act as Committee Chairpersons. The President will designate a Board member to act as Board liaison with each Committee.

(A) Governance Committees. A committee or committees may be established with regard to the following areas of governance:

By-Laws
Communications
External Affairs
Grievance
Rules Formulations

(B) Recreational Facility Activity Committees. A committee or committees may be established with regard to the following activities:

Entertainment
Golf
Golf Courses
Membership Hospitality
House, Food and Beverage
Physical Fitness
Special Events
Table Games
Tennis

(C) Operations Committees. A committee or committees may be established with regard to the following operational activities:

Buildings
Roads
Waterways and Ponds
Grounds
Compensation
Environmental
Finance
Human Resources
Landscape
Legal
Security and Public Safety
Cable and TV

(D) Strategic Planning Committee. A committee or committees may be established to assist the Board of Governors with facilities and strategic planning.

SECTION 3. AD HOC COMMITTEES

The President may from time to time appoint Ad Hoc Committees.

SECTION 4. POWERS OF COMMITTEES

All committees, except the Nominating and Audit Committees, shall be subject to the control and direction of the Board of Governors. The committees shall act only as a committee and neither the committees nor members thereof shall have executory authority. Any subcommittees shall report directly to the committee as a whole. All committees, except for the Audit Committee, shall formulate programs or recommendations and submit them to the Board of Governors for approval or amendment.

SECTION 5. TERMS OF COMMITTEE CHAIRPERSONS

Each committee Chairperson shall be appointed annually for a one year term by the President with the approval of the Board and shall serve during said term or such shorter period as may be deemed appropriate by the Board of Governors at the pleasure of the President with the approval of the Board of Governors. The term of a committee Chairperson may be terminated at any time by the President with the approval of the Board of Governors and shall not exceed three (3) consecutive years.

ARTICLE XI

PROCEDURE

Robert's Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and By-Laws of the Association or with the Statutes of the State of Florida.

ARTICLE XII

AMENDMENTS

The Board of Governors or one hundred twenty (120) voting Members in good standing of the Association may propose alterations, amendments to, and/or rescission of these By-Laws or of the Articles of Incorporation or any part thereof. Such a petition shall set forth the proposed alteration, amendment or rescission in writing and shall be filed with the Secretary and delivered to the President of the Association, who shall thereupon call a Special Meeting of the Members to be held not less than thirty (30) days nor more than sixty (60) days from receipt of the petition. The notice of meeting shall state the purpose of the meeting and be given in accordance with Article III of these By-Laws. The greater of two-thirds ($2/3$) of a quorum of the membership or a majority of the Members voting, either in person, by proxy, by mail or by such electronic technologic means as may be approved by the Board of Governors, shall be required for the adoption of the proposed alteration, amendment or rescission. No By-Law amendment may be proposed which conflicts with the Articles of Incorporation of the Association unless the Articles of Incorporation are also amended to comply therewith in accordance with the laws of the State of Florida.

ARTICLE XIII

ASSESSMENTS AND MANNER OF COLLECTION

SECTION 1. ASSESSMENTS

The Board will set the assessments and fees to be charged to Members and guests for each fiscal year at the time of the adoption of the annual budget.

SECTION 2. CAPITAL EXPENDITURE LIMITATIONS

(A) As to the Common Property other than the Recreational Facilities, capital assessments or capital expenditures for any single capital project or capital item costing more than One Hundred Thousand Dollars (\$100,000.00) or total capital expenditures in excess of Two Hundred Thousand Dollars (\$200,000.00) in any one fiscal year may not be included in the budget without Member approval, except that, during the course of a fiscal year, the Board of Governors may approve unbudgeted capital expenditures of less than One Hundred Thousand Dollars (\$100,000.00) for any single capital project or capital item, provided total unbudgeted capital expenditures do not exceed Two Hundred Thousand Dollars (\$200,000.00).

(B) As to the Recreational Facilities, capital assessments or capital expenditures for any single capital project or capital item costing more than One Hundred Thousand Dollars (\$100,000.00) or total capital expenditures in excess of Two Hundred Thousand Dollars (\$200,000.00) in any one fiscal year may not be included in the budget without Member approval, except that, during the course of a fiscal year, the Board of Governors may approve unbudgeted capital expenditures of less than One Hundred Thousand Dollars (\$100,000.00) for any single capital project or capital item, provided total unbudgeted capital expenditures do not exceed Two Hundred Thousand Dollars (\$200,000.00).

SECTION 3. OPERATIONAL DEFICITS

Assessments for operational deficits may be levied by the Board of Governors.

SECTION 4. DELINQUENT ACCOUNTS

Delinquent accounts shall be charged a late charge of one and one-half percent (1 1/2%) per month interest. The Board of Governors shall have the right to establish collection procedures from time to time as deemed necessary, including levying fines, instituting civil action suspending a Member's access to Association common areas, facilities and privileges and assessing and collecting Association expenses, including attorneys' fees and court costs until the account is paid in full.

SECTION 5. LIENS

The Association shall have a lien against a Member's parcel and a Member's Recreational Certificate for any unpaid assessments or other charges owed by any Member to the Association which lien shall include reasonable attorney's fees incurred by the Association incidental to the collection of such assessments or other charges, or enforcement of such lien whether or not legal proceedings are initiated. The lien may, but need not be, reduced to a judgment and the lien or the judgment may be recorded against the defaulting Member's home in the public records of Palm Beach County, Florida in the manner applicable to all judgment liens and said lien shall continue in effect until all sums secured by the lien, together with the costs incurred in the recording and enforcing of said lien, shall be paid. Any such judgment liens may be foreclosed by the Association through legal proceedings, upon five days prior written notice of intended foreclosure to the Member. The Association may also, at its option, sue to

recover a money judgment for unpaid annual assessments or other charges, without waiving its lien rights on the defaulting Member's parcel or Recreational Certificates.

SECTION 6. ASSESSMENT PRORATIONS

Memberships which terminate provide no entitlement to a refund of assessments unless there is admission of a new Member to take the place of the terminating Member, in which case, upon the new Member paying assessments which replace the assessments of the terminating Member for the balance of a fiscal year, the terminating Member shall be entitled to a prorata refund for the balance of the fiscal year. New Members, upon admission, shall pay assessments prorata on the basis of the number of days remaining in the Association's fiscal year.

SECTION 7. DUE DATES

Assessments are due on the effective date of the assessment and are payable as set forth in the assessment. Upon termination of membership, any not yet due installments shall become the obligation of the new Member.

ARTICLE XIV

FISCAL MANAGEMENT

SECTION 1. FISCAL YEAR

The fiscal year of the Association shall be from May 1st through April 30th of each year; provided, however, that the Board of Governors is authorized to change to a different fiscal year at such time as the Board deems it advisable.

SECTION 2. DEPOSITORIES

The funds of the Association shall be deposited in such accounts as may be selected by the Board of Governors, including checking and savings accounts in one or more banks and/or savings and loan associations, Certificates of Deposit, U.S. Treasury Bills and money market accounts with an investment firm or firms, all in accordance with resolutions approved by the Board of Governors. Association funds shall be withdrawn only over the signature of the Treasurer, the President or such other persons as the Board may authorize. The Board may require more than one signature on checks and bank drafts. The funds shall be used only for corporate purposes.

SECTION 3. FIDELITY BONDS

Fidelity bonds may be required at the discretion of the Board of Governors from all Officers and employees of the Association, and from any contractor handling or responsible for corporate funds. The premiums for such bonds shall be paid by the Association as a Common Expense.

SECTION 4. RECORDS

The Association shall maintain records of meetings, votes, accounting records, and official records according to good practice and Florida Statute Chapter 720.303(3) and (5), which shall be open to inspection and copying by Members at reasonable times. Such records shall include a record of receipts and expenditures and accounts for each Member, which accounts shall designate the name and address of the Member, the due dates and amount of each Assessment, the amounts paid upon the account, and the balance due. A register for the names of all Institutional Mortgagees who have notified the Association of their liens, and to which lien holders the Association will give notice of default if required, shall also be maintained.

SECTION 5. ANNUAL FINANCIAL REPORT

The Association shall prepare an annual financial report to comply with Florida Statute 720.303(7) within sixty (60) days after the close of the fiscal year. A copy of such annual financial report shall be provided at no charge within ten (10) days to any Member requesting the same. The Board of Governors shall present annually to the Members a full and clear audited statement of the business and condition of the Association, as prepared by an independent accountant.

SECTION 6. INSURANCE

The Association shall procure, maintain and keep in full force and effect, such insurance as may be required by the Amended Declaration to protect the interests of the Association, Governors, Officers and the Members, including, but not limited to, Governors and Officers Errors and Omissions Insurance.

SECTION 7. EXPENSES

The receipts and expenditures of the Association may be created and charged to accounts as the Board of Governors may determine, in accordance with good accounting practices.

SECTION 8. BUDGET

The Board of Governors shall, as required by Florida Statute 720.303(6), adopt a budget for each fiscal year that shall include the estimated funds required to defray the Common Expenses, and to provide and maintain funds for the accounts established by the Board of Governors, in accordance with good accounting practices. The budget must set out separately all fees or charges for Recreational Facilities, whether owned by the Association or another person. The Board of Governors shall also adopt capital a budget for approval by the Members annually. The Association shall provide each Member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the Member.

ARTICLE XV

ADMINISTRATIVE RULES AND REGULATIONS

The Board of Governors may, from time to time, adopt Rules and Regulations governing the details of the operation and use of the Common Property and the Recreational Facilities, provided that the Rules and Regulations shall be equally applicable to all Members and to all Members, respectively, and uniform in application and effect.

ARTICLE XVI

VIOLATIONS AND DEFAULTS

In the event of a violation of any of the provisions of the Amended Declaration, these By-Laws, the rules and regulations adopted by the Association or the Articles of Incorporation, the Association shall have all rights and remedies provided by law, including without limitation (and such remedies shall be cumulative) the right to sue for damages, the right to injunctive relief, and, in the event of a failure to pay assessments or to abide by the architectural restrictions in the Amended Declaration, the right to foreclose its lien as provided in the Amended Declaration; and in every such proceeding, the Owner at fault shall be liable for court costs and the Association's attorneys' fees. A suit to collect unpaid Assessments may be prosecuted by the Association without waiving the lien securing such unpaid Assessments. Without limiting the foregoing, the Association:

(A) May suspend, for a reasonable period of time, the rights of a Member or a Member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines as permitted by law against any Member or any tenant, guest, or invitee.

1. A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.
2. The requirements of this subsection do not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay assessments or other charges when due.
3. Suspension of common area use rights shall not impair the right of an owner or tenant to have vehicular and pedestrian ingress and egress, including, but not limited to, the right to park.

(B) The Association may not suspend the voting rights of a Member.

ARTICLE XVII

VALIDITY

If any By-Law, Rule, or Regulation shall be adjudged invalid, such fact shall not affect the validity of any other By-Law, Rule or Regulation. Notwithstanding the provisions of these By-Laws, nothing herein is intended to abridge any rights or remedies of Members of Frenchman's Creek Country Club, Inc., or Frenchman's Creek Property Owners' Association, Inc., as may have existed prior to the merger of such entities or as may be provided by Florida law.

ARTICLE XVIII

CONSTRUCTION

These By-Laws and the Articles of Incorporation of the Association shall be construed, in case of any ambiguity or lack of clarity, to be consistent with the provisions of the Amended Declaration. In the event of any conflict between the terms of the Amended Declaration, the Articles of Incorporation or these By-Laws, the following order of priority shall apply: The Amended Declaration, the Articles of Incorporation and the By-Laws.

ARTICLE XIX

CONFLICT OF INTEREST

To avoid any conflict of interest or any appearance thereof, the following shall apply:

(A) No employee of the Association, his/her spouse or relative, may serve as a member of the Board of Governors.

(B) No Member of the Association, his or her spouse or relative, may act as a contractor, supplier, or provide professional services to the Association for compensation.

(C) No member of the Board of Governors may serve as a member of such Board if he/she provides services for compensation to any contractor, supplier or provider of professional services to the Association.

(D) No member of the Board of Governors or of a committee may serve as a member of such Board or committee if he/she, or his or her spouse or relative does business with a for-profit organization which uses the term, "Frenchman's Creek", as part of its logo, trade or advertised name.

ARTICLE XX

APPROVAL OF MAJOR ACTIONS

SECTION 1. TWO-THIRDS VOTE

A two-thirds (2/3) vote of the Board of Governors and a two-thirds (2/3) vote of all of the Members of the Association will be required to authorize or approve the following major actions:

(A) Merger or consolidation of the Association with another entity.

(B) Sales, lease, exchange, transfer or other disposition of any of the Association's permanent assets as opposed to assets normally consumed or depreciated over a short period of time in the ordinary course of Association business such as tractors, automobiles, etc., provided that approval of sales, leases, exchanges, transfers or other dispositions to a one hundred percent (100%) owned subsidiary corporation shall only require a majority of the votes cast by Members at any meeting at which a quorum is present if such sale, lease, exchange, transfer or other disposition specifically provides that the subsidiary may only sell, lease, exchange, transfer or otherwise dispose of such assets back to the Association.

(C) Dissolution of the Association.

SECTION 2. APPROVAL OF BORROWING AND MORTGAGES

(A) The Board of Governors shall have the authority to borrow money from time to time for corporate purposes without membership approval provided the borrowing is for temporary, short-term purposes and does not exceed twelve and one-half percent (12-1/2%) of the Association's annual expense budget.

(B) If there is a need to borrow more than twelve and one-half percent (12-1/2%) of the annual expense budget for any purpose or to secure said borrowing by a pledge or mortgage of the Association's facilities, said borrowing, pledge or mortgage shall require approval by the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting in person, by proxy, by mail, or other approved means.

ARTICLE XXI

TRANSFER OF RECREATIONAL CERTIFICATES

SECTION 1. RESTRICTIONS ON TRANSFER OF AND REDEMPTION OF RECREATIONAL CERTIFICATES

(A) No Member may sell or otherwise transfer his or her Recreational Certificate except to the Association, which shall be obligated to repurchase the Recreational Certificate only if an individual or entity designating an individual not presently a Member applies for membership as a homeowner in Frenchman's Creek to

replace the terminating Member and said applicant purchases a Recreational Certificate. The returnable equity amount shall be paid to the terminating Member by the Association but it will be payable only upon receipt of the full payment by the replacement Member of his equity contribution. The equity repayment by the Association to the terminating Member shall be limited to the equity contribution due to the terminating Member, less the amount of any indebtedness owed to the Association by such terminating Member.

(B) Subject to conforming with Article III, Section 2, herein, upon the death of a Member, if the home of the deceased Member passes to the surviving spouse, the Recreational Certificate automatically passes to the surviving spouse. Said spouse shall have the right to have the Certificate transferred to his or her name without fee. If the deceased Member's home does not pass to a surviving spouse, the Recreational Certificate shall be surrendered to the Association for redemption at the time the deceased Member's house is sold and a replacement Member applies and is approved. A deceased Member may leave his or her home, together with his or her Recreational Certificate, by will or intestacy to an heir, who may thereupon apply for such deceased Member's Recreational Certificate and rights with no further equity charges or initiation fees subject to devisee or beneficiary applying for membership, and furnishing the Board with such documentation as the Board may reasonably require as to such bequest. In the same manner, a Member may gift his or her home to a donee, who may thereupon apply for membership with no additional equity contribution or initiation fee upon providing documentation of said gift reasonably acceptable to the Board. The above specified heir or donee so replacing the deceased or donating Member shall stand in the shoes of the deceased or donating Member for redemption pursuant to Subsection (A) above. The purchaser of a home or lot in Frenchman's Creek which belonged to said deceased resident Member has the right to apply for membership in the usual manner and at then current equity and initiation fees following the acquisition of the home as applicable to all transfers.

(C) The Association will not be obligated to find or to assist a retiring Member or his estate or heirs in finding a successor Member.

(D) In the event married Members are legally separated or divorced, title to all Certificates issued in the name of either spouse, including all rights and benefits given to the holder thereof for the Recreational Certificate shall vest in the name of the Member awarded title to the home by agreement or court order.

SECTION 2. LEAVES OF ABSENCE AND RESIGNATION

(A) Leaves of absence or resignations from membership in the Association are not permitted. A Member shall not have the right to avoid or in any manner reduce his or her full financial obligations to the Association.

(B) It is anticipated that a Member will obtain a new Recreational Certificate purchaser at the time he or she sells their Frenchman's Creek home. If a sale of a Member's house is made via a sale to another Member of the Association who is already a homeowner in the Frenchman's Creek community, this shall not become a replacement membership until a new outside Member is obtained and approved for

membership for the home of the purchasing Member with no responsibility on the part of the Association to either Member involved in the home transfer or exchange.

An existing Member within the community buying another home in the community may transfer his Recreational Certificate to his new house with no additional equity but this existing Member will be responsible for the full financial obligation to the Club for each home he owns within the community. The financial obligation of the Member leaving the community will cease upon selling his home to the existing Member, but his equity shall not be returned until a new outside replacement membership is obtained by the buyer of the remaining Member's home.

ARTICLE XXII

GUEST PRIVILEGES

(A) Members are responsible for the deportment of their guests. Members are fully responsible for their guests' charges.

(B) Guest privileges may be denied, withdrawn or revoked at any time for reasons considered sufficient by the Board of Governors in its sole and absolute discretion.

ARTICLE XXIII

DISCIPLINE

Any Member whose conduct or whose family's or guest's conduct shall be deemed to be improper or likely to endanger the welfare, safety, harmony or good reputation of the Association or of its Members, including the nonpayment of assessments or other fees within the time limits set forth herein may be reprimanded, or suspended from access to the Recreational Facilities and/or privileges by action of the Board of Governors. The Board of Governors shall be the sole judge of what constitutes improper conduct or conduct likely to endanger the welfare, safety, harmony or good reputation of the Association or its Members.

SECTION 1. ENABLING DOCUMENTS

All Members are subject to disciplinary action pursuant to the provisions of the Amended and Restated Declaration of Covenants and Restrictions and Article XVI of these By-Laws.

SECTION 2. SUSPENSION

Recreational Facility privileges may be suspended for such time as the Board deems appropriate for improper conduct, failure to pay charges due the Association, violation of these By-Laws or the Rules and Regulations, but all assessments and other charges shall accrue and be payable by a suspended Member during the suspension period. A suspended Member may not be reinstated to full enjoyment of the

Recreational Facilities unless he or she pays a reinstatement fee established by the Board of Governors and permitted by Florida law.

ARTICLE XXIV

GENDER AND FLORIDA LAW

Whenever these By-Laws use the masculine gender or a singular mode, this shall be deemed to include the feminine gender or more than one where an appropriate interpretation would so require.

The foregoing were adopted as the Amended and Restated By-Laws of Frenchman's Creek, Inc., a not for profit corporation and homeowners' association under the laws of the State of Florida, effective the 1st day of October, 2002.

FRENCHMAN'S CREEK, INC.

By _____
George Murphy, President

ATTEST:

Adele Shamban, Secretary

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EXHIBIT "C"

Prepared by/Return to:
John B. McCracken, Esq.
Jones, Foster, Johnston & Stubbs, P.A.
505 South Flagler Drive, Suite 1100
West Palm Beach, FL 33401
Will Call 85

AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FRENCHMAN'S CREEK

THIS IS AN AMENDMENT AND RESTATEMENT OF THE DECLARATION OF COVENANTS AND RESTRICTIONS FOR FRENCHMAN'S CREEK, effective October 1, 2002.

WITNESSETH:

WHEREAS, the Declaration of Covenants and Restrictions for Frenchman's Creek, dated August 28, 1978 (the "Original Declaration"), was recorded in Official Record Book 218, page 325, Public Records of Palm Beach County, Florida, and encumbers real property within the Frenchman's Creek, P.U.D., as described therein; and

WHEREAS, a Supplementary Declaration of Covenants and Restrictions for Frenchman's Creek, Plat 2, dated August 28, 1978 was recorded in Official Record Book 2918, page 501, Public Records of Palm Beach County, Florida, and the Supplementary Declaration of Covenants and Restrictions for Frenchman's Creek, P.U.D., Plat 6, dated August 10, 1982 was recorded in Official Record Book 3787, page 1484, Public Records of Palm Beach County, Florida, for the purpose of encumbering additional real property within the Frenchman's Creek, P.U.D. as therein described and making certain amendments to the Declaration; and

WHEREAS, Frenchman's Creek, Inc. (f/k/a Frenchman's Creek Property Owners' Association, Inc.), is the Declarant as successor in title and interest to the original Developer and it amended the Declaration, the First Supplementary Declaration

and the Second Supplementary Declaration by recording Amended Declarations of Covenants and Restrictions for Frenchman's Creek at:

Official Record Book 4981, page 784, recorded August 22, 1986;
Official Record Book 5521, page 1203, recorded December 21, 1987;
Official Record Book 6201, page 295, recorded September 20, 1989;
Official Record Book 6788, page 1707, recorded April 16, 1991;
Official Record Book 7024, page 1509, recorded November 15, 1991;
Official Record Book 9143, page 1716, recorded February 29, 1996;
Official Record Book 10846, page 677, recorded December 30, 1998;
Official Record Book 11081, page 1410, recorded April 30, 1999; and
Official Record Book 11082, page 1226, recorded April 30, 1999;

all in the Public Records of Palm Beach County, Florida, and

WHEREAS, the Original Declaration, as supplemented, amended and restated, including this amendment and restatement, shall be referred to as the "Declaration";

NOW, THEREFORE, this is the Amended and Restated Declaration of Covenants and Restrictions for Frenchman's Creek effective October 1, 2002.

ARTICLE I

DEFINITIONS

SECTION 1. DEFINITION OF TERMS: The following terms, as used in this Declaration, shall have the following meaning:

(A) Architectural Review Board ("ARB") shall mean and refer to a committee appointed and approved as provided in the By-Laws which shall be empowered to implement and otherwise enforce standards of the Association pertaining to structural and aesthetic modifications and improvements to property of Members.

(B) Assessment shall mean and refer to the annual charge to a Member to generate operating funds for the Association that are utilized for the betterment of the entire community and which are assessed equally against all Members within the Property and refers to those charges against each Parcel made by the Association from time to time.

(C) Association shall mean and refer to Frenchman's Creek, Inc., a Florida Not for Profit Corporation and a Florida Homeowners' Association, its successors and assigns.

(D) Board of Governors shall mean and refer to the Board of Governors of the Association.

(E) Common Expenses shall mean and refer to all expenses incurred by the Association in connection with its ownership, maintenance and other obligations set forth hereinafter.

(F) Common Property shall mean and refer to all portions of the Property which are intended for the common use and enjoyment of the Members, and which are identified and dedicated to the Association on the recorded subdivision plat of the Property or conveyed to the Association by Deed and/or all personal property and real property which may subsequently be acquired by the Association for the common use and enjoyment of the Members and the Recreational Facilities.

(G) Declaration shall mean and refer to this instrument, and all exhibits hereto, as it may be amended from time to time.

(H) Development Plan shall mean and refer to the graphic representation of the proposed manner of development of the Property as a gated country club facility attached as Exhibit "B" to the Original Declaration.

(I) District(s) shall mean and refer to geographic areas with similar densities and like residential types of improvement that form a unit for specific land use purposes and assessment issues. Districts can be divided into Sub-Districts for purposes of assessing Members within the particular area only and may be reestablished from time to time by the Board of Governors.

(J) District I includes all of Sub-District II and all the homes or lots on Marseille Drive and LaPort Drive.

(K) Dwelling shall mean and refer to any single-family dwelling constructed, or to be constructed, on a Lot, including Villas, Townhouses, Custom Homes and Patio Homes.

(L) Frenchman's Creek shall mean and refer to that residential golf course Planned Unit Development community located on the Property in Palm Beach County, Florida, and known as Frenchman's Creek.

(M) Improvements shall mean and refer to all structures of any kind, including, without limitation, any building, fence, wall, sign, paving, grading, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, landscaping or landscape devise or object.

(N) Institutional Mortgagee shall mean and refer to a bank, bank holding company, or subsidiary thereof, trust company or subsidiary thereof, savings and loan association, insurance company, union pension fund, mortgage company, agency of the United States Government, which holds a first mortgage of public record on any Parcel or on any other portion of the Property.

(O) Lot shall mean and refer to any tract of land located within the Property, which is intended for use as a site for a Dwelling.

(P) Member shall mean and refer to owners of Parcels.

(Q) Parcel shall mean and refer to a Lot, Custom Home, Townhouse, Patio Home or Villa.

(R) Property shall mean and refer to that real property legally described in Exhibit "A" attached to the original Declaration and real property which may or may have become subject to the Declaration.

(S) Recreational Certificate shall mean a certificate of the Association which evidences the interest that Members have in the Recreational Facilities which may be acquired, transferred, and redeemed as provided in this Declaration.

(T) Recreational Facilities shall mean and refer to the clubhouse, golf courses, tennis courts, fitness center with swimming pool, beach club with swimming pools and other related facilities which shall be Common Property, the use of which shall be limited to Members holding Recreational Certificates.

(U) Recreational Members shall mean Members who hold Recreational Certificates.

(V) Street shall mean and refer to any street, highway, or other thoroughfare which is constructed within the Property and dedicated to the Association, whether same is dedicated as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, walk or other similar designation.

(W) Sub-District shall mean and refer to a portion of a District, which is similar in product type (Villa, Patio Home, etc.) and density.

(X) Sub-District or District Assessment shall mean and refer to such case where the Association provides maintenance services within a particular area that inures to the benefit of only those owners residing therein, the Association will levy a sub-district or district assessment, to those effected owners.

(Y) Sub-District II includes all the homes or lots on Rhone Drive, Rhone Circle, Calais Drive, LeBateau Isle, Lots 35-42 on LeBateau Lane, and Lots 43, 44 and 53-59 on Le Bateau Drive.

(Z) Townhouse, Villa, Patio or Custom Home shall mean and refer to types of residences which are constructed in Frenchman's Creek.

(AA) Water Management System shall mean and refer to those freshwater lakes, canals and other facilities located within the Property which are to be used for drainage of the Property.

ARTICLE II

DEVELOPMENT CONCEPT

The Property known as Frenchman's Creek was developed as a planned residential community. Approximately 770 acres comprise this planned residential community which includes single family Custom Homes, Patio Homes, Townhouses and Villas. The Property also includes private roads and Recreational Facilities including a luxury clubhouse, two championship golf courses, tennis courts, fitness center, swimming pool and other amenities, a beach club is owned by the Association outside the Property.

The Association shall assess each Parcel various charges as more specifically described hereinafter, for the purpose of funding the obligations of the Association. Recreational Facilities are available to Members holding Recreational Certificates only and they shall be assessed for the expense of operating, maintaining and replacing Recreational Facilities. The Association shall be responsible for the maintenance of the Common Property and shall also be responsible for enforcement of all of the restrictions and other terms set forth in this Declaration, as well as the rules and regulations established by the Association.

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1. PROPERTY: The Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

SECTION 2. ADDITIONS OR DELETIONS: Property may be added or deleted from this Declaration by amendment only.

ARTICLE IV

FRENCHMAN'S CREEK, INC.

SECTION 1. FORMATION: The Association Is a Florida corporation not for profit and serves as the homeowners' association for Frenchman's Creek. The purposes and powers of the Association shall be all of the purposes and powers set forth in this Declaration and in the Articles of Incorporation, By-Laws, and Rules and Regulations of the Association. The Association shall be responsible for the execution, performance, administration and enforcement of all the terms and conditions of this Declaration.

SECTION 2. MEMBERSHIP: A person or entity shall become a Member of the Association upon acquisition of fee simple title to any Parcel in Frenchman's Creek by filing a deed in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, evidencing such ownership. Membership shall continue until such time as the Member transfers or conveys his interest of record or the interest is transferred and conveyed by operation of law. If title to a Parcel is held by more than one person, each person shall be a Member of the Association, but no Parcel shall be entitled to more than one (1) vote. Membership shall be appurtenant to and may not be separated for ownership of any Parcel. No person or entity holding an interest of any type or nature whatsoever in a Parcel only as the security for performance of an obligation shall be a Member of the Association. The Association, by including additional property within the imposition of this Declaration, may cause additional memberships in the Association to be created and may designate the ownership basis for such additional memberships.

With the exception of the owners of the Parcels described in Exhibit "AA" attached and as to such Parcels only, a person or entity may not become a Member of the Association upon acquisition of fee simple title to a Parcel in Frenchman's Creek until such owner shall also purchase Equity and receive an Equity Certificate.

Taking title to a Parcel in Frenchman's Creek, except those Parcels described in Exhibit "AA" attached, shall be deemed an application to purchase a Recreational Certificate and, upon payment of the , charges and equity, as established from time to time by the Board of Governors , such owner shall become a Member of the Association and shall be entitled to use the Recreational Facilities. The Board of Governors shall determine from time to time, but always in advance of any transfer request, what percentage of the purchase price of a Recreational Certificate is to be allocated to returnable Equity and what percentage is to be non-refundable and allocated to the capital reserve account.

If a home is owned by a corporation or other entity, said entity shall, in writing and only at the time of initial acquisition of title by said entity, designate a natural person as the member, which designated individual shall be the individual designated as voting member under the By-Laws of the Corporation, provided that thereafter the Rules and Regulations applying to individual members shall apply to such designated individual. No subsequent members may be designated by said entity to succeed to the membership of such designated individual except a spouse, a lineal descendant, a step-child or a parent of such individual. The Recreational Certificate of such a Member shall belong to and be redeemable by the entity owning the Frenchman's Creek home, but the membership and voting rights are held by a designated natural person.

PROVIDED, HOWEVER, that those Parcels which have never been occupied as a residence as described on Exhibit "BB" attached, shall be treated as those Parcels described in Exhibit "AA" until homes are built and occupied on such Parcels and the

owners thereof apply for Membership, at which time any such Parcels shall be deleted from Exhibit "B" and the conditions hereof shall be fully applicable to such Parcels.

If the owner of a Parcel described in Exhibit "BB" does not purchase a Recreational Certificate within sixty (60) days of the first occupancy of a home built on such Parcel, such owner shall have waived his or her right to enjoy the Recreational Facilities, and such Parcel shall, unless waived by the Board of Governors, be irrevocably treated as those described in Exhibit "AA".

SECTION 3. ADMINISTRATION OF THE ASSOCIATION: The affairs of the Association shall be administered by the Board of Governors in accordance with this Declaration and the Articles of Incorporation and By-Laws of the Association. The Articles of Incorporation and By-Laws may be amended in the manner set forth therein; provided however, that no such amendment shall conflict with the terms of this Declaration, and provided further that no amendment, alteration or rescission may be made which affects the rights or privileges of any Institutional Mortgagee, without the express prior written consent of the Institutional Mortgagee so affected. Any attempt to amend contrary to these prohibitions shall be of no force or effect.

SECTION 4. VOTING: The Association shall have one (1) class of voting membership. Members shall be all persons or entities holding fee simple title to any Parcel in Frenchman's Creek and shall be entitled to one (1) vote for each Parcel or contiguous Parcels which contain one (1) Dwelling thereon, owned by such Member, as to matters on which the membership is entitled to vote, which vote may be exercised or cast by the Member in such manner as may be provided in the By-Laws of the Association. Should any Member own more than one (1) Parcel, such Member shall be entitled to exercise or cast one (1) vote for each such Parcel. When more than one (1) person holds the ownership interest required for membership, all such persons shall be Members and the vote of such Parcel shall be exercised as they, among themselves, determine; provided, however, that in no event shall more than one (1) vote be cast with respect to each Parcel. With respect to each Parcel owned by other than a natural person or by more than one (1) natural person, the Member shall file with the Secretary of the Association a notice, designating the name of an individual who shall be authorized to cast the vote of such Member. In the absence of such designation, the Member shall not be entitled to vote on any matters coming before the membership. With respect to Parcels owned by husband and wife, as tenants by the entirety, no certificate need be filed with the Secretary of the Association naming the person authorized to cast votes for such Parcel, and either spouse, but not both, may vote in person, by proxy, mail or other approved means unless prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Parcel at the meeting, in which case the certificate requirements set forth above shall apply.

SECTION 5. SUSPENSION OF MEMBERSHIP RIGHTS: No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs or franchises of the

Association, or any right, interest or privilege which may be transferable, or which shall continue after his membership ceases, or while he is not in good standing. A Member shall be considered "not in good standing" during any period of time in which he is delinquent in the payment of any Assessment charge or is in violation of any provision of this Declaration, or of any rules or regulations promulgated by the Association. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member of the Association.

ARTICLE V

COMMON PROPERTY

SECTION 1. COMMON PROPERTY: The Common Property is intended for the use and benefit of the Members of the Association and their guests, licensees and invitees. The Association is responsible for the management, maintenance and operation of the Common Property.

SECTION 2. ACQUISITION AND SALE OF PROPERTY: The Association shall have the power and authority to acquire or sell such interests in real and personal property as it may deem beneficial to its Members. Such interests may include fee simple or other absolute ownership interest, leaseholds, or such other possessory use interests as the Association may determine to be beneficial to its Members. Any property acquired pursuant to this section shall be Common Property.

SECTION 3. MAINTENANCE OF PROPERTY: The Association shall be responsible for the maintenance and repair of the Common Property. Specifically, the property the Association shall maintain and be responsible for shall include, but not be limited to:

(A) The entrance area of the Property, including the guard house, shrubbery, signs, street lights, walks, sprinklers and other Improvements located upon the Common Property on or about the entrance area, including all dedicated right-of-way (s) contiguous and/or adjacent to the Property.

(B) The Streets and other areas of Improvement related thereto within the Property, including signs, street lights, walks, sprinklers and other Improvements.

(C) The gates, walls, streetlights, fences and hedges located within or around the perimeter of the Property.

(D) The Water Management System.

(E) All other property, facilities, improvements or equipment, which the Board of Governors shall determine would properly serve and benefit the Members of the Association.

(F) The Recreational Facilities.

SECTION 4. RULES AND REGULATIONS GOVERNING USE OF COMMON PROPERTY: The Association, through its Board of Governors, shall regulate the use of the Common Property by the Members, and their guests, licensees and invitees and may from time to time promulgate such rules and regulations as are consistent with this Declaration, governing the use thereof as it may deem to be in the best interests of its Members. A copy of all rules and regulations established hereunder and any amendments thereto shall be made available to all Members at the Association office. Such rules and regulations may be enforced by legal or equitable action and pursuant to Article X, Section 1, (NN), of this Declaration.

SECTION 5. TRAFFIC REGULATIONS: The Association, through its Board of Governors, shall have the right to post motor vehicle speed limits throughout the Property, and to promulgate traffic regulations (the speed limits and traffic regulations are collectively referred to herein as the "Traffic Regulations") for use of the Streets. A copy of the Traffic Regulations established hereunder and any amendments thereto shall be made available to all Members at the office of the Association. The Association, through its Board of Governors, shall also have the right to establish enforcement mechanisms for violation of the Traffic Regulations, including without limitation, the removal of vehicles from the Property, and the suspension of a Member's barcode(s) and other rights and easements of enjoyment, as provided herein below. Those who violate the Traffic Regulations shall be entitled to notice and a hearing, as stipulated by Florida Statute, prior to the removal of any vehicle or barcode(s), the deprivation of any rights, or the enforcement of any other penalty for violation of the Traffic Regulations. As to a vehicle driven by any person other than a Member of the Association, no such notice and hearing procedures shall apply. Such persons shall be subject to Traffic Regulations penalties as stipulated in this Declaration and as established and approved by the Board of Governors from time to time.

SECTION 6. ENFORCEMENT OF RESTRICTIONS: The Association through its Board of Governors, officers, and management shall have the authority to enforce restrictions imposed by this Declaration, in any manner provided by law and/or equity.

SECTION 7. CONTINUAL MAINTENANCE: In the event of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and up keep thereof. In such event, the Members holding Recreational Certificates shall be paid their equity in exchange for their Recreational Certificates or they shall receive liens on the Recreational Facilities in the amount of their Recreational Certificates. In no instance shall the City of Palm Beach Gardens, Florida be obligated to accept any dedication offered to it by the Members of the Association pursuant to this section, but the City of Palm Beach Gardens, Florida may accept such dedication and

any such acceptance by the City must be made by formal resolution of the empowered by the City Council.

SECTION 8. DISTRICT I DRAINAGE AND CANAL WATER MANAGEMENT:

(A) The Committee. The "District I" Drainage and Canal Water Management Committee (the "Committee") shall consist of three persons chosen by the Association Members residing in District I, and two persons chosen by the Board of Governors. The Committee will advise the Board of Governors concerning the use of the "Drainage and Canal Water Management Fund" (the "Fund"). The Committee may engage the services of a State of Florida licensed and qualified professional engineer and/or hydrologist (hereinafter referred to as the "engineer"), as it may from time to time perceive its need for counsel and advice. The engineer may not be a person, or a person associated with an organization consulted with during the litigation of Allen I. Bildner and Joan Bildner, his wife, et al. v. Frenchman's Creek Property Owners' Association, Inc., Case No. CL 96-9169 AJ (15th Jud. Cir., FL 1998) (the "Litigation"). Selection of the engineer will require the affirmative vote of four members of the Committee. The engineer will make recommendations to the Committee and to the Board of Governors to guide them in the proper maintenance and repair of the canal system in District I. Final determination with regard to any maintenance and repair decisions shall, however, remain the responsibility of the Board of Governors provided that such determination does not violate the terms of this Amendment. The members of the Committee shall be insured under the Association directors and officers' liability policy.

(B) The Fund. The Fund shall be a discrete fund, segregated from all other funds of the Association in a separate interest-bearing bank account. The funds collected through separate assessment of District I owners will be deposited into the account, and contributions will be made to the Fund as described hereafter. The Association will annually contribute a sum of money to the Fund equal to sixty percent of the sums contributed annually to the Fund by District I owners. The District I owners' contributions will be determined in the annual budget and billed quarterly. The Association contributions will be paid to the Fund quarterly. The Fund shall not be used for capital improvements.

(C) Canal Maintenance. The Association will maintain the system outside of the District I canal system, and will maintain all drainage in District I as required by the Association documents except as may be otherwise provided herein. The Fund will be used to repair and maintain the waterways in District I, and all their sub-surface characteristics, such as the extent and gradient of the littoral shelf, where present. The phrase "repair and maintain" means dredging, depositing new material to alter the subsurface contours of the canals, and otherwise assuring that the subsurface contours and characteristics of the canals in District I continue to provide for drainage and boating as presently designed and used. The Fund shall not be expended for repair or

maintenance of docks, appurtenances to docks, boat lifts, walkways to docks, bulkheads, retaining walls or seawalls, the repair and maintenance of which shall be the responsibility of the upland owner. The Association will maintain all drainage fixtures, devices and appurtenances from funds derived from the Assessment made against all Members of the Association (hereinafter, "POA General Funds"). Such fixtures, devices and appurtenances include underground culverts and pipes, catch basins, weirs, head walls and the rock required at outfalls to assure that no erosion of the canal banks or subsurface contour will be caused in the ordinary course of use and under ordinary care. The retaining walls, seawalls or bulkheads within ten feet of either side of an outfall shall be repaired and maintained from the POA General Funds. In addition, the Association shall pay for repair and maintenance of the revetment area designated as "Area X" on Exhibit A and the wall designated as "Area Y" on Exhibit A. These areas are owned by the Association.

(D) Littoral Shelf. The Fund shall be used to maintain the littoral shelf. This section of the littoral shelf is designated as "Area Z" on Exhibit A.

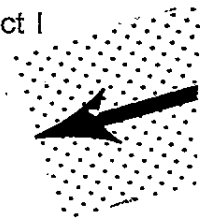
(E) Bulkhead Walls. The Fund will not be used to repair any damage to retaining and bulkhead walls in District I. Any damage to such walls not caused by the intentional or negligent acts of the Association will be the sole financial responsibility of the upland adjacent owner. This paragraph relates only to the physical wall itself.

(F) Deficits. If the Fund should at any time prove to be inadequately funded, additional funds will be assessed and contributed by District I property owners and by the Association in the same percentage as set forth above.

(G) Catastrophic Event. In the event repairs, exclusive of those which this Article makes the responsibility of District I owners individually or the Association, are required to the District I canal system by a Catastrophic Event and the cost of such repairs exceeds the balance of funds on hand in the Fund, the following will apply:

(1) "Catastrophic Event" is defined as any hurricane or tropical storm occurring at Frenchman's Creek as determined by the National Weather Service, or any rainfall event which meets the criteria for a one day, twenty-five year storm as measured by the South Florida Water Management District through measurements taken at the Northern Palm Beach County Improvement District rain gauge to be located at the A1A culvert inflow into Frenchman's Creek.

(2) Upon exhaustion of the Fund funds due to the costs of repair following a catastrophic event, payment for the balance of repairs to be made shall be financed by contributions to the Fund coming fifty percent from the owners of District I properties and fifty percent from the Association.



(3) Assessments to the District I owners shall be on a lot-by-lot basis, and the assessments against each lot shall be equal to the assessment for each other District I lot.

(H) District I Lots. Some of the lots in District I were not improved by incorporating the swales shown on plans for the development. Still other District I lots have incorporated drains, which are draining onto the littoral shelf. The presence or absence of a designed swale on a lot or on Association property may or may not interfere with drainage at Frenchman's Creek development. If the engineer recommends that the designed swales be installed where not found, or recommends any other repair or change to conform to the original plans for Frenchman's Creek, the lot owner or Association (if Association owned property is involved) will at their expense promptly make such changes. There may be situations in which the Association has inappropriately granted a written special variance or approval to a lot owner in District I which the engineer will later advise should be corrected in order to accomplish the drainage and maintenance goals of the Association for the District I canal system. The cost of such changes will not be paid from the Fund, but the Association may assess the individual lot owner involved for the cost of such changes. Nothing in this paragraph shall be construed to prevent the individual lot owners from contesting the changes.

ARTICLE VI

ASSESSMENTS

SECTION 1. AUTHORITY: The Association, through its Board of Governors, shall have the power and authority to make and collect Assessments as hereinafter set forth.

SECTION 2. ASSESSMENTS: Assessments shall be determined annually for the purpose of maintenance and management of the Association, the Common Property, and for the purpose of promoting the safety and welfare of the Members. Maintenance and management expenses referred to herein include, but are not limited to, the cost and expense of: operation, maintenance and management of the Association and the Common Property; operation and maintenance of the Water Management System; property taxes and assessments against the Common Property; insurance coverage for the Common Property; legal and accounting fees; maintenance of the Streets; management fees; security costs; normal repairs and replacements; charges for utilities used upon the Common Property; cleaning services; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against Members or others; the creation of reasonable reserves; and all other expenses deemed by the Board of Governors of the Association to be necessary and proper for management, maintenance, repair, operation and enforcement. Assessments for the costs of operating or maintaining the Recreational Facilities shall not be made against those Members listed in Exhibit "AA" or "BB".

SECTION 3. COMPUTATION AND COLLECTION OF ASSESSMENTS: The Association shall annually estimate the expenses it expects to incur and the period of time involved therein and may assess its Members sufficient monies to meet this estimate. Except as provided in Section 2 above, all Parcels shall be assessed at a uniform rate to be determined by the Association so that all Parcels subject to a Assessment shall be assessed equally. Should the Association at any time determine that the assessments made are not sufficient to pay the expenses, the Board of Governors shall have authority to levy and collect additional Assessments to meet such needs. Assessments shall be collectible in advance monthly, quarterly, semi-annually or annually, as the Board of Governors shall determine. An Assessment shall be considered delinquent if not paid by the due date.

Provided, however, that Assessments, Capital Assessments, Emergency Special Assessments, Individual Assessments, Sub-District Assessments and other charges and fees need not be equal or uniform for Parcels when the Member (or the predecessor to the Member) and the Association (or its predecessor) have agreed otherwise.

SECTION 4. CAPITAL ASSESSMENT: The Association may levy a Capital Assessment against each Member for any of the following purposes: the acquisition of property by the Association; defraying the cost of construction of capital improvements to the Common Property; the cost of construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto; and the expense of indemnification of each Governor, officer, committee member, and employee of the Association. All Capital Assessments shall be at a uniform amount for each Parcel assessed. Capital Assessments for Recreational Facilities shall not be made against those Members listed in Exhibit "AA" or "BB".

As to the Common Property other than the Recreational Facilities, the Board of Governors shall not incur liabilities or sign contracts for the expenditure of more than One Hundred Thousand Dollars (\$100,000.00) for a single item referenced above and a maximum of Two Hundred Thousand Dollars (\$200,000.00) for all such expenditures during a fiscal year without membership approval. Any such referenced expenditures during a fiscal year over and above the limitations set forth above shall require the affirmative vote of the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting, either in person, by proxy, mail or other approved means.

As to the Recreational Facilities, the Board of Governors shall not incur liabilities or sign contracts for the expenditure of more than One Hundred Thousand Dollars (\$100,000.00) for a single item referenced above and a maximum of Two Hundred Thousand Dollars (\$200,000.00) for all such expenditures during a fiscal year without membership approval. Any such referenced expenditures during a fiscal year over and above the limitations set forth above shall require the affirmative vote of the greater of

two-thirds (2/3) of a quorum of the membership or a majority of the Members voting, either in person, by proxy, mail or other approved means.

SECTION 5. EMERGENCY SPECIAL ASSESSMENTS: The Board of Governors may levy an Emergency Special Assessment when, in its sole determination, there is potential danger of damage to persons or property. Such assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, improvements, repairs or replacements. Events justifying Emergency Special Assessments include, but are not limited to, hurricanes, floods and fires. Emergency Special Assessments may also be levied for roof, plumbing or structural repairs. Emergency Special Assessments shall be collectible in such manner as the Board of Governors shall determine. Emergency Special Assessments for Recreational Facilities shall not be made against those Members listed in Exhibit "AA" or "BB".

SECTION 6. INDIVIDUAL ASSESSMENTS: The Association may levy an individual assessment against a particular Parcel for the cost of repairs, replacements, or fines imposed by the Board of Governors pursuant to Article X, Section 1, (MM), of the Declaration, which the Member has failed to perform or pay as required hereinafter. When in the Association's sole judgment the Member's failure or refusal to perform has impaired the use or value of the Property, the Association has a right of entry onto the Parcel to perform repairs or replacements or to cure any violation of the Declaration or the rules and regulations, including the right to abate or eliminate any nuisance. This individual assessment shall include an administration fee charge by the Association in an amount to be determined by the Board of Governors in its discretion from time to time. A delinquent individual assessment shall bear interest at the maximum rate allowable under the Florida usury laws from the date when due until paid.

The Association may levy an individual assessment as aforesaid to collect any unpaid Assessments or equity due from a Member.

SECTION 7. SUB-DISTRICT ASSESSMENT: In the event the Association becomes responsible for the maintenance of property or incurs such other expense that benefits less than all of the Members, the Association's Board of Governors shall levy and collect a Sub-District Assessment against those Members who benefit from such maintenance or expenditures by the Association. The assignment of properties to specific Districts is subject to revisions and modifications throughout the Property.

If inconsistent with this Article, the provisions of Section 9, District I Drainage and Canal Water Management, of Article V, Common Property, shall control.

SECTION 8. EFFECT OF NON-PAYMENT OF ASSESSMENTS: All notices of assessments from the Association to the Members shall designate when the assessment is due and payable. If an assessment is not paid on the date when due, it shall then become delinquent and shall bear interest at the maximum rate allowed by the Florida laws, from the date when due until paid. The assessment, together with

interest thereon and the cost of collection thereof, including attorneys' fees, shall be a continuing lien against the Parcel against which the assessment is made and shall also be the continuing personal obligation of the owner of such Parcel. If any assessment, or any installment thereof, shall not be paid within thirty (30) days after the due date, the Association may, at any time thereafter, accelerate the entire amount due for the period for which the assessment was made, and declare the same immediately due and payable. The Association may also record a Claim of Lien in the Public Record of Palm Beach County, Florida, setting forth the amount of the unpaid assessment and the rate of interest due thereon. The Association may at any time thereafter bring an action to foreclose the lien against the Parcel, and/or a suit on the personal obligation of the Member or Members. There shall be added to the amount of such assessment the cost of such action (including attorneys' fees), and in the event a judgment is obtained, such judgment shall include interest on the assessment, as above provided and attorney's fees incurred by the Association, together with the costs of the action. Regardless of the date of recordation of any claim of lien, the effective date thereof shall relate back, and shall take priority, as of the date of recordation of this Declaration. Any successor entitled to a Parcel shall be held to have constructive notice of the records of the Association to determine the existence of delinquency in the payment of assessments.

SECTION 9. CERTIFICATE OF ASSESSMENTS: The Association shall prepare a roster of the Parcels and assessments, fees and charges applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by all Members. At the request of an Member, the Board of Governors shall prepare a Certificate of Assessments signed by an officer of the Association, setting forth whether the Member's assessments, fees and charges have been paid and/or the amount which is due as of the date of the Certificate. As to parties without knowledge of error who rely thereon, such Certificate shall be presumptive evidence of payment or partial payment of any assessment therein stated as having been paid or partially paid.

SECTION 10. SUBORDINATION TO LIEN OF MORTGAGES: The lien for assessments for which provision is herein made shall be subordinate to the lien of any Institutional Mortgagee. Such subordination shall, however, apply only to the assessments which have become due and payable prior to a final sale or transfer of the mortgaged Parcel pursuant to a decree of the foreclosure, or in any other proceeding or conveyance in lieu of foreclosure of the mortgage. No sale or transfer shall relieve any Parcel from liability for any assessment thereafter becoming due, or from the lien of any such subsequent assessment. Any delinquent assessments, which are extinguished pursuant to a sale or transfer in connection with the foreclosure of a mortgage, or any proceeding or deed in lieu of foreclosure, shall be reallocated and assessed to all Members. The written opinion of the Association that the assessment lien is subordinate to a mortgage lien shall be dispositive of any questions of subordination.

SECTION 11. MISCELLANEOUS. The funds collected by Capital Assessments, Emergency Special Assessments, Sub-District Assessments, and, if applicable,

Individual Assessments, shall be designated for a particular capital project or expenditure, separately invoiced to Members, deposited in a segregated bank account, and disbursed only for the designated purpose. All assessments shall be due and payable as set forth in the notice of assessment.

ARTICLE VII

MAINTENANCE OF PROPERTY

SECTION 1. ASSOCIATION RESPONSIBILITIES: The Association shall be responsible for maintenance of the Common Property as more fully described in Article V, Section 3 of this Declaration.

SECTION 2. PARCEL OWNER RESPONSIBILITIES: The owner of each Parcel shall be responsible for maintenance of the interior areas of the Improvements constructed upon such Parcel. The owner of a Lot shall also be responsible for the exterior areas of his Lot, including without limitation, lawn, patio, terrace, garden or similar areas. The maintenance of the exterior portions of all Patio Homes, Townhouses and Villas, including the lawns, landscaping and irrigation, shall be the responsibility of the Association, and the expense of such maintenance shall be assessed against the affected owners as a Sub-District Assessment. The expense of any maintenance, repair or construction of any portion of the Common Property or of any of the Improvements necessitated by the negligent or willful acts of an owner or his invitees, licensees, family or guests shall be borne solely by such owner and his Parcel shall be subject to an Individual Assessment for such expense.

SECTION 3. DRAINAGE AND CANAL WATER MAINTENANCE: If inconsistent with this Article, the provisions of Section 9, District I Drainage and Canal Water Management, of Article V, Common Property, shall control.

ARTICLE VIII

EASEMENT, COMMON PROPERTY, RIGHT OF ENTRY

SECTION 1. MEMBER'S EASEMENTS OF ENJOYMENT: Subject to the provisions of this Section, each Member shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to and shall pass with the title to each Parcel. Only Members who hold Recreational Certificates shall have an easement of enjoyment of the Recreational Facilities.

SECTION 2. EXTENT OF MEMBER'S EASEMENT: The rights and easements of enjoyment created hereby shall be subject to the following:

(A) The right of the Association, to borrow money for the purpose of maintaining or improving the Common Property.

(B) The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

(C) The right of the Association to suspend the enjoyment rights and easements of any Member for any period during which any Assessment, fee or charge due to the Association remain unpaid by such Member, and for any period during which such Member is in violation of this Declaration, any of the rules and regulations, or any of the Traffic Regulations of the Association.

(D) The right of the Association to properly maintain the Common Property.

(E) The right of the Association to dedicate, transfer, license, lease, or grant an easement for all or any part of the Common Property to any public agency, authority, utility water management or water control district, or other entity, parcel owner or person.

(F) Restrictions contained on any Plat, or filed separately, with respect to all or any portion of the Property.

(G) All of the provisions of this Declaration, and the Articles of Incorporation and By-Laws of the Association and all Exhibits thereto, as same may be amended from time to time.

SECTION 3. EASEMENT GRANTS: The following easements are hereby granted and/or reserved over, across and through the Property:

(A) Easements for the installation and maintenance of utilities are granted as shown on the recorded subdivision plats of the Property. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain, unless such structure, planting or other material was installed by the Association and/or approved by the Association. The Association (or such other entity as is indicated on the plats) is hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.

(B) Easements for the installation and maintenance of drainage facilities are granted to the Association, and/or other entities as shown on the recorded subdivision plats of the Property. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels shall be placed or permitted to remain unless such structure, planting or other material was installed by the Association. The Association (and any other entity indicated on the plats) shall have access to all such drainage easements for the purpose of operation and maintenance thereof. The Association shall have the right to contract for the

maintenance of the Water Management System with an established water management or water control district, or with any other party.

(C) The Common Property is hereby declared to be subject to a perpetual nonexclusive easement in favor of the Association, employees and agents of the Association, and of any management entity contracted by the Association, in order that such employees, agents and management entity may carry out their duties.

(D) A non-exclusive easement is hereby granted to each Institutional Mortgagee for the purpose of access from Donald Ross Road to the portion of the Property subject to its mortgage and for the installation and maintenance of utilities and drainage facilities as such may be required for the development of the Property should the Institutional Mortgagee acquire title to such Property pursuant to foreclosure of its mortgage or any proceeding in lieu of foreclosure.

(E) Easement are hereby reserved throughout the Property by the Association for its use and the use of its agents, employees, licensees and invitees, for all purposes in connection with the maintenance of the Property.

(F) Golf carts may be driven over all Streets; provided, however, that the Association shall have no liability arising from the use of golf carts on the Streets. The Association may, from time to time, establish restrictions with regard to age requirements.

(G) Zero-Lot-Line and Party Wall Easement.

(1) General Definition: Zero-Lot-Line Wall. Each wall of any single-family, unattached residence, which is constructed within one foot of the side line of any lot, but does not extend onto or beyond a dividing boundary line of an adjoining single-family, unattached residence, shall be deemed a "Zero-Lot-Line Wall".

(2) General Definition: Party Wall. Each wall or other similar structure of partition which is constructed on a Townhouse lot or is a part of an adjoining Townhouse, and placed on the dividing boundary line between them, shall constitute and be defined as, or otherwise be referred to herein as a "Party Wall".

(3) Zero-Lot-Line Rights of Easement. An owner of a lot adjoining a Zero-Lot-Line Wall shall have the right to use said wall for other purposes, if any, which are approved by the Association. In order to allow the owner of any residence with a Zero-Lot-Line Wall to maintain said wall, the owner of the Zero-Lot-Line Wall shall enjoy, and the adjoining lot shall be subject to, a perpetual easement over, under, across and through a five (5') foot-wide strip of the adjoining lot which abuts and runs parallel to their common lot boundary line.

In addition to the foregoing, there shall also exist a three (3') foot easement for roof eaves, overhangs, gutters, other protrusions and underground pipelines, and for water runoff over said adjoining lot of a residence having a Zero-Lot-Line Wall and/or a Party Wall. Said roof eaves and overhangs shall not project more than eighteen (18") inches onto said adjoining lot.

(4) Party Wall Rights of Easement.

(a) Sharing of Repairs and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the owners of the structures of which such Party Wall are a part.

(b) Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire, termite infestation or other casualty, the owner of either property of which such Party Wall is a part, may restore it to its former condition and, in that event, the parties sharing the structure shall contribute equally to the expense of such restoration.

(c) Right to Contribution. The right of any owner to contribute to the cost and expense of repair, maintenance and/or restoration of any Party Wall shall be a personal right running to the benefit of the owner bearing the cost and expense as aforementioned, and shall not be appurtenant to or otherwise run with the land, nor shall it pass to such owner's successor-in-interest.

(d) Party Wall Right of Maintenance Easement. The owner of a Townhouse subject to a Party Wall shall have an easement to maintain the Party Wall in its original location, as constructed by the Developer, and to enter upon the property of the owner sharing an interest in the Party Wall, in a reasonable manner and a reasonable time for the purpose of repairing and/or maintaining the Party Wall, subject to the terms and conditions of the Declaration.

(5) Conditions and Limitations. The conditions and limitations imposed herein shall be deemed covenants, running with the land, except as otherwise provided for herein, and for the benefit of and as a limitation and burden upon each residence subject to the terms set forth herein, and upon their successors and assigns and upon all future owners, in all respects, as though the Conditions and limitations imposed herein had been specifically included within the Declaration and made a part thereof.

SECTION 4. EMERGENCY RIGHT OF ENTRY: In case of any emergency originating in, or threatening any Parcel, regardless of whether the Member is present at the time of such emergency, the Board of Governors of the Association, or any other person authorized by it, shall have the right, but not the obligation to enter such Parcel for the purposes of remedying, or abating the cause of such emergency, and such right of entry shall be immediate.

SECTION 5. ADDITIONAL EASEMENTS, LICENSES, AND LEASES: The Association, shall have the right to grant such additional easements, licenses or leases, to benefit and facilitate improvements on Parcels, private cable television service companies, or to relocate existing easements throughout the Property as the Association may deem necessary or desirable, provided that such additional easements, licenses or leases or relocation of existing easements do not prevent or unreasonably interfere with the Members' use or enjoyment of the Property or interfere with any existing agreements or contracts entered into with any cable television service company or other utility company.

SECTION 6. RESTRICTION ON OWNER EASEMENTS: No Member or owner shall grant any easement upon any portion of the Property to any person or entity.

ARTICLE IX

ARCHITECTURAL CONTROLS

SECTION 1. ARCHITECTURAL AND DESIGNS CONTROLS: It is the intent of the Association to create a general plan and uniform scheme of development of the Property and to create within the Property a residential community of high quality and harmonious Improvements. Accordingly, the Architectural Review Board (hereinafter referred to as the "ARB") shall, subject to appeal to the Board of Governors, have the right to approve or disapprove all architecture, landscaping and location of any proposed Improvements for Parcels. The ARB shall consist of at least three (3) members. Each member shall be a Member of the Association appointed as provided in the By-Laws. The ARB may impose standards for construction and development consistent with all applicable provisions prescribed in applicable building, zoning or other governmental codes. The procedures for the ARB shall be set forth below:

(A) No Improvements shall be constructed, erected, removed, planted or maintained, nor shall any addition to or any change, replacement or alteration therein be made until the plans and specifications therefore showing the nature, kind, shape, height, materials, floor plans, exterior wall texture, color scheme, and the location of same, including a surface water drainage plan showing existing and design grades and/or contours relating to the predetermined ground floor finish elevation established by the Association, shall have been submitted to and approved in writing by the ARB. As part of the application process, two (2) complete sets of plans and specifications prepared by an architect, landscape architect or engineer shall be submitted for approval by written application on such forms as may be provided or required by the ARB. The ARB may require submission of samples of building materials and colors proposed-to-be-used.

(B) In the event the information submitted to the ARB is, in the ARB's opinion, incomplete or insufficient in any manner, the ARB may request and require the submission of additional or supplemental information.

(C) The ARB shall have the right to approve or reject any plans and specifications, which are not suitable or desirable for aesthetic or any other reasons. In approving or rejecting such plans and applications, the ARB shall consider the suitability of the proposed Improvements and materials of which the same are to be built, the site upon which such Improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

(D) Except as otherwise provided herein below with respect to the construction of Dwellings, or as specifically excepted by the ARB, construction of all Improvements for which the approval of the ARB is required under this Declaration, shall be completed within the time period specified by the ARB.

(E) The ARB shall, in all cases, have the right to determine, subject to state and local building and zoning requirements, and designate building set back lines necessary to conform to the general plan of the Property, in order to preserve the integrity of the Property.

(F) Upon approval by the ARB of any plans and specifications submitted to the ARB, the ARB shall notify the applicant in writing, which notifications shall set forth any qualifications or conditions of approval. In the event that the ARB disapproves any plans and specifications submitted to the ARB, the ARB shall so notify the applicant in writing, stating the grounds upon which such disapproval is based. Any applicant may request a hearing before the full ARB to justify his position, within seven (7) days from the ARB's denial of the application or its consent subject to conditions. Within seven (7) days of the decision by the ARB, the applicant or any Member owning a Parcel abutting the applicant's Parcel may appeal to the Board of Governors by filing a notice of appeal with the secretary of the Association, which notice shall set forth the reasons for the appeal. In the event of any such appeal, Members owning Parcels abutting the applicant's Parcel shall be given notice of the appeal and any such Member and the applicant shall be given an opportunity to be heard at the Board of Governors' meeting hearing such appeal. The ARB's decision, if there is no appeal, or the Board of Governors' decision after a hearing on an appeal, except as provided by Article X, Section NN, shall be final and binding upon the applicant; provided, however, that no Improvement shall be erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration, or which violates any zoning or building ordinance or regulation.

(G) Prior to the occupancy of any Improvement constructed or erected on a Parcel, the builder thereof shall submit a final survey, and as built plans, if deviations from the original plans, to permit the ARB to complete its final inspection and certify that the construction of the Improvement has been completed in accordance with the plans and specifications previously approved by the ARB. The ARB may, from time to time, delegate to management of the Association or a member or members of the ARB, the

responsibility to conduct such inspections as may be required in furtherance of the ARB's duties.

(H) There is specifically reserved unto the ARB, and to any agent or member of the ARB, the right of entry and inspection upon any portion of the Property for the purpose of determining whether there exists any construction of Improvements which violates the terms of any approval by the ARB or the terms of this Declaration, or any amendments hereto, or of any other covenants, conditions and restrictions to which any deed or other instrument of conveyance makes reference. If any Improvement of any nature shall be constructed or altered without the prior approval of the ARB, the Member shall, upon demand of the Association, cause such Improvement to be removed, or restored in order to comply with the plans and specifications originally approved by the ARB. The Member shall be liable for the payment of all costs of such removal or restoration, including all costs and attorneys' fees incurred by the Association. Such costs may also be the basis for an Individual Assessment. The ARB is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy and, in the event that it become necessary to resort to litigation to determine the propriety of any constructed Improvement or to remove any unapproved Improvement, the Association shall be entitled to recovery of court costs, expenses and attorneys' fees of the ARB, including those incurred by the ARB; provided, however, that nothing provided therein shall be deemed to negate the Association's right to an award of the Association's and the ARB's attorneys' fees and costs if the Association is the prevailing party in any administrative or judicial proceeding. In the event that any Member fails to comply with the provisions contained herein or other rules and regulations promulgated by the ARB, the ARB may, in addition to all other remedies contained herein, recommend to the Board of Governors that it record against that Member's Parcel a Certificate of Disapproval stating that the Improvements on the Parcel fail to meet the various requirements of the ARB.

(I) The ARB is empowered to promulgate and/or modify, from time to time, design and development standards for the Property, including but not limited to the following:

- (1) Roof color and roof design.
- (2) Fences, walls, doors, screened porches, patios, awnings, shutters and similar structures.
- (3) Exterior building materials and colors.
- (4) Exterior landscaping and irrigation.
- (5) Elevations (all sides), signs, mailboxes, antennas, flagpoles, address numbers and exterior lighting.

(6) Building setbacks, side yards and related height, bulk and design criteria.

(7) Pedestrian and bicycle ways, sidewalks and pathways.

(8) Garages, driveways, walkways, garbage and trash containers.

(9) Swimming pools, tennis courts, accessory structures, play equipment, cable T.V., security and telephone.

(J) The ARB may grant variances from the requirements contained herein or as elsewhere promulgated by the ARB, on a case-by-case basis, provided, however, that the variance sought is reasonable and does not impose a hardship upon other Members. The granting of such variance by the ARB shall not nullify or otherwise affect the ARB's right to require strict compliance with the requirements set forth herein on any other occasion.

(K) Neither the Governors or officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by any Member within the Property or any other party whatsoever, due to any mistakes in judgment, negligence or any action of the ARB in connection with the approval or disapproval of plans and specifications. Each Member and occupant of any Parcel within the Property agrees, as do their successors and assigns by acquiring title thereto or an interest therein or by assuming possession thereof, that they shall not bring any action or suit against the Governors or officers of the Association, the members of the ARB or their respective agents, in order to recover any damages caused by the actions of the ARB. The Association shall indemnify, defend and hold harmless the ARB and each of its members from all costs, expenses and liabilities, including attorneys' fees, of all nature resulting by virtue of the acts of the ARB or its members. Neither the Governors nor officers of the Association, the members of the ARB, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans and specifications, nor for any defects in any Improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

(L) Upon the completion of the Improvements and final approval by the ARB the Board of Governors shall, upon request by an applicant, issue a certificate certifying that the plans and specifications have been submitted to and approved in writing by the ARB.

ARTICLE X

USE RESTRICTIONS

SECTION 1. RESTRICTIONS ON USE OF PARCELS AND COMMON PROPERTY:

(A) Residential Use. All Parcels shall be used only as single-family, private, residential dwellings and for no other purpose. No business or commercial building may be erected on any Parcel and no business may be conducted on any part thereof except for use by the Association or its affiliates.

(B) No Parcels, as presently platted, may be combined for the purpose of building one single family home.

(C) Occupancy of Parcels. Whenever any Parcel is owned or leased by a corporation, partnership, or trust, or other entity (other than the Association or its affiliates), the respective agents of the aforementioned entities, i.e. president or chief executive officer, partner, or trustee, shall designate, at least ten (10) days prior to closing, a particular couple or individual who shall be entitled to use the Parcel and to exercise the rights of a Member hereunder. Only the designated couple or individual, their guests may use the Parcel. The right of occupancy or use of a Parcel may not be transferred to another party, except through conveyance, transfer by operation of law, or lease of the Parcel, as approved by the Association in accordance with the terms set forth herein below. The couple or individual designated by the corporation, partnership, trust or other entity which shall occupy the Parcel shall be subject to the Declaration and shall execute a written covenant in favor of the Association whereby the individual or the members of the family occupying the Parcel shall agree to comply with the terms and provisions of this Declaration, and the rules and regulations which may be promulgated from time to time by the Association. The written covenant shall contain an acknowledgment that the use of the Parcel by the individual of the family shall continue only so long as the entity shall continue to be a Member of the Association or lessee of such a Member. Upon demand by the Association to any of the aforementioned Parcel Members to remove any party given permission to use the Parcel owned by the corporation, partnership, trust or other entity, due to the failure of such party using the Parcel to comply with the terms and conditions of this Declaration or the rules and regulations of the Association, the Parcel owner shall forthwith cause such party occupying the Parcel to be removed. In the event the Parcel owner fails to remove the party using the Parcel, the Association, as agent of the Parcel owner, may take such action as it deems appropriate to accomplish the removal of such user and all such action by the Association shall be at the cost and expense of the Parcel owner, and it shall reimburse the Association there for, upon demand, for costs together with such attorneys' fees (including appellate attorneys' fees and costs), as the Association may incur with reference to such removal.

(D) Pets. Members may keep as pets: companion pets such as birds, domesticated, fish, cats, dogs and other small animals. No Member may keep exotic cats, non-human primates, horses or other farm livestock or zoo type animals on the Property. Pets must be on a leash or carried when on Common Property. Pets are not allowed on Recreational Facilities. It shall be the Member's obligation to dispose of waste material from pets. The Board of Governors of the Association shall have the right to order the removal of any pet, which, in the Board's sole discretion, is considered a nuisance, and the same shall be done without compensation to the Member. In such event, the Board shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the Property. A pet not on a leash shall be deemed a nuisance. Failure to clean the waste material from a pet shall be deemed a nuisance.

(E) Boats. Members may construct boat mooring facilities within the navigable waterways adjacent to their lot, provided: (i) the plans and specifications for such facilities are first submitted to and approved by the ARB in accordance with the procedures set forth in Article IX hereof, and (ii) each such facility is properly permitted and constructed in compliance with the applicable laws and regulations of those governmental agencies having jurisdiction over such waterways. Boat mooring facilities on any freshwater lake shall be limited to only those which may be provided by the Association. No one other than the Association shall be permitted to install docks or similar structures on any freshwater lake or to keep or moor boats on the freshwater lakes. In no event shall boats be permitted on the fresh water lakes without the Association's consent, nor shall any boats be permitted to remain on any lawn or on Common Property adjacent to the freshwater lakes. Notwithstanding the foregoing, in no event shall motor-powered boats be permitted on any fresh water lakes or canals, with the exception of those canals abutting or lying within Parcels B, C-1-A, C-1-B, C-2.

(F) Recreational and Commercial Vehicles. No boats, recreational vehicles, trucks, commercial vehicles, or other motor vehicles, except four-wheel passenger automobiles, shall be placed, parked or stored upon any Parcel nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Parcel except within a building, which is totally removed from public view. Notwithstanding the foregoing, service and delivery vehicles may park on a Parcel during regular business hours, as needed for providing services or deliveries to the Parcel. No vehicle of any kind shall be parked overnight on any Street.

(G) Temporary Structures. No structure or object of a temporary character such as, but not limited to, house trailers, vans, tents, shacks, sheds or temporary or accessory buildings or structures, shall be erected, kept or maintained on the Property, or any part thereof. This restriction shall not apply to temporary structures used by the Association. This restriction may also be waived by the Association with respect to construction by builders, pursuant to separate written agreements.

(H) Insurance. No Member shall permit or suffer anything to be done or kept within his Parcel or make any use of the Common Property, which will increase the rate of insurance on any portion of the Property.

(I) Nuisances. No use or practice, which is either an annoyance to Members or an interference with the peaceful possession and proper use of the Property by the Members, shall be allowed. No Member shall commit or permit any nuisance or any immoral or illegal activity in or about the Property. For greater clarification, no Member shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Members or allow any such noise or disturbance to be made on his Parcel.

(J) Antennae. Unless permitted by law, no radio, television or other electronic antennae or aerial may be erected or maintained anywhere on the Common Property (unless installed by the Association), or the exterior of any Parcel, without the prior written approval of the ARB. Plumbing and heating vents protruding from roofs shall be painted so as to blend into the roofing color and shall be located, whenever possible, so as to not be seen from the front elevation. Electrically powered ventilators may be used if the roof vents are low profile, blend into the roofing materials and are not seen from the front elevation.

(K) Minimum Size of Custom Home. A single story, split level or two (2) story Custom Home shall have a minimum floor living area of 3,000 square feet provided, however, the ARB shall have the right to require a greater minimum floor area if the ARB disapproves the design of a residence. This square footage is exclusive of: garages, covered walks, open and/or screened porches, terraces or patios and pool area. Square footage measurements shall be taken from inside exterior walls.

(L) Height of Dwelling. No Dwelling, which is more than two (2) stories or thirty (30) feet height shall be erected, constructed or maintained on any Lot. The height of the Dwelling shall be measured from the finished first floor grade to the highest point of the roof. Chimney heights may exceed the limitation, subject to ARB approval.

(M) Foundation of Dwelling. All Dwellings shall be placed on masonry foundation. The top of the masonry foundation slab shall be between twenty-four (24) and thirty-six (36) inches above the crown of the Street abutting the front of the Lot; provided, however, that this requirement may be modified with the prior written approval of the ARB.

(N) Subdivision of Lots. No Lot shall be re-subdivided to form a Lot smaller than a platted Lot; provided, however, that a single Lot may be combined with another Lot or portion thereof, to form a larger Lot, with the prior written approval of the ARB and Board of Governors; provided, however, that each such Lot shall remain liable for assessments and fees due the Association.

(O) Elevation and Grade of Lots. No change in the elevation of any Lot shall be made nor shall any fill be used to extend a Parcel beyond the pre-existing Lot line, without the prior written consent of the ARB. No Parcel abutting water shall be increased in size by filling in the water it abuts, without the prior written consent of the ARB.

(P) Residence Graphics. The size and design of all signs, house numbering, outside lamp posts, mailboxes and other such materials shall be selected by the ARB and shall display continuity and conformity through the entire Property.

(Q) Removal of Trees. In reviewing building plans, the ARB shall take into account the natural landscaping, such as trees and shrubs, and encourage the Member to incorporate them in his landscaping plan. No trees of four (4) or more inches in diameter shall be cut or removed without approval of the ARB.

(R) Access to Parcels. Whenever the Association is permitted or required by this Declaration to enter any Parcel for the purpose of correction, repair, cleaning, clearing, moving, or any other required or permitted activity, such entrance shall not be deemed a trespass.

(S) Setback Requirements. Minimum setback requirements shall be in accordance with the City Building and Zoning Code and subject to ARB approval. Further, no structure of any kind, including fences in excess of six (6) feet high, shall be permitted in any building setback area, or on a property line except that air conditioning equipment, water softeners, sprinkler controls and other similar utilitarian devices are permitted provided they do not extend more than four (4) feet into the setback area and provided they are properly screened from view in a manner approved by the ARB.

(T) Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot without the prior written approval of the ARB.

(U) Garages. No Dwelling shall be erected without providing an enclosed garage, attached to the Dwelling, which is of sufficient size for not less than two (2) automobiles. No open carports shall be constructed or maintained. All garages must be equipped with electric door openers, which must be maintained in good repair. If a Member shall have a golf cart garage, it too shall be equipped with an electric door opener. All garage doors shall be kept closed at all times, except as necessary for ingress and egress into and out of the garage.

(V) Driveways. All driveways and parking areas shall have textured or featured paving constructed with materials approved by the ARB. Driveways may connect to streets at only two (2) points, and such connections shall blend into the street pavement. No curbside parking areas may be created by extending any portions of street pavement.

(W) Lawns and Landscaping.

(1) All lawns in front of all Lots shall extend to the curb line. No gravel or blacktop or paved parking strips are to be allowed on any Lot except as approved on the original plans and specifications, or as subsequently approved in writing by the ARB. Upon the completion of any Dwelling, the lawn area on all sides of such Dwelling shall be completely sodded with grass, including swale areas adjacent to a Lot which may be included in dedicated easements or rights-of-ways, it being the intent that all completed Dwellings shall be surrounded by a uniform green, luxuriant and well-kept lawn. Landscaping must be completed in accordance with the approval plan within thirty (30) days of the issuance of a Certificate of Occupancy for any Dwelling. No alteration to completed landscaping may be made without the prior written approval by the ARB.

(2) Upon the sodding of a Lot, the lawn shall be regularly fertilized and treated for pests and weeds as needed so as to maintain a green, luxuriant and well-kept lawn at all time. Grass growth shall not exceed a minimum of four (4) inches above the ground at any time and all trees and shrubbery shall be appropriately trimmed as needed.

(3) Landscaping: Each Member shall be required to hook up with the central irrigation system and pay its prorata share of the monthly costs of the operation of that system.

(X) Signs. No signs, advertisements or notice of any kind shall be displayed to the public view on any Lot.

(Y) Easements. No Dwelling or other Improvement, nor any tree, bush, shrub or landscaping of any kind shall be built or maintained upon any easement or right-of-way without ARB approval, and said easements and rights-of-way shall at all times be open and accessible to the persons entitled to the use thereof. Notwithstanding the foregoing, landscaping approved by the ARB shall be maintained by each Member in front of each Parcel to the front line of such Parcel and in the rear of each Parcel to the rear of such Parcel.

(Z) Maintenance of Parcels. All Parcels shall be kept in clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. All Parcels and all swale areas abutting Parcels, whether or not such swale areas are a part of the Parcel, shall be mowed and edged and kept free of debris and vegetation (including weeds, underbrush and/or unsightly growth). In the event an Member fails to maintain his Parcel as aforesaid, the Association shall have the right, in its discretion, to mow, burn or clear any weeds, grass, underbrush or unsightly debris and/or growths from any Parcel deemed by the Association to be a health menace, fire hazard or a detraction from the aesthetic appearance of the Property; provided, however, that at least ten (10) days prior notice shall be given by the

Association to the owner of such Parcel before such work is done by the Association. In the event the Association, after such notice, causes the subject work to be done, then and in that event, the costs of such work, together with interest thereon at the maximum rate permitted by the laws of the State of Florida shall be charged to the Member and shall become a lien on the subject Parcel, which lien shall be effective, have priority and be enforced pursuant to the procedures set forth in Article VI, Section 9, of this Declaration.

(AA) Refuse Containers and Storage Tanks. No Parcel shall be used or maintained as a dumping ground for rubbish, Trash, garbage and other waste shall be kept in sanitary refuse containers, which shall be placed in a walled-in or screened-in area, so they are not visible from the Street or from adjoining Parcels. All oil tanks or bottle gas tanks must be kept underground or placed in a walled-in or screened in area so they shall not be visible from the Street or from adjoining Parcels. Trash, refuse or waste materials shall not be burned on any Parcel. The foregoing provisions shall be subject to such rules and regulations promulgated by the ARB.

(BB) Walls and Hedges. No boundary wall, fence or hedge shall be built or maintained on any Parcel without prior approval of the ARB with regard to height, front and rear setbacks and such other matters as are controlled by the ARB. No side of any wall, fence or hedge shall be maintained in such a manner as to be unsightly. Chain link fences shall not be erected or maintained at any time upon any Parcel (except that such fences may be temporarily permitted during construction of Improvement on a Parcel, provided that such fences are immediately removed at the Member's expense upon completion of such construction).

(CC) Storage Facilities, Tool Sheds, Garden Houses and Garages. All storage facilities, tool sheds, garden houses, garages and other similar Improvements approved by the ARB shall be attached to the Dwelling so that such Improvements and the Dwelling constitute a single structure.

(DD) Swimming Pools. Any swimming pool to be constructed on any Lot or on the Custom Town home, Villa or Patio home Property shall be subject to the requirements of the ARB which include, but are not limited to the following:

(1) Composition shall be of material thoroughly tested and accepted by the industry for such construction.

(2) Swimming pools, pool decks and patio and terrace slabs may not extend into the minimum front yard and side yard setbacks. The rear yard setback for the pool edge coping of an open swimming pool shall require prior approval by the ARB. The rear yard setback for patio and terrace slabs and wooden pool decks shall require prior approval by the ARB.

(3) Swimming pools shall not be constructed or erected above ground.

(4) Lighting for landscape, pool, recreation and security purposes shall be designed so as not to be an annoyance to the surrounding residences. Time clock controls may be used. Each Lot is required to have a lamppost as approved by the ARB. The lamppost must be controlled by a light sensitive switch and shall conform to light intensity requirements of the ARB. All lighting plans must be submitted to and approved by the ARB.

(5) If one Member elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be adequately screened by landscaping and/or walls and fences on both the front and side as required by the ARB. It shall be the intent of the ARB to screen any such use for the public view.

(EE) Roofs. The following roof styles and materials shall not be permitted: asphalt composition shingles; fiberglass panels; tin sheeting; any material that is other than earth tone, unless approved by the ARB. The minimum roof pitch generally required for each Dwelling shall be not less than four (4) feet of height for each twelve (12) feet of extension, commonly known as "4:12 pitch". Exceptions to these requirements may be granted by the ARB for designs found by the ARB to be of exceptional merit.

(FF) Utilities. Each Member shall connect his water line to the water distribution main serving his Parcel and his sewer line to the sewage collection line serving his Parcel and shall pay all fees and costs related thereto. Each Member shall maintain and repair his water and sewer lines up to the point of delivery and collection. Except as provided herein, no individual water supply system shall be permitted except for irrigation purposes. No water shall be obtained from any lake, canal or water body. No septic tank or drain field shall be allowed on any portion of the Property, except for bathrooms located on remote sections of the golf courses.

(GG) Security System Requirements. The Property is equipped with a Central Monitoring Security System. Each Dwelling constructed in Frenchman's Creek is required to prewire for monitoring by the central monitoring security system. Each Member shall pay a monthly prorata share for the cost of the central security system.

(HH) Optional Security System. It is not the intent of the Association to limit the security systems within the Dwellings of Frenchman's Creek to the basic security system.

(II) Bicycles. Bicycles shall be stored only within each Parcel. If bicycles are left on the Common Property, they may be impounded by the Association and shall be released to the Member only upon payment of an administrative fee established by the Association. Bicycle stands shall be located around the Clubhouses.

(JJ) House Guests. A Member may not have houseguests unless such houseguests have registered with the security guard at the entrance to Frenchman's

Creek and the Member has advised the Association of the names of the houseguests and the duration of the stay. Members shall be accountable for the behavior of their houseguests.

(KK) Additional Protective Covenants. The Association may include in any amendment to this Declaration, contract or deed for any Parcel, additional protective covenants and restrictions not inconsistent with those contained herein.

(LL) Rules and Regulations. No person shall use the Common Property or any Parcel in any manner contrary to, or not in accordance with, the rules and regulations (including Traffic Regulations), which may be promulgated by the Association from time to time.

(MM) Indemnification. Any loss of damage incurred by the Association due to a breach of any restriction herein by an Member, his agents or employees, shall be reimbursed by the responsible Member. The Association may obtain recovery against such Member in the same manner as the collectible and enforceable assessments.

(NN) Enforcement of Restrictions. The Association, through its Board of Governors, officers and the ARB, shall have the authority to enforce the restrictions imposed under this Article X and failure to do so shall not be deemed a waiver of the right of enforcement.

(1) The procedures for enforcement of the provisions of this Declaration and/or the rules and regulations, shall be as follows:

(a) First Offense (1st Notice). When the Association becomes aware of non-compliance with the Declaration, and/or a rule or regulation by an Member, occupant, guest or tenant, a certified letter shall be sent to the Member advising him or her of the non-compliance and demanding that the non-compliance be cured according to the terms set forth in the letter.

(b) Second Offense (2nd Notice). If the Association becomes aware by a second report that the non-compliance has been repeated or continues after the time specified in the first notice, the Board of Governors shall authorize a fine to be levied upon the Member, in an amount equal to the maximum fine allowed by Florida Statute for Homeowner Associations. Notice of a second non-compliance, the implementation of a fine, and a letter demanding that the non-compliance be cured according to the terms set forth in the letter shall be sent to the Member by certified mail.

(c) Member's Right to a Hearing.

(i) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and

an opportunity for a hearing before a committee of at least three members appointed by the Board who are not officers, governors, or employees. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. The requirement of this section does not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay assessments or other charges when due.

(ii) Periodically, the Board of Governors shall cause to be sent to all Members a letter requesting they make themselves available to act as Hearing Examiners hereunder. The Secretary of the Board of Governors shall keep a current list of all Members who agree to serve in said capacity.

(iii) No Member shall serve as a Hearing Examiner in a matter in which he feels he cannot act in a fair and impartial manner.

(iv) The Hearing Examiners shall schedule a hearing within seven (7) days of their selection.

(v) The Hearing Examiners shall render their decision in writing, with a copy sent to the Member within seven (7) days from the hearing date. All fines imposed before the request for a hearing shall remain if the Hearing Examiners determine at the hearing that the non-compliance existed, and that there existed no undue hardship or special circumstances justifying a reversal of its initial determination. Should the Hearing Examiners reverse the Board of Governors' previous determination, then all fines previously imposed in connection therewith shall be vacated and, if applicable, returned to the Member, or in the case of a partial reversal, if applicable, only those fines associated with the reversal shall be vacated and returned to the Member.

(vi) During that period between the date of the request for hearing and the date of the decision all fines shall be abated. If the decision of the hearing is adverse to the Member, then the applicable fine shall no longer be abated and shall begin to accumulate until the non-compliance is cured.

(2) Enforcement Procedure. To enforce the fines set forth above, the Association may levy an individual assessment against the Parcel of an Member who has been fined in accordance herewith in an amount equal to the total fine so assessed plus costs and attorneys fees relative thereto. Collection of the individual assessment shall be in accordance with Section 9 of Article VI of the Declaration.

ARTICLE XI

INDEMNIFICATION OF OFFICERS, GOVERNORS, MEMBERS OF THE ARB AND OTHER PERMANENT, STANDING, AND AD HOC COMMITTEES AND EMPLOYEES

Every officer of the Association, Governor of the Association and members of the ARB and other permanent, standing, and ad hoc committees, and employees shall be indemnified by the Association against all expenses and liability, including attorney fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been an officer, Governor, committee members, or employees whether or not he is an officer, Governor, committee member, employee at the time such expenses are incurred, except in such cases wherein the officer, Governor, committee member, or employee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the officer, Governor, committee member, or employee seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Governors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer, Governor, committee member, or employee may be entitled.

ARTICLE XII

INSURANCE

Insurance, other than title insurance that shall be carried on the common Property shall be governed by the following provisions:

SECTION 1. AUTHORITY TO PURCHASE: NAMED INSURED: All insurance policies upon the Common Property shall be purchased by the Association and shall be placed in a single agency or company, if possible. The named insureds shall be the Insurance Trustee designated by the Association individually, and as agent for the Association, the Members without naming them, and mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to any mortgagees. The policies shall provide that payments by the insurer for losses shall be made to the Insurance Trustee for the benefit of the Members and mortgagees, as their interests may appear. The Insurance Trustee may be any bank in Florida with trust powers as may be designated by the Board of Governors of the Association.

Members may purchase insurance on their individual residences.

SECTION 2. COVERAGE:

(A) Casualty Insurance. All buildings and insurable improvements on the Common Property shall be insured for fire and extended coverage perils, excluding foundation and excavation costs, at their maximum insurable replacement value, and all personal property owned by the Association shall be insured for its full insurable value, all determined annually by the Board of Governors of the Association.

(B) Public Liability Insurance. The Association shall obtain public liability and property damage insurance covering all of the Common Property and insuring the Association and the Members as their interests appear in such amounts and providing such coverage as the Board of Governors of the Association may determine from time to time, provided, that the minimum amount of coverage shall be \$500,000 each person, and \$2,000,000 each incident. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage.

(C) Workmen's Compensation Insurance. The Association shall obtain Workmen's Compensation Insurance in order to meet the requirements of law, as necessary.

(D) Flood Insurance. The Association shall obtain flood insurance to meet the requirements of federal, state, or local law, or any regulation enacted pursuant to federal, state or local law, as necessary.

(E) Other Insurance. The Board of Governors of the Association shall obtain such other insurance as they shall determine from time to time to be desirable.

(F) Subrogation Waiver. If available, the Association shall obtain policies, which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

SECTION 3. PREMIUMS: Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section shall be assessed against and collected from Members as part of the Assessment.

SECTION 4. SHARES OF PROCEEDS: All insurance policies purchased by the Association shall be for the benefit of the Association, the Members, and mortgagees, as their interests may appear, and shall provide that all proceeds covering losses shall be paid to the Insurance Trustee designated by the Board of Governors of the Association. The Insurance Trustee shall not be liable for the payment of premiums nor the renewal nor the sufficiency of policies nor the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the proceeds in trust for the purposes elsewhere stated herein for the

benefit of the Members and mortgagees in the following shares, which shares need not be set forth on the records of the Insurance Trustee:

(A) Common Property. Proceeds on account of damage to Common Property shall be an equal undivided share for each Member.

(B) Mortgagees. In the event a mortgagee endorsement has been issued regarding an Improvement, the share of the owner shall be held in trust for the mortgagee and the owner as their interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged Improvement shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the owner and mortgagee pursuant to the provisions of this Declaration.

SECTION 5. DISTRIBUTION OF PROCEEDS: Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Members in the following manner:

(A) Expense of the Trust. All expenses of the Insurance Trust shall be paid first, or provisions made for such payment.

(B) Reconstruction or Repair. If the damage for which proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as hereinafter provided. Any proceeds, which remain after defraying such costs shall be distributed to the Members.

(C) Failure to Reconstruct or Repair. If it is determined in the manner hereinafter provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Members. There shall be no distribution of remaining proceeds until all debris, remains, and residue have been cleared and removed, and the damaged area has been properly landscaped. In the event of loss or damage to personal and/or real property belonging to the Association, and should the Board of Governors of the Association determine not to replace such personal and/or real property as may be lost or damaged, the proceeds shall be distributed to the Members.

(D) Certificate. In making distribution to Members, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Members and their respective shares of the distribution.

SECTION 6. ASSOCIATION'S POWER TO COMPROMISE CLAIMS: The Board of Governors of the Association is hereby irrevocably appointed agent for each Member and for each owner of a mortgage or other lien, for the purpose of compromising and

settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases therefore upon payment of claims.

ARTICLE XIII

RECONSTRUCTION OR REPAIR AFTER CASUALTY

SECTION 1. DETERMINATION TO RECONSTRUCT OR REPAIR: If any part of the Common Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(A) Common Property. If the damaged improvement is part of the Common Property, the damaged property shall be reconstructed or repaired unless it is determined by the Members of the Association that it shall not be reconstructed or repaired.

(B) Certificate. The Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be constructed, raised or repaired.

SECTION 2. PLANS AND SPECIFICATIONS: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original buildings; or if not then according to plans and specifications approved by the Board of Governors of the Association.

SECTION 3. ESTIMATES OF COSTS: Immediately after a determination is made to rebuild, replace, raise or repair damage to property for which the Association has the responsibility of reconstruction, replacement or repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild, replace or repair. Such costs may include professional fees and premiums for such bonds as the Board of Governors require.

SECTION 4. EMERGENCY ASSESSMENTS: The amount by which an award of insurance proceeds to the Insurance Trustee is reduced on account of a deductible clause in an insurance policy shall be assessed equally against all Members. If the proceeds for such Assessments and of the insurance are not sufficient to defray the estimated costs of reconstruction, replacement and repair by the Association, or if at any time during reconstruction, replacement and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Emergency Assessments shall be made against the Members in sufficient amounts to provide funds for the payment of such costs.

SECTION 5. CONSTRUCTION FUNDS: The funds for the payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association from Emergency

Assessments against Members, shall be distributed in payment of such costs in the following manner:

(A) Association. If the total of the Emergency Assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair that is the responsibility of the Association is One Hundred Thousand Dollars (\$100,000.00) or more, then the sums paid upon such Emergency Assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such Emergency Assessments and disburse them in payment of the costs of reconstruction and repair.

(B) Insurance Trustee. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collection of Emergency Assessments on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of repair and construction in the following manner and order:

(1) Association - Lesser Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is less than One Hundred Thousand Dollars (\$100,000.00), the construction fund shall be disbursed in payment of such costs upon the order of the Association.

(2) Association - Major Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is One Hundred Thousand Dollars (\$100,000.00) or more, then the construction funds held by the Insurance Trustee shall be disbursed in payment of such costs in the manner required by the Board of Governors of the Association, and upon approval by an architect qualified to practice in Florida and employed by the Association to supervise the work.

(3) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction, replacement and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction, replacement and repair for which the fund is established, such balance shall be distributed to the capital reserve account.

(4) Certificate. Notwithstanding the provisions of the Declaration, the Insurance Trustee shall not be required to determine whether or not sums paid by the Members upon Emergency Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any and all of such matters and stating the name of the payee and the amount to be paid.

SECTION 6. EQUITABLE RELIEF: In the event of major damage to or destruction of part of the Common Property and in the event the property is not repaired, reconstructed, replaced or rebuilt within a reasonable period of time, any Member shall have the jurisdiction in and for Palm Beach County, Florida, for equitable relief.

ARTICLE XIV

GENERAL PROVISIONS

SECTION 1. DURATION AND REMEDIES FOR VIOLATION: The covenants 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 or the owner of any Parcel subject to this Declaration and their respective legal representatives, heirs, successors and assigns, for an initial term of twenty (20) years from the date this Declaration is recorded in the public records of Palm Beach County, Florida. The covenants and restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the then Members of fifty-one percent (51%) of the Parcels as have then been subject to this Declaration, has been recorded, agreeing to change or terminate the covenants and restrictions in whole or in part. Violation or breach of any condition, covenant or restriction herein contained shall give the Association a right of action before any court of competent jurisdiction, whether in law or in equity, to compel compliance with the terms of the covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the Member in violation, provided such proceeding results in a finding that such Member was in violation of the covenants or restrictions. Expenses of litigation shall include reasonable attorney's fees incurred by the Association in seeking such enforcement.

SECTION 2. COMPLIANCE WITH APPLICABLE LAWS: In addition to these restrictions and covenants, the Members shall abide by the laws, ordinances, rules and regulations of the State of Florida and Palm Beach County.

SECTION 3. NOTICE: Any notice required to be delivered to any Member under the provisions of this Declaration shall be deemed to have been properly delivered when mailed, postpaid, to the last known address of the person as it appears on the records of the Association at the time of such mailing.

SECTION 4. SEVERABILITY: Invalidity of any one of these covenants and restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

SECTION 5. AMENDMENT:

(A) This Declaration may be amended at a duly called Special Meeting of the membership by the affirmative vote of the greater of two-thirds (2/3) of a quorum of the membership or a majority of the Members voting, either in person, by proxy, by mail or

by such electronic or technologic means as may be approved by the Board of Governors.

(B) Notwithstanding the foregoing, Exhibits "AA" and "BB" to this Declaration may be amended by a majority vote of the Board of Governors of the Association at any properly noticed meeting of such Board at which a quorum is present.

(C) Any duly adopted amendment to this Declaration shall run with and bind the Property for the same period and to the same extent as do the covenants and restrictions set forth herein.

SECTION 6. VENUE: The parties hereto agree that the venue for any action filed in appropriate courts regarding this Declaration shall be Palm Beach County, Florida.

SECTION 7. ASSIGNMENT: Any or all of the rights, powers and obligations, easements and estates reserved or given to the Association may be assigned by the Association and any such assignee shall agree to assume the rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by the appropriate instrument in writing, in which the assignee or transferee shall join for the purpose of evidencing its consent to such assignment and its acceptance of the rights and powers, duties and obligations herein contained; and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to the Association. After such assignment, the Association shall be relieved and released of all responsibility hereunder.

SECTION 8. USAGE: Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

SECTION 9. EFFECTIVE DATE: This Amended and Restated Declaration of Covenants and Restrictions for Frenchman's Creek shall be effective October 1, 2002.

In the presence of:

FRENCHMAN'S CREEK, INC.

Print Name: _____

By _____
George E. Murphy, President

Print Name: _____

Print Name: _____

ATTEST:

Adele Shamban, Secretary

Print Name: _____

STATE OF VERMONT
COUNTY OF _____

I hereby certify that the foregoing instrument was acknowledged before me by George E. Murphy, President of Frenchman's Creek, Inc., on behalf of said corporation, ☐ who is personally known to me or ☐ who produced _____ as identification, this _____ day of October, 2002.

(NOTARY SEAL)

Notary Public
My Commission Expires:
Commission No.

STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that the foregoing instrument was acknowledged before me by Adele Shamban, Secretary of Frenchman's Creek, Inc., on behalf of said corporation, ☐ who is personally known to me or ☐ who produced _____ as identification, this _____ day of October, 2002.

(NOTARY SEAL)

Notary Public
My Commission Expires:
Commission No.

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EXHIBIT "D"

**NOTICE OF SPECIAL JOINT MEETING OF MEMBERS
OF
FRENCHMAN'S CREEK COUNTRY CLUB, INC.
AND
FRENCHMAN'S CREEK PROPERTY OWNERS' ASSOCIATION, INC.**

To: All Members of:
Frenchman's Creek Country Club, Inc. ("Club") and
Frenchman's Creek Property Owners' Association, Inc. ("POA")

NOTICE is hereby given that a Special Joint Meeting of the Members of the Club and the Members of the POA will be held on September 13, 2002, at 2:30 p.m., in the Main Dining Room of the Clubhouse, 13495 Tournament Drive, Palm Beach Gardens, Florida.

The purpose of the meeting is to consider and vote upon a Plan of Merger of the Club into the POA.

The Plan of Merger is that the Club shall merge into the POA, which shall be the Survivor, shall be renamed Frenchman's Creek, Inc., and shall assume and be liable for all of the Club's assets and liabilities, including the equity of Club Members. The Members of the Club are all Members of the POA and they shall continue to have the right to enjoy, pursuant to the terms and conditions of the By-Laws and Rules and Regulations of the Survivor, the recreational facilities, which, after filing and recording of these Articles of Merger, shall be owned by the Survivor.

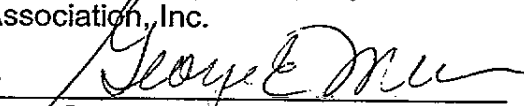
The vote is contingent upon receipt of a ruling by the Florida Department of Revenue that sales tax is not due on assessments made by the Survivor to operate the Recreational Facilities.

THE BOARD OF GOVERNORS OF THE CLUB AND THE POA HAVE UNANIMOUSLY APPROVED THE PLAN OF MERGER AND REQUEST THAT THE MEMBERS VOTE "APPROVE" FOR THE MERGER AND RETURN THE ENCLOSED PROXY AND BALLOT.

Sincerely yours,

The Board of Governors of
Frenchman's Creek Country Club, Inc.
Frenchman's Creek Property Owners'
Association, Inc.

By


George E. Murphy, President