

Prepared By:
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68 Vineyards Boulevard
Naples, FL 34110

DATE:
JUNE 1 1997
50 VINEYARDS BLVD
NAPLES FL 34110

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
AUGUSTA FALLS**

THIS DECLARATION is made this 16th day of June 1997 by Vineyards Development Corporation, a Florida corporation, (hereinafter "Developer" or "Declarant"), for itself and its successors and assigns, and joined by the August Falls Homeowners Association, Inc.

RECITALS

A. Declarant is the owner of certain real property located in Collier County, Florida (the "Property"), known as:

AUGUSTA FALLS, according to the plat thereof recorded in Plat Book 27, Pages 51 and 52, of the Public Records of Collier County, Florida.

B. Declarant desires to create on the Property a neighborhood of single family residences.

C. Declarant desires to provide for the preservation of the values and amenities in the neighborhood, to establish and create a common scheme and plan for the Property, and to promote the interests unique to the owners and occupants of the Lots.

D. Declarant has created a Florida corporation not for profit, known as August Falls Homeowners Association, Inc., for the purpose of administering and enforcing this Declaration and collecting and disbursing the assessments and charges created hereby.

NOW THEREFORE, the Declarant declares that the Property, and all improvements thereon, shall be held, transferred, sold, conveyed and occupied subject to the Governing Documents and to the covenants, restriction, easements, charges and liens hereinafter set forth, which shall run with the land and be binding upon and inure to the benefit of all present and future owners of Lot and Units. The acquisition of fee simple interest in any Lot, or the lease, occupancy, or use of any portion of a Unit, shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms.

1. DEFINITIONS. All terms and words in this Declaration and its recorded exhibits shall have the definitions, if any, specified in the Amended and Restate Declaration of Master Covenants, Conditions and Restrictions for The Vineyards of Naples, as recorded in O.R. Book 1763, Page 1228 et seq., Public Records of Collier County, Florida, or if different, the meanings stated below, unless the context clearly requires otherwise.

- "Architectural Review Committee" means the committee described in Article hereof to maintain the quality and architectural harmony of improvements in Augusta Falls.

- "Association" or "Neighborhood Association" means Augusta Falls Homeowners Association, Inc.

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

- "Master Association" means the Vineyards Community Association, Inc. or any successor thereof by whatever name, charged with the duties and obligations set forth in the Master Declaration and the Articles of Incorporation and By-Laws of the Master Association.

- "Master Community Documents" means any and all documents, instruments and agreements established by Declarant creating and governing The Vineyards, including, but not limited to, the Master Declaration the articles of incorporation and by-laws, regulations of the Master Association and any procedures, rules, regulations or policies adopted by the Master Association.

- "Master Declaration" means the Declaration of Master Covenants, conditions and Restrictions for The Vineyards, as amended, and recorded in the public records of Collier County, Florida.

- "Community" means The Vineyards.

- "Augusta Falls" means the Property subject to this Declaration.

- "Augusta Falls Documents" means this Declaration and all recorded exhibits hereto, as the same may be amended from time to time.

- "Declarant" or "Developer" means Vineyards Development Corporation. Wherever either terms is used in this Declaration or its recorded exhibits, it shall always be deemed to include any successor in interest to the Declarant's development rights and obligations.

- "Declaration" means this Declaration, as amended from time to time.

- "Governing Documents" means the Master Community Documents as well as this Declaration and all recorded exhibits to it, all as amended from time to time. If there is an irreconcilable conflict between the provisions of any two of these documents, the first document to appear in the foregoing list shall prevail.

- "Guest" means a person who is physically present in, or occupies a Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

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

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

- "Unit" means any or all the residential dwellings which will be constructed on the Lots, each intended for use and occupancy as a residence for a single family.

- "Lot" means any one or more of the up to thirty-five (35) platted parcels of land into which the Property has been subdivided, upon each a which a Unit will be or has been constructed. Wherever it appears, "Lot" shall be interpreted as if it is followed by the words "and Unit constructed thereon" except where the context clearly requires a different interpretation.

- "Neighborhood Common Areas" means all areas owned or maintained by the Augusta Falls Association.

- "Occupant" when used in connection with a Unit, means any person who is physically present in the Unit on two or more consecutive days, including staying overnight. "Occupy" means the act of being an Occupant.

- "Owner" or "Member" means a record owner, whether one or more persons or entities, of legal title to a Lot, but shall not mean any person or entity who holds such interest merely as mortgagee, unless such person or entity has acquired fee simple title, whether pursuant to foreclosure or otherwise.

- "Property" or "Neighborhood" means all the real property which is subject to this Declaration.

- "Rules and Regulations" means the administrative rules and regulations governing procedures for administering the Association and the Property as adopted, amended or rescinded by resolution of the Board of Directors.

- "Service Charge" means a charge against the owners of one or more Lots or Units for any service, material or combination thereof which may be provided by the Neighborhood Association for the use and benefit of those owners, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Association on behalf of the owners accepting or receiving the repairs, services, materials or maintenance shall be passed on in the form of a service charge against the Lots or Units so benefited. The owners are deemed to agree to such assessment by subscribing, requesting or accepting the material or service.

- "Temporary" means not more than thirty (30) days in any period of six (6) consecutive months.

- "Voting Group" means a master group of members of The Vineyards of Naples whose Lots are represented by one (1) or more Directors of the Association, as more particularly described in the Master Declaration.

- "Voting Representative" means the representative selected by the owners in this Neighborhood to be responsible for casting all votes the members in the Neighborhood in all Master Association matters other than the election of Directors.

2. CONTINUATION OF DEVELOPMENT. The Property is being developed by the Declarant into Lots intended for the construction of single family residences, and is located within The Vineyards of Naples, a master planned community. Other areas of The Vineyards may be developed as other forms of residential housing or commercial development, and may be under construction for an extended time. Incidental to that development, the quiet enjoyment of the Property may be unavoidably interfered with to some extent by construction and sales operations. From time to time, Declarant and others may make public certain renderings, plans or models showing possible future development of The Vineyards. Declarant does not warrant in any way the accuracy of these renderings, plans or models. They are primarily thematic in nature, and do not necessarily represent a guaranteed final development plan for The Vineyards.

3. ASSOCIATION; MEMBERSHIP; VOTING RIGHTS. The administration and management of this Neighborhood shall be by Augusta Falls Homeowners Association, Inc., a Florida not for profit corporation, which shall perform its functions pursuant to the following:

3.1 Articles of Incorporation. A copy of the Articles of Incorporation of the

Association is attached as Exhibit "A".

3.2 Bylaws. The initial Bylaws of the Association shall be the Bylaws as attached as Exhibit "B", as they are amended from time to time.

3.3 Delegation of Management. The Association may contract with a management agent to assist the Association in carrying out its powers and duties by performing such functions as submission of proposals, collection of assessments, keeping of records, and enforcement of covenants and rules, with funds made available by the Association for such purposes. The Association and its officers, however, shall retain at all times the powers and duties provided in Sections 617.301-617.312, Florida Statutes (1985) as amended from time to time, and in the Governing Documents.

3.4 Members. Every person or entity who is a record owner of a fee simple interest in any Lot shall be a member of the Association. Membership is appurtenant to, runs, with, and shall not be separated from, the real property interest upon which membership is based. The burden of notifying the Association of a change of membership shall be borne by the new member, and the Association shall not be required to recognize a change of membership until the new member furnishes satisfactory proof of ownership.

3.5 Voting Interests. The members of the Association are entitled to one (1) vote in Association affairs for each Lot owned by them. Votes shall be cast as provided in the Bylaws.

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

3.7 Association as Owner of Lots. The Association has the power to purchase Lots and Units, and to acquire and hold, lease, mortgage, and convey them, by act of a majority of the Board of Directors.

3.8 Membership Roster. The Association shall maintain a current roster of names and mailing addressees of owners and primary occupants. A copy of the up-to-date roster shall be available to any owner upon request.

3.9 Board of Directors. Except as otherwise specifically provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the members shall be required. The officers and Directors of the Association have a fiduciary relationship to the members.

3.10 The powers and duties of the Association include those set forth in this

Declaration, the Articles of Incorporation and the Bylaws, and those provided in Chapter 617, Florida Statutes, to the extent not inconsistent with the foregoing documents. The Association may contract, sue or be sued with respect to the exercise or non-exercise of its powers. The Association has the power to enter into agreements and to acquire leaseholds, memberships and ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the Neighborhood. If the Association has the authority to maintain a class action suit as plaintiff, the Association may also be joined as a defendant in an action as the representative of that class with reference to litigation and disputes involving the matter for which the Association could bring a class action. Nothing herein limits any statutory or common law right of an individual owner or class of owners to bring any action which may otherwise be available.

3.11 Member Approval of Certain Litigation. Notwithstanding any other provisions of the Governing Documents, the Board of Directors shall be required to obtain the prior approval of at least a majority of the voting interests of the Association prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Association for the purpose of commencing any lawsuit, other than for the following purposes:

- (i) the collection of assessments;
- (ii) the collection of other charges which members are obligated to pay;
- (iii) the enforcement of the Governing Documents;
- (iv) the enforcement of the rules and regulations of the Association;
- (v) in an emergency, when waiting to obtain the approval of the members creates a substantial risk of irreparable injury to the Association or its members; or
- (vi) filing a compulsory counterclaim.

3.12 Official Records. The official records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within ten (10) business days after receipt by the Association of a written request for access. This requirement may be complied with by having a copy of the official records available for inspection or copying within the Neighborhood. The Association may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspections, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Association shall maintain an adequate number of copies of the recorded Governing Documents, to ensure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive

them.

4. ASSESSMENTS. The Association has the authority to levy assessments to pay common expenses. Common expenses include the expenses of the operation, maintenance, repair, replacement or protection of the Neighborhood Common Areas and association property, the expenses of insurance of the Association and/or Directors and officers; the costs of carrying out the powers and duties of the Association, and any other expense, whether or not included in the foregoing, designated as common expense by this Declaration or the Bylaws. If the Board enters into such a contract, the cost of a duly franchised cable television service obtained pursuant to such contract shall be a common expense.

4.1 Covenant to Pay Assessments. Developer, for each Lot within the Neighborhood, hereby covenants, and each subsequent owner of any Lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(i) the Lot's prorata share of annual assessments based on the annual budget adopted by the Association;

(ii) the Lot's prorata share of any special assessments levied for expenses not provided for by the annual budget; and

(iii) any service assessments or charges against less than all of the Lots specifically authorized in this Declaration or the Bylaws.

Assessments shall be established and collected as provided herein and in the Bylaws. The assessments and charges, together with interest, costs, and reasonable attorney's fees shall bind each Lot in the hands of the owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance of title, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor any amount paid by the Developer and First Institutional Mortgagees, no owner may be excused from the payment of assessments unless all owners are similarly excused.

4.2 Share of Assessments. Except as otherwise provided below, each Lot and the owner thereof shall be liable for an equal share of all annual and special assessments, such share being a fraction of the whole, the numerator of which is the number "one" and the denominator of which the total number of Lots then included within the Neighborhood. Until the development of the Neighborhood is completed, and all Lots have been sold to purchasers other than a developer, the denominator shall be conclusively presumed to be the number "thirty-five" (35).

4.3 Developer's Guarantee of Assessments and Share for Lots Owned By It. The Developer guarantees that so long as the Developer is in control of the Association, the Developer shall pay any operating expenses incurred by the Association which exceed the assessments receivable from other member and other income of the Association. During this period, the Developer shall be excused from the payment of assessments for Lots owned by it, and instead shall pay that portion of all Association expenses actually incurred which exceeds Association revenues from all other sources. Under no circumstances shall the Developer ever have an obligation to pay assessments for any Lot owned by the Developer as long as the Lot remains unimproved.

4.4 Establishment of Liens to Secure Payment. All assessments and charges levied by the Association in accordance with the provision of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, and costs of collection (including but not limited to costs and reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Lot and Unit against which each such assessment or charge is made, and shall also be the personal obligation of the owner of each Lot and Unit assess. this lien is superior to any homestead rights the owner may acquire. No owner may be exempt from personal liability for assessments and charges, or release any Lot from the liens and charges hereof, by a waiver of use rights, or by abandoning the Lot. The Association's lien is activated by recording a Claim of Lien by the Association in the public records of the County, setting forth the amount and due date of each unpaid assessment or charge as of the date the Claim of Lien is recorded. The Claim of Lien secures payment of all assessments and charges due at the time of recording (including interest, costs and attorney's fees as provided above) as well as all assessments and charges coming due subsequently, until the lien is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by a Claim of Lien, the party making payment is entitled to a satisfaction in recordable form.

4.5 Priority of Liens. Except as otherwise provided by law, the Association's lien for unpaid assessments and charges shall be subordinate and inferior to that of any recorded Institutional Mortgage, unless the Association's Claim of Lien was recorded before the mortgage. The Association's lien is superior to, and takes priority over, any other mortgage regardless of when recorded. A lease of a Unit is also subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under any of them, shall hold title subject to the liability and lien of any assessment or charge coming due after taking title. Any unpaid assessment or charge which cannot be collected by reason of this Section, shall be treated as a common expense, collectible from all Lots, including the Lot as to which the foreclosure, or conveyance in lieu of foreclosure, took place.

4.6 Collection of Assessments. If any owner fails to pay any assessment,

charge, or installment thereof, within ten (10) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not lieu of, but are in addition to, all other remedies available to the Association.

(i) To charge interest on such assessment or charge, from the due date until paid, at the highest rate allowed by law, and in addition, to impose a late payment penalty which may not exceed the greater of Twenty-five Dollars (\$25.00) or such other maximum as may be provided for by law.

(ii) To file an action in equity to foreclose its lien. Unless another procedure is required by law, the lien may be foreclosed by an action brought by the Association in the same manner as provided in Section 718.116 of the Florida Condominium Act, as amended from time to time, for the foreclosure of liens on condominium parcels for unpaid condominium assessments.

(iii) To bring an action at law for a money judgment against the owner without waiving any foreclosure rights of the Association.

4.7 Certificate. The Association shall, within fifteen (15) days of request for same, furnish to any owner liable for assessments a certificate in writing signed by an officer of the Association, setting forth whether all assessments and charges against the owner's Lot have been paid. Any person, except the owner, who relies on the certificate shall be protected thereby.

4.8 Termination of the Association. If the Association no longer exists for any reason, and if no other Neighborhood Association has assumed its duties and functions, the Master Association shall have the power to perform all functions of the Association and shall be authorized to assess all owners for the cost of such services.

5. ARCHITECTURAL AND AESTHETIC CONTROL. The Developer is seeking to create a Neighborhood of architecturally harmonious homes. Among the techniques employed to accomplish this result is the use of certain carefully chosen colors for exterior paint and roof materials. In order to protect the integrity of the development plan and preserve the values of the Units, after the initial construction of the Units by the Developer or owner, no owner shall make any material change whatsoever in the exterior color of any portion of this Unit or any appurtenant structure, nor in the color or style of roofing materials used on the Unit or appurtenant structure, without prior written approval of the Architectural Review Committee (the "ARC").

5.1 Membership. There is hereby established an Architectural Review Committee (ARC) which shall be responsible for the administration of the Design Standards and Guidelines. The ARC shall be composed of a minimum of three (3) persons, who need not be Members. All of the members of the ARC shall be appointed, removed and replaced by the Board of Directors.

5.2 Purpose. The ARC shall have no jurisdiction over new construction and no right to approve the construction of proposed new improvements, but shall review and study and either approve or reject proposed alterations to improvements on the Lots, all in compliance with this Declaration and as further set forth in the Augusta Falls Rules and Design Standards and Guidelines as shall be adopted and established and may be amended from time to time by the Board of Directors. Notwithstanding any provision therein, the ARC shall have the power only to review and comment on improvements initially constructed on vacant Lots. Sole jurisdiction for approval of such initial construction shall be within the purview of the New Construction Committee described in the Master Community Documents and the Developer. Comments on proposed improvements shall be provided to the appropriate committee pursuant to its architectural review powers under the Master Community Documents. The ARC shall exercise its best judgment to see that all improvements conform and harmonize with any existing buildings as to external design, quality and type of construction, materials, color, plat plan, height, grade and finished ground elevation, and all aesthetic considerations herein set forth. The actions of the ARC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties. Approval of proposed alterations to existing improvements shall require approval of both the ARC and the Modifications Committee of the Master Association, provided the Master Association may, but shall not be obligated to, waive its right to approve alterations to improvements, in which event sole jurisdiction for approval shall be within the purview of the ARC.

5.3 Organization and Operation of ARC.

5.3.1 The term of office of each member of the ARC, subject to Section 5.1, shall be one (1) year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a member of ARC die, retire, become incapacitated or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 5.1.

5.3.2 The chairperson shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the ARC prior to any meeting.

5.3.4 The affirmative vote of a majority of the members of the ARC present at a meeting at which a quorum is present shall govern its actions and may be the act of the ARC. A quorum shall consist of a majority of the members.

5.4 Expenses. Except as hereinafter provided, all expenses of the ARC shall be paid by the Association. The ARC shall have the right to charge a reasonable filing fee for each application submitted to it for review, in an amount established by the ARC from time to time, which amount is designed to cover the costs of the ARC. The filing fees shall be collected by the ARC and remitted to the Association to help defray the expenses of the ARC's operation. The ARC shall not be entitled to charge a filing fee

for construction of improvements on vacant Lots.

5.5 Variances. The ARC may authorize variances from compliance with any of the Design Standard and Guidelines and their procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the ARC from denying or approving a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the denial of any permit, or disapproval of the terms of any financing shall not necessarily be considered a hardship warranting a variance.

5.6 limitation of Liability. The ARC shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the ARC, nor an individual member thereof, shall be liable to any person for an official act of the ARC in connection with submitted plans and specifications, except to the extent the ARC or an individual member thereof acted with malice or wrongful intent. Approval by the ARC does not necessarily assure approval by the appropriate governmental board or commission. Notwithstanding that the ARC has approved plans and specifications, neither the ARC nor any of its members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval or failure to approve. Neither the Board, the ARC or any agent thereof, shall be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the provisions of the Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the ARC shall be defended and indemnified by the Association in any such suit or proceeding.

5.7 Approval Required. Any reconstruction, or the refinishing or alteration of any part of the exterior of any building or other improvement on the Lots is absolutely prohibited until and unless the Owner or Developer first obtains approval thereof from the ARC and otherwise complies with the provisions hereof. All improvements shall be constructed only in accordance with the approved plans.

5.8 Removal of Non-Conforming Improvements. The Association, upon request of the ARC and after reasonable notice to the offender and to the Owner, may remove any improvements constructed, reconstructed, refinished, altered or maintained in violation of these covenants, and the owner thereof shall forth with reimburse the Association for all expenses incurred in connection therewith.

6. APPURTENANCES; PROPERTY RIGHTS; EASEMENTS.

6.1 Appurtenances to Each Lot. The owners of each Lot have certain rights and obligations appurtenant to such ownership, including without limitation the following:

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(i) Membership in the Association and the right to cast one (1) vote in Association affairs, which rights shall be acquired and exercised as provided herein, and in the Articles of Incorporation and the Bylaws of the Association.

(ii) The non-exclusive right to use the Neighborhood Common Areas for the purposes intended, subject to the restrictions and limitation provided in the Governing Documents.

(iii) Beneficial ownership of an undivided share of the assets and common surplus of the Association equal to the owner's share of liability for the assessments levied by the Association as set forth in Section 4.2 above. The ownership of an undivided share of the common surplus does not entitle the owner to a distribution of the common surplus.

(iv) Membership and voting rights in the Master Association, and the non-exclusive right to use Master Association Common Areas, subject to the restrictions and limitations provided in the Governing Documents.

(v) Other appurtenances as may be provided in the Governing Documents.

The appurtenances to a Lot and Unit automatically pass with the title, whether separately described or not, and cannot be separated from the title to the Lot and Unit. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Lots and Units.

6.2 Use and Possession. An owner is entitled to exclusive use and possession of his Lot and Unit. He is entitled to non-exclusive use of the Neighborhood Common Areas in accordance with the purposes for which they are intended, but no use of any Lot or Common Area may unreasonably interfere with the rights of other owners or residents. No Lot may be subdivided or any part separately sold, leased or otherwise transferred. Every owner, and his tenants, guests and invitees, shall have a perpetual non-exclusive easement for ingress, egress and access in, to and over the walkways and private roads laid out on the Master Association Common Areas for use in common with all other owners, their tenants, guests and invitees. The portions of the Neighborhood Common Areas not used for walkways, private streets, sidewalks or driveways shall be for the common use and enjoyment of the owners and each owner shall have a permanent and perpetual easement for the use and enjoyment of such lands as common open space, subject to recorded restrictions and regulation by the Association. These easements shall be appurtenant to and shall pass with the title to every Lot subject to the following:

(i) The right and duty of the Association to levy assessments against each Lot for the upkeep, maintenance, repair or betterment of the Neighborhood Common Areas and improvements thereon.

(ii) The right of the Association to dedicate or transfer or grant an easement covering all or any part of the Neighborhood Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board. No such easement shall materially interfere with the rights of the owners to use the common areas for the purposes intended.

(iii) The right of an owner to the non-exclusive use and enjoyment of the Neighborhood Common Areas and facilities thereon shall extend to the members of his immediate family who reside with him, and to his tenants, guests and invitees, subject to regulation from time to time by the Association.

6.3 Title to Neighborhood Common Areas. On or before the date when owners other than the Developer first elect a majority of the Board of Directors, the Developer shall convey the Neighborhood Common Areas to the Association by Special Warranty Deed, and the Association shall accept such conveyance, subject to taxes for the year of conveyance and to restrictions, limitations, conditions, reservations and easements of record. From the date this Declaration is recorded, the Association shall be responsible for the maintenance and operation of the Neighborhood Common Areas, and any improvements and personal property thereon. The Developer shall have the right from time to time to enter upon the Neighborhood Common Areas during periods of construction of any facilities on the Neighborhood Common Areas that the Developer elects to build.

THE ASSOCIATION AND THE MEMBERS ARE OBLIGATED TO ACCEPT TITLE TO THE NEIGHBORHOOD COMMON AREAS AND FACILITIES, IN THEIR "AS IS" CONDITION, WITHOUT RECOURSE, WHEN CONVEYED TO THE ASSOCIATION BY THE DEVELOPER. TO THE FULLEST EXTENT PERMITTED BY LAW, THE DEVELOPER DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, IN LAW OR IN FACT, WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND REPRESENTATIONS OR WARRANTIES REGARDING THE CONSTRUCTION, DESIGN, ADEQUACY OF SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS, FURNITURE OR EQUIPMENT WHICH WILL BE USED IN, THE NEIGHBORHOOD COMMON AREAS AND FACILITIES.

6.4 Partition; Separation of Interests. There shall be no judicial partition of the Neighborhood Common Areas, except as expressly provided elsewhere herein, nor shall the Developer, or any owner or any other person acquiring any interest in the Neighborhood, or any part thereof, seek judicial partition thereof. Nothing herein shall be construed to prevent judicial partition of any Lot and Unit owned in cotenancy. The ownership of any Lot and the ownership of the Unit constructed thereon may not, however, be separated or separately conveyed, nor may any person who does not have

an ownership interest in at least one Lot and Unit hold membership in the Association.

6.5 Easements. Each of the following easements and easement rights is reserved through the Property and is a covenant running with the land, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Property. Any lien encumbering these easements shall automatically be subordinate to the rights of the owners with respect to such easements. Each Lot shall be subject to an easement in favor of all other portion so the Property for the location of utilities, and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement of party walls, and shared structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving the Property.

(i) **Utility and Other Easements.** The Association has the power, without the joinder of any owner, to grant, modify or move easements such as electric, gas, cable television or other utility, service or access easements, or relocate any existing easements, in any portion of the Property, and to relocate any existing easements in any portion of the Property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Property. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots. The Association may also transfer title to utility-related equipment or installations, and take any other action reasonably necessary to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment or installations are to be so transferred.

(ii) **Encroachments.** If for any reason other than the intentional act of the owner or the Association, any Unit or Lot encroaches upon any of the Neighborhood Common Areas, upon any other Lot or any Neighborhood Common Area encroaches upon any Lot, then an easement shall exist to the extent of that encroachment as long the encroachment exists.

(iii) **Ingress and Egress.** A non-exclusive easement shall exist in favor of each owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through and across sidewalks, street, paths, walks, and other portions of the Neighborhood Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through and across such portions of the Neighborhood Common Areas as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

(iv) **Drainage.** A perpetual, non-exclusive easement shall exist in favor of Declarant, the Association, the Master Association, and their employees or other designers for the use of drainage areas established throughout the Neighborhood, and an easement for ingress, egress and access to enter any portion of the Neighborhood in order to construct, maintain or repair, as necessary, any drainage areas and facilities

thereon and appurtenances thereto, specifically including without limitation, access over and across portions of the Neighborhood Common Areas by utility companies to utilize such areas for facilities for the transporting of treated effluents for irrigation purposes. No structure, landscaping or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage areas or otherwise interfere with any easement provided for in this Section or the use rights set forth elsewhere in the Governing Documents.

(v) **Construction; Maintenance.** The Developer and its agents, employees and contractors shall have the right to enter the Property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use or enjoyment by the owners of their property.

(vi) **Sales Activity.** The Developer and its agents, employees and contractors shall have an easement to use, without charge, any Lot owned or leased by the Developer, and the Neighborhood Common Areas (including, but not limited to, all recreational facilities), in order to establish, modify, maintain and utilize, as it and they deem appropriate, models and sales and other offices. Without limiting the generality of the foregoing, the Developer and its designers may show model Units or the Neighborhood Common Areas to prospective purchasers or tenants, erect signs on the Property and take all other action helpful for sales, leases and promotion of the Property.

(vii) The easements and rights described in (v) and (vi) above shall terminate upon the sale of all Lots of purchasers other than a successor Developer.

6.6 Assignment of Easements. The easements and easement rights reserved hereunder to the Developer may be assigned by the Developer in whole or in part to the Association, the Master Association, any town, county or state government or agency thereof, or duly licensed or franchised public or private utility, or any other designee of the Developer.

7. MAINTENANCE; IMPROVEMENTS.

7.1 Maintenance of Units. The maintenance, repair and replacement of each Lot and Living Unit is the responsibility of its Owner. The Owner shall keep the appearance of the Lot and all landscaping and improvements in a condition comparable to when they were new, except normal wear and weathering. The Owner is responsible for his own driveway and the components of the irrigation system serving his Lot, up to and including the tap into the main irrigation line, timers, switching devices and heads.

7.2 Completion of Neighborhood. Developer shall undertake the work of developing all Lots and Units within the Neighborhood. The completion of that work, or the sale, lease, or other disposition of Units, is essential to the establishment and welfare of the Neighborhood as an ongoing residential community. In order that such work may be completed and the Neighborhood established as a fully-occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to prevent the Developer, or the employees, contractors or sub-contractors of Developer, or of Developer's transferees, from doing whatever they may reasonably determine to be necessary or advisable for the completion of the work and the establishment of the Neighborhood as a residential community. As used in the paragraph, the words, "its transferees" specifically exclude purchasers of Lots improved with completed residences.

7.3 Enforcement of Maintenance. If then owner of a Lot and Unit fails to maintain it as required in this Declaration, the Association may institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot, with or without consent of owner. The Association may repair, replace, or maintain any item which constitutes a significant hazard to other property or residents, or which has a material adverse effect on the appearance of the Neighborhood. Any expenses so incurred by the Association shall be assessed against the owner as service assessments, together with reasonable attorney's fees and all other expenses of enforcement.

7.4 Negligence; Damage Caused by Condition in Unit. The owner of each Lot and Unit shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees; but such liability shall be limited to the extent that such expenses are not met by the proceeds of insurance available to the injured person.

8. INSURANCE; DUTY TO RECONSTRUCT.

8.1 Duty to Insure and to Reconstruct. Each Owner shall at all time maintain property insurance on his residence and all other insurable improvements in an amount equal to the full replacement cost thereof. If any Unit or other improvements located on any Lot are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the owner of such improvements shall cause repair or replacement to be commenced within six (6) months from the date that such damage or destruction occurred, and shall complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and appearance, and shall utilize and conform with the original foundation and appearance of the original improvements, except as otherwise approved by the ARC.

8.2 Failure to Reconstruct. If the Owner of any Lot fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 8.1 above, the Association shall give written notice to the owner of his default. If the Owner has not notified the Association of satisfactory arrangements to meet his obligations within thirty (30) days after the association mailed such notice, the Association shall be deemed to have been granted the right by the Owner, as such Owner's attorney-in-fact, to remove all debris and damaged improvements, or to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this Section, which shall be in the sole discretion of the Board of Directors, the owner of the Lot shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Lot and residence to secure payment.

8.3 Failure to Insure; Association as Additional Insured. For the purpose of this Section 8, each Owner of a Lot within the Neighborhood agrees that the Association shall be an additional insured under any contract of property insurance and/or flood insurance relating to his Lot and improvements constructed thereon. Further, the Association may require that all such policies be in an amount sufficient to finance the repair or replacement of the improvements, taking into account local construction costs and property values as they may, from time to time exist. The Association has the right to require each owner to produce proof of insurance. If an Owner fails or refuses to maintain such insurance coverage deemed reasonably necessary by the Association, or if the owner allows the required insurance coverage to lapse, or for some other reason, causes the same to become ineffective, the Association may but is not obligated to, purchase whatever coverage it deemed reasonably necessary for the Association's benefit. The costs incurred by the Association in procuring insurance shall become due and payable by the owner in all respects, together with interest, reasonable attorney's fees and costs of collection, immediately upon the Association notifying the Owner, in writing, that it has procured such insurance, and the costs thereof.

8.4 Association's Right of Entry. For the purpose of performing the duties authorized by this Section 8, the Association, through its duly authorized agents and employees, shall have the right, after reasonable notice by the Owner, to enter upon the Lot at reasonable hours.

8.5 Association Insurance: Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it may deem necessary. The premiums shall be a common expense. The name of the insured shall be the Association as agent for the Owners without naming them, and their mortgagees.

8.6 Required Coverage. The Association shall maintain adequate liability insurance and casualty insurance covering all buildings and other insurable improvements (if any) within the Neighborhood Common Areas, with coverage equal to the maximum insurable replacement value thereof, as determined annually by the Board of Directors; such insurance to afford the following protection:

(i) **Property.** Loss or damage by fire, extended coverage (including windstorm) vandalism, and malicious mischief, and other hazards covered by what is commonly referred to as an "all risk" property contract.

(ii) **Liability.** Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to any single Owner.

(iii) **Automobile.** Automobile liability for bodily injury and property damage for owned and/or non-owned motor vehicles, in such limits of protection and with such coverage as shall be required by the Board of Directors.

(iv) **Fidelity Bonding.** Adequate fidelity bond coverage for all individuals having control of or access to Association funds.

8.7 Optional Coverage. The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Association and owners. Some common examples are:

(i) Flood insurance.

(ii) Broad Form Comprehensive General Liability Endorsement.

(iii) Directors and Officers Liability.

(iv) Medical Payments.

8.8 Description of Coverage. A detailed summary of the coverages included in the Association's policies shall be available for each Owner upon request. All Association insurance policies shall be available for inspection by Owners upon request.

8.9 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogate as to any claim against Owners, the Association, or their respective servants, agents or guests, except for any claim based primarily upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

8.10 Insurance Proceeds. All insurance policies purchased by the Association

shall be for the benefit of the Association, and all proceeds shall be payable to the Association.

8.11 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be used to defray the cost of repair or reconstruction. Any proceeds remaining after defraying costs shall become part of the Association's common surplus.

8.12 Association as Agent. The Association is hereby irrevocably appointed agent for each owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Units.

9. GENERAL COVENANTS AND USE RESTRICTIONS.

9.1 Residential Use. Each Unit shall be occupied by only one family and its temporary guests at any time, as a residence and for no other purpose. No time-sharing, business or commercial activity shall be conducted in or from any Unit. No person may publicly advertise the address of a Unit as the address of any business. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This Section 9.1 shall not be construed to prohibit any Unit occupant from maintaining a personal or professional library, from keeping his personal, business or professional records in his Unit, or from handling his personal, business or professional telephone calls, written correspondence, or other communications in and from his Unit. Such uses are expressly declared customarily incident to residential use. This Section 9.1 is, however, intended to prohibit commercial or business activity by an Owner which would noticeably change the residential ambiance of the Neighborhood, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Neighborhood by persons making deliveries or pick-ups, employees or other business associates, or customers and clients. Notwithstanding the above provisions, the Declarant may, in its sole discretion, permit one or more of its Units to be used or maintained as a sales office or as model homes.

9.2 Building Setback Lines, Size of Buildings, Site Restrictions and Building Height. All structure shall conform to the requirements of the County and the Governing Documents.

9.3 Leasing. An owner may lease his Unit without prior Association approval, subject to the following restrictions and condition:

(i) The lease must be written, and a fully executed copy must be provided to the Association not less than three (3) days before the beginning of the lease term, together with such other information about the tenants as the Board may reasonably require.

(ii) No Unit may be leased or rented for a term of less than thirty (30) consecutive days.

(iii) No subleasing or assignment of lease rights is allowed. All of the provisions of the Augusta Falls Documents and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Unit as a lessee or guest to the same extent as against an owner, and a covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the Documents, designating the Association as the Owner's agent, with the authority to terminate any lease and evict the tenant in the vent of violations by the tenant of such covenant, shall be deemed to be included in every lease whether oral or written, and whether specifically expressed in such lease or not.

THE DECLARANT MAKES NO REPRESENTATION OR WARRANTIES REGARDING THE FINANCIAL FEASIBILITY OF RENTING OR THE INCOME TO BE DERIVED THEREFROM. ANY OWNER WHO DESIRES OR INTENDS TO RENT HIS LIVING UNIT MUST INDEPENDENTLY DETERMINE AND ASSUME RESPONSIBILITY FOR THE FEASIBILITY OF RENTING, AND SHOULD CONSULT HIS OWN ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES AND ECONOMIC ADVANTAGES OF OWNERSHIP.

9.4 Nuisance. No noxious or offensive activity shall be carried on upon any Lot or in any Unit, nor shall anything be done that is or may become a reasonable source of annoyance or nuisance to other residents.

9.5 Temporary Structures. No structure of a temporary character, including trailer, tent or shack shall be used on any Lot, either temporarily or permanently, except for Declarant.

9.6 Signs. To the extent lawful, the display of signs, advertisements and advertising shall be subject to the Master Declaration and the control of the Community Association. The Board of Directors shall have the right to summarily remove and all unauthorized signs. This Section shall not apply to signs used by Declarant or its agents to market Lots or Units owned by it.

9.7 Appearance; Refuse Disposal. After closing of title, each Owner shall keep his Lot free and clear of weeds, underbrush, unsightly growths, trash and debris and shall reasonably maintain his Living Unit. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers suitably screened from view from the street and adjacent Lot. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No garbage incinerators shall be permitted.

9.8 Maintenance. The Declarant shall care for vacant or unimproved Lots within the Property, and clear tall grass, undergrowth, weeds and rubbish therefrom, and do any other things and perform any labor necessary or desirable in the judgment of the Declarant to keep the Lot in good order. The Association shall have the right to repair

any structure or improvement on any Lot which constitutes a danger or nuisance or is in unsightly disrepair, provided that the owner is given reasonable notice of the Association's intent to do so, which reasonably specifies the proposed action. The Association shall charge the expense of same against the Owner of said Lot, which charge shall be a lien on the Lot which may be foreclosed, and which shall secure Declarant's or the Association's attorneys fees and other costs in connection with said foreclosure.

9.9 Awnings and Windows. Awnings, hurricane shutters, solar film, and other window shading or decoration shall be subject to the prior approval and control of the ARC.

9.10 Fences. No fence, wall, hedge or other similar structure shall be erected on any Lot, except as originally installed by Developer, and except any approved by the ARC.

9.10.1 No dog runs, animal pen or fences of any kind will be permitted on any Site.

9.11 Lawns; Landscaping. Except for designated Conservation Areas, buffer zones, open space or other similar areas, all areas not covered by structures, walkways or paved parking facilities shall be maintained by their Owners as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. Stone, gravel, or paving may not be used as a substitute for grass in a lawn. Certain areas as determined by the Developer or the RPD shall remain in a natural or unimproved state. All lawns and landscaping shall be completed at the time of completion of the structure as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Owner. Lawns must be regularly cut and mulched area regularly re-mulched. The landscaping on Lots, including without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, shall be maintained by the Owner thereof. No landscaping shall be installed, cut down, destroyed or removed without the prior written approval of the ARC.

9.12 Outside Lighting. Except as may be initially installed by the Developer, no spotlights, floodlights, or other outdoor high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the improvements thereon without the written authorization of the Community Association. Low intensity lighting which does not unreasonably disturb the Owners or other occupants of the Property shall be allowed. The Owner of each Lot shall maintain the front yard lamp (if any), and keep it operating during all hours of darkness. The owner's responsibility includes the photoelectric cell and replacement of light bulbs.

9.13 Commercial Activities. No business or commercial activity shall be conducted on the Property, except the Developer's construction of improvements and

the maintenance of sales offices or models.

9.14 Pets. The owner of each Unit may keep no more than two (2) commonly accepted household pets such as a dog or cat, and reasonable number of tropical fish or caged birds in a Unit, subject to reasonable regulations by the Master Association or the Association. All pets must be carried under the owner's arm or leashed at all times while outside of the Unit. The owner is responsible for cleaning up after his pet. The ability to keep such pets is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Property. No reptiles, amphibians, poultry or livestock may be kept on the Property.

9.15 Parking and Storage of Motor Vehicles.

(i) No commercial vehicle of any kind shall be parked in the Neighborhood, except for service vehicles temporarily present on business.

(ii) No boat, trailer of any kind, semitrailer, house trailer, camper, mobile home, motor home, bus, commercial truck, truck camper, pick-up truck or disabled, inoperative or unlicensed vehicle shall be permitted to be parked, kept or stored unless kept fully enclosed inside a structure. For purposes of this paragraph only, an open carport is not deemed to be a structure. For purposes of this paragraph "kept" shall mean present for any period of twelve (12) consecutive hours, whichever is less. No house trailer, mobile home, motor home and the like may be kept in the Neighborhood more than two (2) times in any month. Any vehicle parked in violation of this Section is subject to being towed away at the owner's expense without further notice.

(iii) No motor vehicle shall be parked anywhere other than on paved or designated areas designated for that purpose, or in garages. Parking on lawns or landscaped areas is prohibited.

(iv) No motor vehicle shall be used as a domicile or residence, either permanent or temporary while in the Neighborhood.

9.16 Garages, Carports and Accessory Buildings.

(i) No detached garage or other accessory building shall be erected. Each residence shall have an attached or built in garage which shall accommodate no less than one (1), nor more than three (3), automobile. Repair of vehicles shall be permitted only inside the garage. When ingress and egress to the garage is not desired, the garage doors shall remain closed.

(ii) Carports are not permitted.

(iii) No garage shall ever be permanently enclosed or converted to other uses without substitution of another enclosed garage and approval of the ARC. All garages must have a minimum 16-foot wide overhead style garage door, or two (2) 8-foot wide overhead style garage doors.

9.17 **Garage Sales.** No garage sale, estate sale, flea market, auction, or similar event shall be held on any Lot.

9.18 **Mailboxes, Lamp Posts.** Mailboxes, front yard lamp posts, and their supporting structures shall be substantially uniform in style, appearance and location and are subject to regulation by the ARC.

9.19 **Antennas, Radio Equipment and Flagpoles.** No outdoor antennas, satellite receiving dishes, antenna poles, antenna masts, electronic devices, antenna towers or citizen band (CB) or amateur band ("ham") antennas may be erected or installed on any Lot or Unit or on the Neighborhood Common Areas except as approved by the Master Association. "Ham" radios, CB base stations, and other similar radio transmission equipment may not be operated in the Vineyards of Naples without prior written consent of the Master Association. A flagpole, for display of the American Flag only, may be permitted if its design and location are first approved by the ARC, and are in compliance with the guidelines of the Master Association. An approved flagpole shall not be used to mount an antenna. It is the intent of this Section to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances which is sometimes caused by ham radios, CB base stations or other high-powered broadcasting equipment. This Section shall not apply to equipment used by the Developer or its agents to market Lots owned by the Developer.

9.20 **LOTS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. PROPERTY OWNERS ARE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT, WHICH MAINTENANCE WILL BE MAINTAINED TO THE GREATEST DEGREE LAWFUL BY THE MASTER ASSOCIATION.**

No person shall undertake or perform any activity in Conservation Areas described in the approved permits and Plats of the Vineyards of Naples, or removed native vegetation that becomes established within the Conservation Areas and without prior written approval of the ARC, the County, and the South Florida Water Management District. Prohibited activities within Conservation Areas include the removal of native

vegetation, excavation, placement or dumping of soil, trash or land clearing debris, and construction or maintenance of any building, unit or other structure. "Removal of native vegetation" includes dredging, application of herbicides, and cutting.

9.21 Lakes; Water Retention Ponds. No Lot, Tract, Parcel or Neighborhood Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person shall fill, dig, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of the ARC and the District. No person other than the Declarant or the Master Association may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

9.22 Open Space. Any land subjected to this Declaration and designated as open space, landscape buffer, preserve area, conservation Area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained by the owner of such land as open space. If such land or an easement over such land has been conveyed or dedicated to the Neighborhood Association, the Neighborhood Association shall preserve and maintain such land. No development may occur on such land except structures of improvements which promote the use and enjoyment thereof for open space purposes.

9.23 Playground and Basketball Equipment. No jungle gyms or other playground equipment shall be permitted on any Site except for certain swing sets which comply with the following restrictions and for which approval is obtained by the Committee: (a) such swing sets must be made of wood; (b) swing sets must be contained within the established building setback lines; and (c) all such approved play equipment must be adequately buffered so that it is not within the direct view of any other Lot Owners.

No basketball hoops or backboards, soccer or hockey nets shall be permitted on any Site under any circumstances. No roadway or right-of-way shall be used as a basketball court or hockey or soccer field, and no basketball hoops and basketball backboards shall be permitted on any portion of the Lot abutting a roadway or right-of-way.

10. OWNERSHIP OF LOTS. The transfer of ownership of Lots shall be subject to the following restrictions:

10.1 Notice to Association. An owner intending to sell his unit shall give the Association written notice of such intent at least seven (7) days prior to the closing of the sale, including the name of the purchaser and such other information about the purchaser as the Association may reasonably require. A new owner acquiring title shall provide to the Association a copy of the recorded deed, or other instrument evidencing title, within thirty (30) days after the transfer occurred.

10.2 Life Estate. A Lot may be subjected to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant shall be the Golf member of the Master Association from such Lot, and occupancy of the Unit shall be as if the life tenant was the only owner. The life tenant shall be liable for all assessments and charges against the Lot. Nay consent, approval or vote required may be given by the life tenant, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

11. ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS.

Every owner, and all guests, tenants and occupants, shall at all time comply with Chapter 617, Florida Statutes, the Governing Documents, and the rules of the Association. Before undertaking any remedial, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies.

Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. Each member and the member's tenants, guests, and invitees, and the Association, are governed by, and must comply with, this Chapter 617, the Governing Documents of the Neighborhood, and the rules of the Association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by a member against:

- (i) The Association;
- (ii) A member;
- (iii) Any Director or officer of the Association who willfully and knowingly fails to comply with these provisions; and
- (iv) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and cost. This Section does not deprive any person of any, other available right or remedy.

11.1 Enforcement Action. Judicial enforcement of these covenants and restrictions shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so

thereafter.

11.2 Self-help Remedies. Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the governing Documents shall also give the Declarant, its successors and assigns, and/or the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land where such violation or breach exists and summarily abate and remove, at the expense of the owner of the land, any construction or other violation that may be or exist thereon. The Developer, its successors and assigns and/or the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

11.3 Suspension of Common Area Use Rights; Fines. The Association 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 the common areas and facilities. The Association may also levy reasonable fines not to exceed \$50 per violation, against any member or any tenant, guest, or invitee.

(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 hearing panel of at least three (3) 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 panel, by majority vote (which may be taken by secret ballot), does not approve a proposed fine or suspension, it may not be imposed.

(ii) The requirements of this Section do not apply to the imposition of suspensions or charges upon any member because of the failure of the member to pay assessments or other charges when due, if such action is authorized by the governing Documents.

(iii) Suspension of common area use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(iv) **Collection of Fines.** A fine shall be treated as a special charge due to the Association ten (10) days after written notice from the Association to the owner of the imposition of the fine. If not paid by the due date, the fine shall accrue interest at the highest rate allowed by law, and may itself be the subject of a late payment fee.

(v) **Application.** All monies received from fines shall become part of the common surplus.

(vi) **Nonexclusive Remedy.** Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the

Association may be otherwise legally entitled; however, any fine paid by the offending owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover at law from such owner.

12. MASTER ASSOCIATION. By taking title to a Lot, the owner becomes subject to the terms and conditions of the Master Association Declaration as it may be amended from time to time.

12.1 Neighborhood Association members are automatically members of the Master Association. Notwithstanding such membership, only authorized representatives of the members shall be entitled to vote on behalf of all members at meetings of the members of the Master Association. At Master Association meetings, the votes shall be cast as provided in the Bylaws of the Master Association.

12.2 Notices to the Master Association. Copies of all recorded amendments to this Declaration, the Articles of Incorporation and Bylaws of the Association, shall be forwarded to the Master Association no later than thirty (30) days after becoming effective. The Association shall also provide a current list of the names and mailing address of all owners within fifteen (15) days after receiving a written request for same from the Master Association. Failure to perform these duties does not invalidate an amendment.

13. DEVELOPER'S RIGHTS AND DUTIES. So long as the Developer holds any Lots in the Neighborhood for sale in the ordinary course of business, the following shall apply, notwithstanding any other provisions of the contrary.

13.1 Developer's Use. Until the Developer has completed all of the contemplated improvements and has sold all of the Lots in the Neighborhood neither the owners nor the Association, nor their use of the Lots and Units shall unreasonably interfere with the completion of the contemplated improvements or sales of Lots. The Developer may make any use of unsold Lots and Units as may reasonably be allowed by law.

13.2 Assignment of Development Rights. All or any portion of the rights, privileges, powers and duties of the Developer set forth in the Governing Documents may be assigned by the Developer to any person or entity, without the consent of any other owner or any holder of a mortgage secured by any Lot or Unit. Upon the acceptance of such assignment by the assignee, the assignor shall be relieved of all liabilities and responsibilities to the extent of the assignment. In the event of the foreclosure of any mortgage of any mortgage owed by the Developer, or deed in lieu of such foreclosure, the person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Developer in and to such interest.

13.3 Amendment of Declaration. In addition to any other right of amendment or

modification provided for in this Declaration and its recorded exhibits, the Declarant, or any entity which succeeds to Declarant's position as the Developer of any of the Property described in Exhibit "A", may be an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to any provision of this Declaration or any of its exhibits. This right specifically includes the right to amend this Declaration and its exhibits to bring additional Lots within the Property. The right to amend set forth in this paragraph shall expire when the Declarant no longer hold any Lots or Units in the Properties for sale in the ordinary course of business. Any amendment made pursuant to this paragraph may be made by the Declarant without notice or consent to the members or any other entity.

13.4 Sales or Leases of Units. The Developer intends to sell all Lots and has no program for leasing. However, the Developer shall have the right to sell, lease or transfer any Unit owned by it on such terms and conditions as it deems in its own best interest.

THE DECLARANT MAKES NO REPRESENTATIONS, AND TO THE FULLEST EXTENT PERMITTED BY LAW DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, IN LAW OR IN FACT, WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND REPRESENTATION OR WARRANTIES REGARDING THE CONSTRUCTION, DESIGN, ADEQUACY OR CAPACITY IN RELATIONS TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS, FURNITURE OR EQUIPMENT WHICH WILL BE USED IN THE COMMON AREAS AND FACILITIES.

14. TURNOVER OF CONTROL OF ASSOCIATION.

14.1 Time of Turnover. Owners other than the Developer shall be entitled to assume control of the Association by electing the entire Board of Directors not later than ninety (90) days after the conveyance of title, to owners other than the Developer, of at least ninety (90%) percent of the Lots within the Property. At that time the Directors appointed by the Developer shall resign. The election shall occur at a meeting of the members (the "Turnover Meeting").

14.2 Procedure for Calling Turnover Meeting. No less than sixty (60) days prior to the Turnover Meeting, the Association shall notify in writing all owners of the date, time and place, of the Turnover Meeting.

14.3 Early Turnover. The Developer may turn over control of the Association to owners other than the Developer prior to the turnover deadline set forth above by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days notice of the Developer's decision to

cause its appointees to resign is given to owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations, even if owners other than the Developer refuse or fail to assume control.

14.4 Developer Representative. The Developer is entitled to elect at least one member of the Board of Directors as long as the Developer hold for sale in the ordinary course of business at least five (5%) percent of the Lots. After the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned interests in the same manner as any other member, except for purposes of reacquiring control of the Association or selecting a majority of the Directors.

15. DURATION OF COVENANTS; AMENDMENT OF DECLARATION.

15.1 Duration of Covenants. The covenants, conditions, and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, the Developer and any owners, their respective legal representatives, heirs, successors and assigns, for an initial period of thirty (30) years. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last of any subsequent ten (10) year renewal period, at least three-fourths (3/4ths) of the votes cast at a duly held meeting of members of the Association vote in favor of terminating this Declaration at the end of its then current term. Written notice of any meeting at which such a proposal will be considered shall be given at least forty-five (45) days before the meeting. If the members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. The certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

15.2 Amendments; Proposal. Notwithstanding the foregoing, this Declaration may be amended from time to time by a vote of the members. Amendments may be proposed by the Board of Directors or by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests. The proposed amendments must be submitted to a vote of the members not later than the next annual meeting.

15.3 Amendments; Vote Required. Except as otherwise provided by law, or by specific provision of the Augusta Falls Documents, a proposed amendment to this Declaration shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting

interests of the Association present and voting at any annual or special meeting called for the purpose, provided that notice of each proposed amendment has been given to the members in accordance with Law. Unless otherwise provided by law, notice of proposed amendments shall be substantially in the form specified in Chapter 718, Florida Statutes, for proposed amendments to a Declaration of Condominium. No amendment shall change any Lot's share of liability for assessments or any owner's voting rights, unless the owner consents to the amendment.

15.4 Amendments; Certificate; Recording; Effective Date: A copy of each amendment shall be attached to a certificate attesting that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration was originally recorded, and shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County.

15.5 Exceptions. Wherever in this Declaration the consent, approval, affirmative vote of more than two-thirds (2/3rds) of the voting interest, is required in order to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize to take the action.

15.6 Amendment of Provision Relating to Developer. As long as the Developer holds any Lot for sale in the ordinary course of business, no amendment shall have the effect of changing any provision relating specifically to the Developer without the Developer's written consent.

16. GENERAL PROVISIONS.

16.1 Waiver. Any waiver by the Developer of any provisions of this Declaration of breach thereof must be in writing and shall not operate or be construed as a waiver of any other provision or subsequent breach.

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

16.3 Headings and Capitalization. The headings of Sections and paragraphs herein, and the capitalization of certain words, are for convenience only and do not affect the meaning or interpretation of the provisions of this Declaration.

16.4 Notices. Any notice required to be sent to any owner under the provisions of this Declaration or the Bylaws, shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as owner in the

records of the Association at the time of such mailing. The owner bears the responsibility for notifying the Association of any change of address.

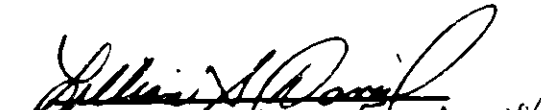
16.5 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

IN WITNESS WHEREOF, the declarant does hereby execute this declaration of covenants, conditions and restrictions through its undersigned, duly authorized officer, this 16th day of JUNE, 1997.

VINEYARDS DEVELOPMENT CORPORATION



Witness DONNA MORE

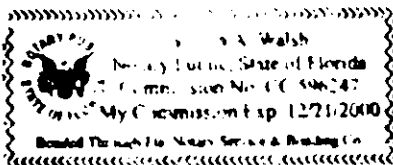
By: 
Michel Saadeh, President & CEO


Witness Lillian S. David

STATE OF FLORIDA
COUNTY OF COLLIER

On this 16th day of JUNE, 1997, before me, personally appeared Michel Saadeh as President & CEO of Vineyards Development Corporation, who is personally known to me, and he acknowledged that he executed the foregoing instrument on behalf of the corporation, for the purposes expressed therein.


Notary Public



OR: 2323 PG: 2851

**JOINDER
BY FIRST UNION NATIONAL BANK (f/k/a First Fidelity Bank, N.A.)**

FIRST UNION NATIONAL BANK (f/k/a First Fidelity Bank, N.A.), as the owner and holder of a mortgage on the property being submitted to this Declaration, hereby joins in this Declaration of Covenants, Conditions and Restrictions for Augusta Falls.

Dated this 16th day of June, 1997.

FIRST UNION NATIONAL BANK

[Signature]
Witness

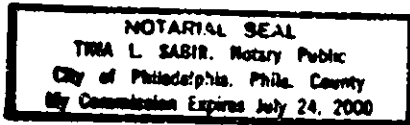
By: [Signature]
Garry J. Cap, Vice President

[Signature]
Witness
H. Nucifora


COMMONWEALTH OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

On this 16th day of JUNE, 1997, before me, personally appeared Garry J. Cap as Vice President of First Union National Bank. He is personally known to me or produced (N/A) as identification, and he acknowledged that he executed the foregoing instrument on behalf of the corporation, for the purposes expressed therein.

[Signature]
Notary Public



State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of AUGUSTA FALLS HOMEOWNERS' ASSOCIATION, INC., a Florida corporation, filed on October 10, 1996, as shown by the records of this office.

The document number of this corporation is N96000005223.

OR: 2323 PG: 2853

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capitol, this the
Eleventh day of October, 1996



CR2E022 (2-95)



Sandra B. Northam
Secretary of State

EXHIBIT "A"

ARTICLES OF INCORPORATION

OF

AUGUSTA FALLS HOMEOWNERS' ASSOCIATION, INC.
A NONPROFIT CORPORATION

We, the undersigned, with other persons being desirous of forming a nonprofit corporation, under the provisions of Chapter 617 of the Florida Statutes, do agree to the following:

ARTICLE I.

The name of the corporation shall be:

AUGUSTA FALLS HOMEOWNERS' ASSOCIATION, INC.

The address of the principal office of this corporation shall be 98 Vineyards Boulevard, Naples, Florida 34119, and the mailing address of the corporation shall be the same.

ARTICLE II.

The general purpose of the business or businesses to be transacted by this corporation, together with and in addition to the authority and powers conferred by the laws of the State of Florida, is to conduct all activities authorized for a homeowner's association under the laws of said state.

ARTICLE III

The manner in which the directors are to be elected or appointed is as stated in the by-laws.

OR: 2323 PG: 2054

ARTICLE IV

The name and address of the incorporator of these Articles is Donna M. More, 98 Vineyards Boulevard, Naples, Florida 34119.

ARTICLE V

This corporation is to exist perpetually.

ARTICLE VI

All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of its Board of Directors, subject to any limitation set forth in these Articles of Incorporation. This corporation shall have three directors, initially. The names and street addresses of the initial members of the Board of Directors are:

Michel Saadeh Dir.	98 Vineyards Boulevard Naples, Florida 34119
Michael Orlandi Dir.	Same
Sandra Walsh Dir.	Same

OR: 2323 PG: 2855

ARTICLE VII

The street address of the initial registered office

of the corporation shall be 98 Vineyards Boulevard, Naples, Florida 34119, and the name of the initial registered agent of the corporation at that address is Donna M. More.

IN WITNESS WHEREOF, the undersigned, being the Incorporator for the purpose of forming a corporation pursuant to the Florida Not For Profit Corporation Act, Chapter 617, Florida Statutes, as amended, has executed these Articles of Incorporation on this the 9th day of October, 1996.

By: Donna M. More
Donna M. More, Incorporator

ACCEPTANCE OF REGISTERED AGENT DESIGNATED
IN ARTICLES OF INCORPORATION

Donna M. More, an individual residing in the state of Florida, having a business office identical with the registered office of the corporation named above, and having been designated as the Registered Agent in the above and foregoing Articles, is familiar with and accepts the obligations of the position of Registered Agent under Section 607.0345, Florida Statutes.

By: Donna M. More
Donna M. More

CR: 2323 PG: 2856

FILED
5 OCT 10 5 01 PM '96
TALLAHASSEE, FLORIDA

**BYLAWS
OF
AUGUSTA FALLS HOMEOWNERS ASSOCIATION, INC.**

1. **GENERAL.** These are the Bylaws of Augusta Falls Homeowners Association, Inc. (the "Association"), a Florida corporation not for profit organized for the purposes of serving as a residential neighborhood homeowners' association.

1.1 **Principal Office.** The principal office of the Association shall initially be at 98 Vineyards Boulevard, Naples, FL 34119 and shall subsequently be at such location as may be determined by the Board of Directors.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the years of its organization, and the words "Florida" and "corporation not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document where a seal may be required.

1.3 **Definitions.** The definitions for various terms used in these Bylaws shall be as set forth Section 1 of the Declaration of Covenants, Conditions and Restrictions for Augusta Falls (the "Declaration") to which these Bylaws are attached as Exhibit "B".

2. **MEMBERS; VOTING RIGHTS.** Every record owner of legal title to any Lot located in the Property is a Member. If a Lot is subject to any agreement for deed, whether recorded or not, the purchaser in possession shall be treated as the owner solely for purposes of determining voting and use rights. Membership is appurtenant to, runs with, and may not be separated from, the real property interest upon which membership is based.

2.1 **Voting Interests.** The members of the Association are entitled to one (1) vote for each Lot owned by them. The total number of votes shall equal the total number of Lots subject to this Declaration. The vote of a Lot is not divisible. The right to vote may not be denied because of delinquent assessments. If a Lot is owned jointly by two or more natural persons, that Lot's vote may be cast by any one of the record owners. If two or more owners do not agree among themselves how their one vote shall be cast on any issue, that vote shall not be counted on that issue.

2.2 **Approval or Disapproval of Matters.** Whenever the decision or approval of an owner is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person who could cast the vote of that owner's Lot at an Association meeting, as stated in Section 2.1 above, unless the written approval or joinder of Association meeting, as stated in Section 2.1

above, unless the written approval or joinder of record owners is specifically required.

2.3 Termination of Membership. Termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of this membership, nor does it impair any rights or remedies the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The annual meeting of the members shall be held in Collier County, Florida, each year during the first three months of each calendar year, at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members. The annual meeting is a general meeting, and unless the law or the governing documents require otherwise, notice of any annual meeting need not include a description of the purpose or purposes for which the meeting is called.

3.2 Special Members'. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members representing at least twenty-five (25%) percent of each class of the voting interests. Business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings. Notices of all meeting of the Members must be mailed or hand-delivered to the members at least fourteen (14) days before the meeting, and must state the time, date, and place of the meeting, and include a detailed agenda. Mailed notices must be sent to each member at his address as it appears on the books of the Association. Each member bears the responsibility for notifying the Association in writing of any change of address. A person entitled to received notice of any meeting may waive notice altogether by written waiver. Notice of any meeting may be hand-delivered if a written waiver of mailing is obtained. If ownership of a Unit is transferred after a notice has been mailed, no separate notice to the new owner is required. Attendance at any meeting by a member constitutes a waiver of notice by that member, unless the member objects to the lack of notice at the beginning of a meeting.

3.4 Quorum. The percentage of voting interests required to constitute a quorum at a meeting of the members shall be thirty (30%) percent of the total voting interests.

3.5 Vote Required. The acts approved by a majority of the votes cast at a meeting of the members at which a quorum has been attained shall be binding upon all owners for all purposes, except where a higher vote is required by law or by any provision of the Governing Documents.

3.6 Proxies. To the extent lawful, any person entitled to attend and vote at a members' meeting may establish his presence and cast his vote by proxy. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy is revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by a person authorized to cast the vote for the unit, and specify the date, time and place of the meeting for which it is given. The signed and dated original must be delivered to the Secretary at or before the time of the meeting of continuance thereof. Holders of proxies need not be members. No proxy is valid if it names more than one person as the proxy holder, but the proxy holder has the right, if the proxy so provides, to substitute another person to hold the proxy.

3.7 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Unless the Bylaws require otherwise, adjournment it taken, or notice must be given of the new date, time, or place pursuant to Section 617.303(2), Florida Statutes (1995), as amended. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed under Section 617.0707, Florida Statutes (1995), as amended, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

3.8 Order of Business. The order of business meetings shall be substantially as follows:

- (A) Determination of Existence of quorum.
- (B) Reading or waiver of reading of minutes of last members' meeting.
- (C) Reports of Officers.
- (D) Reports of Committees.
- (E) Election of Directors (annual meeting only).
- (F) Unfinished Business.
- (G) New Business.
- (H) Adjournment.

3.9 Minutes. Minutes of all meeting of the members must be maintained in written form, or in another form that can be converted into written form within a reasonable time.

3.10 Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Law, with the Declaration, or with these Bylaws. The Presiding Officer may appoint a Parliamentarian, but the Presiding Officer's decision on questions of Parliamentary

Procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.11 Action by Members Without Meeting. Except for the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action has been approved by vote of the members at a meeting of the members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law. If the vote is taken by the method described in this Section 3.11, the list of owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters. The written consents used to authorize an action without a meeting shall become part of the Association's records.

3.12 Voting Representative to Master Association. In accordance with the requirements of the Bylaws of the Master Association, the Board of Directors shall, at least annually, appoint one member of the Association, who need not be a Director or officer, as the Association's Voting Representative to the Master Association. Written notice of the appointment shall be given to the Master Association. The Voting Representative shall attend the meetings of the members of the Master Association, and shall cast, in a block, all votes of the members of this Association on any and all questions which may arise, except the election of Trustees of the Master Association. The votes shall be cast in the manner directed by the Board of Directors, or absent such direction, in the manner determined by the Voting Representative. The Voting Representative shall also perform the other duties specified in Section 3.6 of the Master Association Bylaws. The Voting Representative shall serve at the pleasure of the Board of Directors.

3.13 Polling of Members. To the extent feasible and practical, the Association shall poll its members on questions to be decided by a vote of the members of the Master Association, so that this Association's votes are more likely to be cast in the manner preferred by the majority of the members. If such a poll is conducted, the Board shall instruct its Voting Representative to cast all votes of the Association in a block, supporting the point of view preferred by the majority of the members who responded to the poll. The Voting Representative may not vote by proxy at Master Association meetings, but the Board of Directors may designate in writing an alternate representative to substitute if the Voting Representative cannot attend any meeting of

the Master Association.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the members only when specifically required.

4.1 Number and Terms of Service. The Board of Directors shall consist of three (3) Directors. In order to provide for a continuity of experience by establishing a system of staggered terms of office, in the first election in which owners other than the Developer elect a majority of the Directors, the two (2) candidates receiving the highest number of votes shall each be elected for a term which expires at the final adjournment of the annual meeting at which his successor is to be elected. The candidate receiving the next highest number of votes shall be elected for a term which expires at the final adjournment of next annual meeting. Thereafter, all Directors shall be elected for two (2) year terms, ending at the final adjournment of the annual meeting at which successors are to be duly elected or at such other time as may be provided by law. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in 4.4 below.

4.2 Qualifications. Except for Directors appointed by the Developer, each Director must be a Member, or the spouse of a Member. No person shall be elected or appointed for successive terms totalling more than four (4) years, unless there occurs a hiatus of at least one (1) year between terms. Initial terms by appointment for less than one (1) year shall be excluded from consideration in determining the total number of years served.

4.3 Nominations and Elections. At each Annual Meeting the members shall elect as many Directors as there are regular terms of Directors expiring or vacancies to be filled. The nominating committee, if any, shall submit the names of its recommended candidates for the office of Director in time to be included with the notice to the members of the annual meeting; any other eligible person may also be nominated as a candidate from the floor at the annual meeting. Nothing herein shall be construed to require or prohibit the use of a secret ballot. Directors shall be elected by a plurality of the votes cast at the annual meeting. In the election of Directors, there shall be apportionment to each Lot as many votes as there are Directors to be elected. No member may cast more than one vote for any candidate, it being the intent hereof voting for Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be elected. A tie vote shall be broken by agreement among the candidates who are ties, or by lot.

4.4 Vacancies on the Board. If the office of any Director becomes vacant for any reason, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term.

4.5 Removal of Directors. Any Director may be removed from office, with or without cause, by the vote or agreement in writing of a majority of the voting interests. The notice of a meeting of the owners to recall one or more Directors must name the specific Director(s) sought to be removed, and a separate vote for each Director sought to be removed shall be taken. Where removal is sought by written Agreement, a separate agreement is required for each Director to be removed. Any Director who is removed from office is not eligible to stand again for election to the Board, or be appointed to the Board, until the next annual election. A Director who is removed from office shall turn over to the Association within seventy-two (72) hours any and all records and other property of the corporation in his possession. If a Director who is removed does not relinquish his office or turn over records as required, the circuit court in the county may summarily order the Director to relinquish his office and turn over corporate records upon application of any owner. In any such action, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

4.6 Board Meetings. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board must be open to all members except for meetings between the Board and its attorney with respect to proposed or pending litigation where members, except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings must be posted in a conspicuous place in the Neighborhood at least forty-eight (48) hours in advance of every meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Neighborhood, notice of each Board meeting must be mailed or delivered to each member at least seven (7) days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessment. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers. Any owner may tape-record or videotape meetings of the Board of Directors and meetings of the members. The Board of Directors may adopt reasonable rules governing the taping of meetings of the Board and the membership.

4.7 Waiver of Notice by Directors. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.8 Quorum of Directors. A quorum at a Board meeting shall exist only when a majority of all Directors are present in person. Directors may participate in any meeting of the Board, or meeting of an executive or other committee by means of a conference telephone call or other similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.9 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a later time. When the meeting is reconvened, provided a quorum is then present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.10 Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present.

4.11 Vote Required. The acts approved by a majority of those Directors who are present and voting at a Board meeting at which a quorum has been attained shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Governing Documents or by law. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of the point of view that prevails on any question, unless he voted against such action or abstained from voting because of an asserted conflict of interest.

4.12 Directors' Fees and Reimbursement of Expenses. No compensation or fees shall be paid to Directors for their service as Directors. Directors may be reimbursed for all actual and proper out-of-pocket expenses related to the proper discharge of their respective duties.

4.13 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Neighborhood. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. The meetings of any committee, including any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the Association, must be conducted with the same formalities as required for meetings of the Board.

4.14 Emergency Powers. In the event of any "emergency" as defined in Section 4.14(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statute, as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director of Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association, and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) For purposes of this Section 4.14, and "emergency" exists only during a period of time that the Neighborhood, or the immediate geographic area in which the Neighborhood is located, is subjected to:

- (1) a state of emergency declared by law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) designation by federal or state government as a "disaster area" or
- (5) a catastrophic occurrence, whether natural or man-made, which seriously damages or threatens serious damage to the Neighborhood, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or acts of terrorism.

5. **OFFICERS.** Officers are elected by majority vote of the entire Board and serve at the pleasure of the Board. The executive officers of the Association shall be a President, and a Vice President, who must be Directors, and a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person except the President may hold two or more offices. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.1 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring the seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.2 Vice-Presidents. The Vice Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall prescribe.

5.3 Secretary. The Secretary shall attend all meetings of the board of Directors and all meetings of the members and shall be responsible for the recording of all votes, and the minutes of all proceedings, in a book to be kept for the purpose, and shall perform like duties for standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of the President. He shall keep in safe custody the seal of the Association and when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one is designated.

5.4 Treasurer. The Treasurer shall be responsible for the safekeeping of Association funds and assets, budget preparation and the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meeting of the Board, or when ever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

5.5 Compensation of Officers. No compensation shall be paid to any member for services as an officer of the Association. This provision does not preclude the Board of Directors from employing officers in other capacities as employees of the Association.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

OR: 2323 PG: 2865

6.1 Depository. The Association shall maintain its funds in accounts in such federally insured accounts at financial institutions in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association fund in interest bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

6.2 Accounts and Accounting Procedures. The financial and accounting records of the Association, must be kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven(7) years. The financial and accounting records must include:

- (A) Accurate, itemized, and detailed records of all receipts and expenditures.
- (B) A current account and a period statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment to other charge against the member, the date and amount of each payment on the account, and the balance due.
- (C) All tax returns, financial statements, and financial reports of the Association.
- (D) Any other records that identify, measure, record or communicate financial information.

6.3 Budget. The Board of Directors shall adopt in advance an annual budget of common expenses for each fiscal year. The budget must reflect the estimated revenues and expenses for the next fiscal year, and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Developer, or another person. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be considered shall be mailed to or served on each owner not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income accounts and expense classifications. The minutes of the Association shall reflect the adoption of the budget, and a copy of the proposed and adopted budgets shall be maintained as part of the financial records of the Association. If an annual budget has not been adopted at the time and first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each Lot's next due quarterly installment.

6.4 Reserves. The Board may establish one or more reserve accounts for contingencies, cash flow shortfalls, capital expenditures, and deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for

special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

6.5 Assessments. Regular annual assessments based on the adopted budget shall be paid in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to all Members at least ten (10) days prior to the due date. Failure to send or receive such notice does not excuse the obligation to pay.

6.6 Special Assessments. Subject to the limitations in Section 7.6 of the Declaration, special assessments may be imposed by the Board of Directors whenever necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses, or for such other purposes as are authorized by the Declaration and these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The notice of any special assessment must contain a statement of the purpose(s) of the assessment, and the funds collected must be spent for the stated purpose(s) or credited back to the members' accounts.

6.7 Fidelity Bonds. The President, Secretary, Treasurer, and any persons who are authorized to sign checks, shall be bonded in such amounts as may be required by law or by the Board of Directors. The premiums on such bonds shall be a common expense.

6.8 Financial Reporting. The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association shall, within ten (10) business days after the report is prepared, provide each member with a copy of the report, or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

(A) Financial statements presented in conformity with generally accepted accounting principles; or

(B) A financial report of actual receipts and expenditures, cash basis, which report must show:

- (1) The amount of receipts and expenditures by classification; and
- (2) The beginning and ending cash balances of the Association.

6.9 Audit. A formal, certified audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Board of Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all owners.

6.10 Application of Payments. All payments on account by an owner shall be applied first to interest, then to late payment fees, then to attorney's fees and costs, then to other charges, and finally to unpaid regular and special assessments, in the order they first came due.

6.11 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each year.

7. RULES AND REGULATIONS; USE AND RESTRICTIONS. The Board of Directors may, from time to time adopt and amend reasonable rules and regulations governing the operation, use maintenance, management and control of the Neighborhood Common Areas and the operation of the Association. Copies of such rules and regulations shall be furnished to each owner. The Board shall have the power to impose fines and suspensions of common area use privileges, as further provided in Section 11.3 of the Declaration, for violations of the rules and regulations.

8. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner.

8.1 Proposal. Amendments to these Bylaws may be proposed by a majority of the Board of by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests.

8.2 Procedure. Upon any amendment to these Bylaws being so proposed by the Board or owners, such proposed amendment shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

8.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests of the Association present and voting at any annual or special meeting called for the purpose, provided that the full text of any proposed amendment has been given to the Members with notice of the meeting. Prior to the Turnover of Control of the Association by the Developer as provided for a Section 15 of the Declaration, Bylaw amendment may be adopted by vote of a majority of the Directors, without need for a vote of the owners.

8.4 Effective Date, Recording. A copy of each amendment shall be attached to a certificate that the amendment was duly adopted, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida. The certificate must identify the book and page of the Public Records where the Declaration was originally recorded.

9. MISCELLANEOUS.

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

9.2 **Severability.** Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

9.3 **Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or Articles of Incorporation, the provisions of the Declaration and the Articles of Incorporation shall prevail over the provisions of the Bylaws.

The foregoing constitute the first Bylaws of Augusta Falls Homeowners Association, Inc., and were duly adopted at the first meeting of the Board of Directors held on October 17, 1996.

Date: October 18, 1996

Michel Saack
President

(corporate seal)

Attest:

Ann A. Walsh
Secretary

*** OR: 2323 PG: 2859 ***

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL
03/16/98 at 01:46PM DWIGHT E. BROCK, CLERK

RRC FEE	10.50
COPYS	2.00
MISC	1.00

Retn:
VINEYARDS DEVELOPMENT CORP
98 VINEYARDS BLVD
MAPLES FL 34119

**FIRST AMENDMENT TO
THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AUGUSTA FALLS**

This Amendment is made this 12th day of March, 1998, by Vineyards Development Corporation, a Florida corporation (the "Developer" or "Declarant") for itself and its successors and/or assigns.

WHEREAS, the Declarant recorded the Declaration of Covenants, Conditions and Restrictions for Augusta Falls in the Official Records of Collier County, Florida, O.R. Book 2323, Page 2821, et seq. on June 16, 1997.

WHEREAS, the Declarant has the right under Article 13.3 to amend the Declaration and wishes to amend the Declaration.

NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

1. Paragraph 7.1 is deleted in its entirety and the following inserted:


7.1 Maintenance of Units. The maintenance, repair and replacement of each Lot and Living Unit is the responsibility of its Owner except that the Association will enter into a landscape maintenance contract with a landscaper of the Association's choice to maintain any and all Lots with a Living Unit constructed on them. The payments required under the maintenance contract will be billed as part of the annual assessments. Whereas the maintenance contract may accomplish all of the Owners obligations listed below, if it does not cover any of these items, they shall remain the obligation of the Owner.

The Owner shall keep the appearance of the Lot and all landscaping and improvements in a condition comparable to when they were new, except normal wear and weathering. The Owner is responsible for his own driveway and the components of the irrigation system serving his Lot up to and including the tap on the main irrigation line, timers, switch devices and heads.

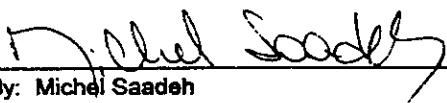
2. All other terms and conditions contained in the Declaration shall remain in full force and effect, except as they may be contrary to the above in which case the above shall control.

IN WITNESS WHEREOF, the Declarant does hereby execute this Amendment through its undersigned, duly authorized officer.

VINEYARDS DEVELOPMENT CORPORATION



Witness Robert F. Rogers



By: Michel Saadeh
Its: President & CEO




Witness Linda H. Fowell

STATE OF FLORIDA
COUNTY OF COLLIER

On this 12th day of March, 1998, before me, personally appeared Michel Saadeh as President & CEO of Vineyards Development Corporation, who is personally known to me, and he acknowledged that he executed the foregoing instrument on behalf of the corporation, for the purposes expressed therein.



ROBERT ROGERS
My Commission CC541184
Expires Mar. 19, 2000



Notary Public

P:\DATA\USERS\ROBERT\DEVELOP\AUGUSTA\AMEND 1

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL
12/01/98 at 10:04AM MIGHT E. BROCK, CLERK

RDC FEE	15.00
COPIES	3.00
RISC	1.00

Date:
ROBERT F ROGERS
90 VINEYARDS BLVD
NAPLES FL 34119

**SECOND AMENDMENT TO
THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AUGUSTA FALLS**

This Amendment is made this 4th day of November, 1998,
by Vineyards Development Corporation, a Florida corporation (the "Developer" or
"Declarant") for itself and its successors and/or assigns.

WHEREAS, the Declarant recorded the Declaration of Covenants, Conditions and
Restrictions for Augusta Falls in the Official Records of Collier County, Florida, O.D. Book
2323, Page 2821, et seq. on June 18, 1997.

WHEREAS, the Declarant has the right under Article 13.3 to amend the Declaration
and wishes to amend the Declaration.

NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

1. A Paragraph 6.7 which reads as follows is hereby added to the Declaration:

6.7 Pool/Pool Maintenance. Notwithstanding anything in the Declaration to
the contrary, the pool located as described on Exhibit B (the "Pool") is hereby
available for use by residents of Fountainhead at the Vineyards provided the
particular resident has paid all assessments as required below and under the
Declaration of Covenants, Conditions and Restrictions for Fountainhead at the
Vineyards. The Fountainhead resident's shall have all of the rights, privileges
and duties, including, but not limited to, the payment of all maintenance and
other assessments relating to the Pool (the "Assessments") as Augusta Falls'
residents regarding the use and maintenance of the Pool and shall be subject to
all Pool rules and regulations except as stated below.

The method of payment of the Assessments by Fountainhead's residents will
be in the exact same manner as presently assessed to Augusta Fall's residents.
The amount of the assessment shall be prorated based upon the total number of
residents in Fountainhead and Augusta Falls.

The determination of who will provide said maintenance and all other administrative decisions relating to the Pool shall remain in the purview of the Board of Directors of Augusta Falls.

The provisions of this amendment may only be changed (1) by the Developer, in the Developer's sole discretion, or (2) after turnover of both communities by the Developer, by both a majority vote of the residents of Augusta Falls and a majority vote of the residents of Fountainhead.

- 2. Attached hereto as Exhibit A is a Joinder and Consent executed by residents of Augusta Falls.
- 3. All other terms and conditions contained in the Declaration shall remain in full force and effect, except as they may be contrary to the above, in which case the above shall control.

IN WITNESS WHEREOF, the Declarant does hereby execute this Amendment through its undersigned, duly authorized officer.

VINEYARDS DEVELOPMENT CORPORATION

[Signature]
Witness SANDRA WATSON

[Signature]
By: Michel Saadeh
Its: President & CEO

[Signature]
Witness LINDA S. WARRS

STATE OF FLORIDA
COUNTY OF COLLIER

On this 9th day of November, 1998, before me, personally appeared Michel Saadeh as President & CEO of Vineyards Development Corporation, who is personally known to me, and he acknowledged that he executed the foregoing instrument on behalf of the corporation, for the purposes expressed therein.



ROBERT ROGERS
My Commission CC541184
Expires Mar. 19, 2000

[Signature]
Notary Public

P:\DATA\USERS\ROBERT\DEVELOP\AUGUSTA\AMEND.2

EXHIBIT A

JOINDER AND CONSENT

THIS JOINDER AND CONSENT is given this 28 day of SEPT, 1998 by all of the present residents of Augusta Falls the Vineyards listed below ("Owners").

WHEREAS, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owners have been requested to join in and consent to the recording of the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Augusta Falls at the Vineyards (the "Second Amendment"):

NOW, THEREFORE, the Owners hereby consent to and join in the recordation of the Third Amendment.

The Owners make no warranty or representation of any kind or nature concerning the Third Amendment, or the legal sufficiency thereof, disavow and do not assume and shall not be responsible for any of the obligations or liabilities of the Declarant in connection with Fountainhead at the Vineyards.

Made as of the day and year first above written.

C Domingo
Concepcion Domingo

Date: 09-28-98

N Domingo
Narciso Domingo

Date: 09-28-98

Date: _____

Retn:

BERRY & GRUBER

1104 W COLLIER BLVD

MARCO ISLAND FL 34145

**THIRD AMENDMENT TO
THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR AUGUSTA FALLS**

This Amendment is made this 22nd day of October, 2003, by Augusta Falls Homeowners Association, Inc., a Florida Corporation (the "Association") for itself and its successors and/or assigns.

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Augusta Falls (the "Declaration") were recorded in the Official Records of Collier County, Florida, O.D. Book 2323, Page 2821, et seq. on June 18, 1997.

WHEREAS, the Association has the right under Paragraphs 15.2 and 15.3 of the Declaration to amend the Declaration and wishes to amend the Declaration.

WHEREAS, at least two-thirds of the members of the Association present and voting at a special meeting of the Association on October 22, 2003 approved the amendment of the Declaration set forth immediately below.

NOW, THEREFORE, the Association hereby amends the Declaration as follows:

1. A paragraph 16.6 which reads as follows is hereby added to the Declaration:

16.6 Indemnification. The Association shall indemnify every director, every officer, and every duly appointed committee member of the Association against all expenses and liabilities including attorney's fees incurred by or imposed on them in connection with any legal proceeding to which he may become a party as a result of his position, whether current or past, as an officer, director, or duly appointed committee member of the Association, provided however, said indemnification shall not apply in the event of gross negligence or willful misconduct of the director or officer or duly appointed committee member, or in any criminal action, unless the director or officer or duly appointed committee member acted in good faith and in a manner he reasonable believed was in the best interest of the Association.

2. All other terms and conditions contained in the Declaration shall remain in full force and effect, except as they may be contrary to the above in which case the above shall control.

IN WITNESS WHEREOF, the Association does hereby execute this Amendment through its undersigned, duly authorized officer.

AUGUSTA FALLS HOMEOWNERS ASSOCIATION, INC.

Jule James Osberg
By: Jule James Osberg
Its: President

William W. Schmidt
Witness: William W. Schmidt

Donald L. Hudec
Witness: Donald L. Hudec

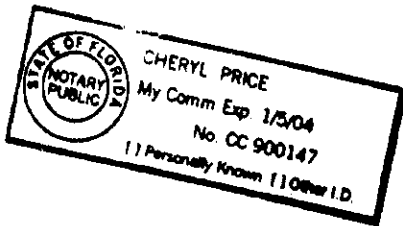
State of Florida
County of Collier

22nd The foregoing instrument was acknowledged before me on this day of October, 2003 by Jule James Osberg who is personally known to me or who provided:

Florida Driver's License Number - - - - -
as identification.

[Signature]

Notary Public



Retn:
BERRY & GREUSEL
1104 N COLLIER BLVD
MARCO ISLAND FL 34145

FIRST AMENDMENT TO THE BYLAWS FOR AUGUSTA FALLS HOMEOWNERS ASSOCIATION

This Amendment is made this 22nd day of October, 2003, by Augusta Falls Homeowners Association, Inc., a Florida Corporation (the "Association") for itself and its successors and/or assigns.

WHEREAS, the Bylaws of Augusta Falls Homeowners Association (the "Bylaws") were recorded in the Official Records of Collier County, Florida, O.R. Book 2323, Page 2857, et seq. on June 18, 1997.

WHEREAS, the Association has the right under Section 8 of the Bylaws to amend the Bylaws and wishes to amend the Bylaws.

WHEREAS, at least two-thirds of the members of the Association present and voting at a special meeting of the Association on October 22, 2003 approved the amendment of the Bylaws set forth immediately below.

NOW, THEREFORE, the Association hereby amends paragraphs 3.3 and 4.6 of its Bylaws as shown below, wherein new words are shown underlined and deleted words are shown stricken:

1. Amended paragraph 3.3 of the Bylaws reads as follows:

3.3 Notice of Meetings. Notices of all meeting of the Members must be mailed or hand-delivered to the members, or electronically transmitted to those members who consent in writing to electronically transmitted notices, at ~~least~~ least fourteen (14) days before the meeting, and must state the time, date, and place of the meeting, and include a detailed agenda. Mailed or electronically transmitted notices must be sent to each member at his address for the receipt of mail or for electronically transmitted messages, as it appears on the books of the Association. Each member bears the responsibility for notifying the Association in writing of any change of address or of consent to electronically transmitted messages. A person entitled to ~~received~~ receive notice of any meeting may waive notice altogether by written waiver. Notice of any meeting may be hand-delivered if a written waiver of mailing is obtained. If ownership of a Unit is transferred after a notice has been mailed, no separate notice to the new owner is required. Attendance at any meeting by a member constitutes a waiver of notice by that member, unless the member objects to the lack of notice at the beginning of a meeting.

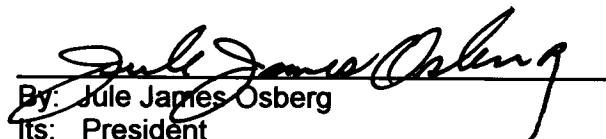
2. Amended paragraph 4.6 of the Bylaws reads as follows:


4.6 Board Meeting. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board must be open to all members except for meetings between the Board and its attorney with respect to proposed or pending litigation where members, except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all Board meetings must be posted in a conspicuous place in the Neighborhood at least forty-eight (48) hours in advance of every meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Neighborhood, notice of each Board meeting must be mailed or delivered to each member, or electronically transmitted to those members who consent in writing to electronically transmitted notices, at least seven (7) days before the meeting, except in an emergency. Mailed or electronically transmitted notices must be sent to each member at his address for the receipt of mail or for electronically transmitted messages, as it appears on the books of the Association. Each member bears the responsibility for notifying the Association in writing of any change of address or of consent to electronically transmitted messages. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessment. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers. any Any owner may tape-record or videotape meetings of the Board of Directors and meetings of the members. The Board of Directors may adopt reasonable rules governing the taping of meetings of the Board and the membership.

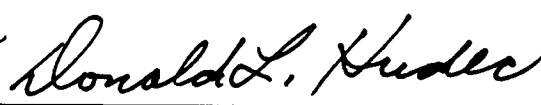
3. All other terms and conditions contained in the Bylaws shall remain in full force and effect, except as they may be contrary to the above in which case the above shall control.

IN WITNESS WHEREOF, the Association does hereby execute this Amendment through its undersigned, duly authorized officer.

AUGUSTA FALLS HOMEOWNERS ASSOCIATION, INC.


By: Jule James Osberg
Its: President

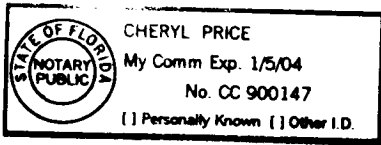

Witness: William W. Schmidt

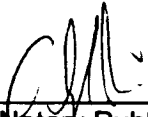

Witness: Donald L. Hudec

State of Florida
County of Collier

The foregoing instrument was acknowledged before me on this 12th day of November, 2003 by Jule James Osberg who is personally known to me or who provided:

Florida Driver's License Number - - - -
as identification.





Notary Public