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PRAIRIE CREEK

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made as of the date hereinafter set forth, by Maiden Partnership, Ltd., a limited partnership authorized to do and doing business in the State of Florida, hereinafter referred to as "Declarant".

W-I T-N-E-S-S-E-T-H:

WHEREAS, Declarant is the owner of the following described real property situated, lying and being in St. Johns County, Florida; and

WHEREAS, the following described property is not subject to any restrictions and limitations of record; and

WHEREAS, it is now desired by the Declarant to place restrictions and limitations of record as to each and every of the lots hereafter set forth located in Prairie Creek subdivision, and to limit the use for which each and every of said lots located in Prairie Creek subdivision is intended.

NOW, THEREFORE, the Declarant does hereby declare that each and every of the lots located in the following described real property, situate, lying and being in St. Johns County, Florida, to-wit:

PRAIRIE CREEK, according to the plat thereof recorded in Map Book 12, Pages 54 through 57, inclusive, of the Public Records of St. Johns County, Florida, less and excepting the entrance road right of way, named Osceola Trail, and the Loop Road right of way, named Crazy Horse Trail, as recorded in the above mentioned recorded Plat,

shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of protecting the value and desirability of, and which shall be covenants to run with said lots and be binding on

all parties having any right, title or interest in the lots described above or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.01. ASSOCIATION: "Association" shall mean and refer to Moultrie Creek Property Owners Association, Inc., a corporation not for profit, organized and existing under the laws of the State of Florida, its successors and assigns.

1.02. COMMITTEE: "Committee" shall mean and refer to the Architectural Design Committee which shall be appointed by the Association.

1.03. OWNER: "Owner" shall mean and refer to the owner of record, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including Owners who have contracted to sell, but excluding those having such interest merely as security for the performance of an obligation.

1.04. PROPERTY: "Property" shall mean and refer to the real property described above, and such other real property as may hereafter be brought within the jurisdiction of the Association.

1.05. COMMON AREA: "Common Area" shall mean and refer to all real property and improvements located thereon of the real property dedicated from time to time by the Declarant to the Association and owned from time to time by the Association for the common use and enjoyment of the Owners.

1.06. LOT: "Lot" shall mean and refer to the lots of land described in the plat of Prairie Creek, according to plat thereof recorded in Map Book 12, Pages 54 through 57, inclusive, of the current public records of St. Johns County, Florida.

1.07. MEMBER: "Member" shall mean and refer to every person or entity who holds membership in the Association pursuant to the provisions of this instrument, the Articles of Incorporation and the By-Laws of the Association.

1.08. DECLARANT: "Declarant" shall mean and refer to Maiden Partnership, Ltd., a limited partnership authorized to do and doing business in the State of Florida, its successors and assigns.

1.08. SUBDIVISION: "Subdivision" shall mean and refer to all the real property above described and recorded as Prairie Creek and any and all future real property to be platted by the Declarant, its successors and assigns as Prairie Creek subdivision, in the Official Records of St. Johns County, Florida.

1.09. SUCCESSORS AND ASSIGNS: "Successors and Assigns" shall mean and refer to the successors or assigns of legal or equitable interests of the Declarant, who are designated as such by an instrument in writing signed by the Declarant and recorded among the Public Records of St. Johns County, Florida, specifically referring to this provision of these restrictions. As used in these Restrictions, the words "successors and assigns" shall NOT be deemed to refer to an individual purchaser of a Lot or Lots in Prairie Creek.

1.10. COMMITTEE APPROVAL: "Committee Approval" shall mean and refer to written approval by the Committee.

1.11. BUILDING RESTRICTION LINE: "Building Restriction Line" shall mean and refer to the building restriction line as indicated on the Prairie Creek plat, above mentioned, as to Lots 12 through 24.

## ARTICLE II RESTRICTIONS

### USE RESTRICTION.

1.01. Each and every of the Lots described above shall be known and described as Residential Lots, and no structure shall be constructed or erected on any Residential Lots other than one (1) detached single family dwelling not to exceed two (2) stories in height, including an attached two-car garage,

SETBACK RESTRICTIONS.

2.01. No building or permanent structure shall be erected on any of said Lots nearer than twenty-five (25) feet to the front lot lines of said Lots, nor nearer than twelve and one-half (12.5) feet to any interior side lot lines. For the purpose of this covenant, eaves and steps shall be considered as part of the permanent structure. Concerning Lots 1 through 4 and 25 through 40, no structure shall be permitted nearer than twenty-five (25) feet to the rear lot line without approval of the Committee. Concerning Lots 12 through 24, any structure east of the Building Restriction Line must be approved by the Committee. For the purpose of this Covenant, concerning Lots 28 and 29, the front of the main structure will face the east lot line. Swimming pools, with or without enclosures, may not be erected or placed on the Lots unless and until their location and architectural and structural design have been approved in writing by the Committee.

2.02. When two or more Lots are used as one building site, the setback restrictions set forth in Paragraph 2.01 of this Article and easements shall apply to the exterior perimeter of the combined site, and the property owner must build across the Lot line or lines.

RESIDENTIAL SITES AND BUILDING SIZE RESTRICTIONS.

3.01. None of said Lots shall be divided or resubdivided unless both portions of said Lots are to be used to increase the size of an adjacent Lot or the adjacent Lots as platted. Divided portions of Lots must extend in a straight line from fronting street line to existing rear property line. No lot shall be replatted, with the exception of Tract A.

3.02. No property or Lot in this subdivision shall be built on that is less than one (1) acre.

3.03. Every structure placed on any Lot shall be constructed from material which has been approved in writing by the Committee.

3.04. No residence shall be constructed or maintained upon Lots 1 through 4 and 25 through 40 which shall have a smaller living floor area (exclusive of porches, patios and garages) than 1,500 square feet. No residence shall be constructed or maintained upon Lots 5 through 11 which shall have a smaller living floor area (exclusive of porches, patios and garages) than 2,000 square feet. No residence shall be constructed or maintained upon Lots 12 through 24 which shall have a smaller living floor area (exclusive of porches, patios and garages) than 1,750 square feet. If any of the structures on Lots 1 through 40 be two-story, the minimum ground floor living area (exclusive of porches, patios and garages) shall be 1,000 square feet.

3.05. All garage entrances must be at the end of the building or the rear of the building, except corner Lots, and Lots 28 and 29.

3.06. No window air-conditioning units shall be installed in any side of a building which faces an access way, unless prior approval has been obtained from the Committee.

#### NUISANCES, TRASH AND SIMILAR RESTRICTIONS.

4.01. No noxious or offensive trade shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

4.02. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on any Lot shall at any time be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

4.03. No sign of any kind shall be displayed on any Lot, except the owner's name and number of residence plate. Specifications and approval as to the size, location, design and type of material of each such residence plate shall be at the sole discretion of the Committee.

4.04. No oil drillings, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tunnels,



mineral excavation or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

4.05. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided they are maintained in a clean and sanitary condition and kept within the Owner's property.

4.06. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, derelict vehicles or fixtures, and other waste shall not be allowed to accumulate and shall not be kept except in sanitary containers, which shall be maintained in a clean and sanitary condition and contained within an enclosed structure which shall be in conformity with the residential structure and approved by the Committee.

4.07. No cars, tractors, trucks, trailers or other wheeled vehicles may be parked at any time on any street or right-of-way of Prairie Creek.

4.08. No wheeled vehicles of any kind, or boats may be kept or parked on the Lot unless the same are completely inside a garage or similar completely enclosed structure except that private automobiles of the occupants, bearing no commercial signs may be parked in the driveway on the Lot from the commencement of use thereof in the morning to the cessation of use thereof in the evening, and except that private automobiles of guests of the occupants may be parked in such driveway, and except that other vehicles may be parked in such driveway during the times necessary for pickup and delivery service and solely for the purpose of such service.

4.09. No clothesline or clothes pole may be placed on any Lot unless it is placed on the Lot in such a manner as to make it least visible to any street, and it is not attached to the main residence.

4.10. No antenna or aerial of any nature shall be installed or placed on any Lot or property or to the exterior of any single family dwelling or accessory building thereto without the prior written approval of the Committee.

4.11. No property Owner may cut a tree with a diameter in excess of six (6) inches, without the prior approval of the Committee.

4.12. No mailbox, newspaper box or similar holder shall be permitted on property Owners Lots. Design, size and location for mailboxes will be provided by the Declarant.

4.13. No lawn, fence, hedge, tree or landscaping feature on any of said Lots shall be allowed to become obnoxious, overgrown or unsightly in the sole reasonable judgment of the Association, or their duly appointed Committee. In the event that any lawn, fence, hedge, tree or landscaping feature shall become obnoxious, overgrown, unsightly or unreasonably high, the Association, or its duly authorized agent, as is hereafter described, shall have the right, but not the obligation, to cut, trim or maintain said lawn, fence, hedge, tree or landscaping feature and to charge the Owner or lessee of the Lot a reasonable sum therefor, and the Association or its duly authorized agent, shall not thereby be deemed guilty of a trespass. If said charge is not paid to the Association within 30 days after a bill therefor is deposited in the mails addressed to the last known Owner or lessee of the Lot at the address of the residence or building on said Lot, or at the address of the Owner as shown in the tax records of St. Johns County, Florida, then said sum shall become delinquent and shall become a lien to be collectible the same as other delinquent fees as set forth in Article VI, Section 4.01. hereof. The Association, or its agent, or the Committee, or its agent, shall have the right, from time to time, to adopt reasonable rules, regulations and standards governing the conditions of lawns, fences, hedges, trees, or landscaping features including, but not limited to, standards regarding the height or growth of grass, trees and bushes, condition of lawns, removal of weeds, replacement of dead or diseased lawns and similar standards.

4.14. Nothing contained in these covenants and restrictions shall prevent the Declarant, or any person designated by the Declarant, from erecting or maintaining such commercial and display signs and such temporary dwellings, model houses, and other structures as the Declarant may deem advisable for development purposes for Prairie Creek.

WELL WATER AND SEPTIC TANK RESTRICTIONS.

5.01. At least the first well of each residence shall be drilled prior to application for approval of placement of the septic tank. All pumps and piping for the water system shall be subterranean, or, if above ground level, shall be enclosed in an appropriate structure or pump house which is in conformity with the residential structure and is approved by the Committee, unless such apparatus is in the interior of the residence. Prior to the use of all wells and septic tanks, said wells and septic tanks shall be approved and in compliance with the standards of all government regulatory commissions. Septic tanks, drains, drain fields or wells shall not be built over easements.

5.02. If and when public (or private) central water and/or central sewage treatment plant and collection systems are provided, each Owner of a Lot to which such system is made available shall, at his expense, connect his water and/or sewage disposal lines to the water and/or sewage collection lines provided to serve that Owner's Lot so as to comply with the requirements of such water and/or sewage collection and disposal service and shall pay contributions in aid-of-construction and connection charges as established or approved by the Declarant or Association. After such connection, each such property Owner shall pay when due the periodic charges or rates for the furnishing of such water and/or sewage collection and disposal service made by the operator thereof. No sewage shall be discharged onto the open ground or into any marsh, lake, pond, park, ravine, drainage ditch or canal or access way. If said water system is installed, well water shall only be used for irrigation, swimming pools, air conditioning and lawn watering.



FENCES.

6.01. All fences shall be a maximum height of six (6) feet and no wire fence shall be permitted within the area between the front of a residence and the street property line, all fences being approved by the Committee. In the event of any dispute between an Owner and the Declarant, or its agent, or the Association, or its agent, or any other Lot Owner as to whether any feature of a fence is restricted by this section, the decision of the Committee regarding such feature, shall be final.

OBSTRUCTIONS TO SIGHT LINES.

7.01. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot or tract within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended, for the purpose of eliminating the danger as to vehicular traffic.

DRAINAGE.

8.01. No changes in elevations of the land shall be made to any Lot which will interfere with the natural drainage of or otherwise cause undue hardship to adjoining property after the initial conveyance of said Lot by the Declarant.

8.02. There shall be no draining or artificial altering or change in the course of the natural flow of water.

ARTICLE III

EASEMENTS

OWNERSHIP AND RIGHT OF WAY.

1.01. All of the property shown on the above referenced plat and designated thereon as entrance right-of-way, named Osceola Trail, and Loop Road right-of-way, named Crazy Horse Trail, and any

additional parcel which may be designated in the future by the Declarant, shall remain privately owned and the sole and exclusive property of the Declarant, its successors and assigns, if any, of said parcels. The Declarant, however, does hereby grant to the present and future owners of the Lots in said Prairie Creek, and their guests, invitees and domestic help, and to delivery, pickup and fire protection services, police and other authorities of the law, United States Mail carriers, representatives of utilities authorized by the Declarant to serve said land, holders of mortgage liens on said land and such other persons as the Declarant from time to time may designate, the nonexclusive and perpetual right of ingress and egress over and across said property, and over and across any additional parcels which may be designated in the future, which parcels are defined and for convenience are

referred to in these covenants and restrictions as "access ways". The Declarant shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Declarant, may create or participate in a disturbance or nuisance on any part of said land and Declarant or its successors or assigns will maintain said access ways until they are dedicated.

1.02. The Declarant, or its successors and assigns, shall have the right, but not the obligation from time to time, to control and regulate all types of traffic on said access ways, including the right to prohibit use of said access ways by traffic which, in the sole opinion of the Declarant, would or might result in damage to said access ways or pavement or other improvements thereon, and the right, but not the obligation, to control and prohibit parking on all or any part of said access ways.

#### UTILITIES.

2.01. All easements for utilities and other purposes shown on the plat of Prairie Creek recorded in the plat records of St. Johns County, Florida, above-mentioned, are hereby reserved as perpetual easements for utility installations and maintenance.

2.02. All the Lots are subject to easements and rights-of-way for erecting, constructing, maintaining or operating water and sewer lines, or poles, wires or conduits for lighting, heating, power, telephone, lines for gas, cable television, and any other method of conducting and performing any public or quasi-public or private utility service or function over or beneath the surface of the ground, as such easements and rights-of-way are reasonably required, in an area extending from the side lot lines of each Lot to a line five (5) feet from said side lot line or lines and running parallel therewith.

ARTICLE IV

MOULTRIE CREEK PROPERTY OWNERS ASSOCIATION, INC.

1.01. Moultrie Creek Property Owners Association, Inc., is a corporation organized not for profit under the laws of the State of Florida. The Corporation was organized to promote the health, safety and welfare of its Class A members, being the property owners of Prairie Creek, St. Johns County, Florida.

1.02. Membership in the Corporation is divided into Class A and Class B membership. Class A members shall be the lot owners and the sole Class B member shall be Maiden Partnership, Ltd. Class A members shall have limited voting power in the Corporation until such time as hereinafter set forth, to-wit: Each Class A member shall be entitled to vote for one (1) position on the Board of Directors of the Corporation. The Class B member shall have full voting powers in the Corporation until January 1, 1986, or such prior time as the Class B member shall determine, in its sole judgment, as evidenced by an amendment to the By-Laws of the Corporation at which time the Class A members shall become full voting members of the Corporation. At such time as the Class A members become full voting members of the Corporation, said Class A members shall be entitled to one (1) vote in the affairs of the Corporation for each lot, tract or parcel owned by said member and the Class B membership shall terminate. In the event

a lot, tract or parcel is owned by more than one person, firm or corporation, the membership relating thereto shall nevertheless have only one (1) vote which shall be exercised by the owner or person designated in writing by the owners as the one entitled to cast the vote for the membership concerned.

1.03. Membership in the Corporation may be transferred only as an incident to the transfer of a Lot or parcel, and such transfer shall be subject to the procedures set forth in these Restrictions.

#### ARTICLE V

##### ARCHITECTURAL DESIGN COMMITTEE

1.01. No residences, additions thereto, add-ons, accessories, garages, porches, pools, fences, antennas, hedges or any other such structures, shall be erected, placed, constructed, altered or maintained upon any portion of said Lots, unless a complete set of plans and specifications therefor, including the exterior color scheme, together with a plot plan indicating the exact location on the building site, shall have been submitted to and approved in writing by the Committee, appointed from time to time by the Association, or its duly authorized subcommittee or agent, and a copy of such plans as finally approved are deposited for permanent record with the Committee. Said Committee shall consist of a minimum of three (3) persons, none of whom shall be required to own property in Prairie Creek. Such plans and specifications shall be submitted in writing and for approval, over the signature of the Owner or his duly authorized agent, on a form which may be prepared by and shall be satisfactory to the Committee and receipted therefor. The approval of said plans and specifications may be withheld, not only because of their noncompliance with any of the specific restrictions contained in this and other clauses hereof, but also by reason of the reasonable dissatisfaction of the Committee or its agent with the grading plan; location of the structure on the building site, the engineering, color scheme, finish, design, proportions, architecture, shape,

height, style or appropriateness of the proposed structure or altered structure, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon, or because of its reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee or its agent, would render the proposed structure inharmonious or out-of-keeping with the general plan of improvement of the Subdivision or with the structures erected on other building sites in the immediate vicinity of the building site on which said structure is proposed to be erected.

1.02. The Committee shall be authorized to establish further reasonable rules and regulations for approval of plans as required by this Article and for approval or interpretation of other matters and things requiring the approval or interpretation of the Committee as otherwise set forth in these restrictions.

1.03. The approval of the Committee for use on any Lot of any plans or specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Committee of its right to object to any of the features or elements embodied in such plans or specifications if and when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided, for use on other Lots.

1.04. If, after such plans and specifications have been approved, any building, fence, wall or other structure or thing shall be altered, erected, placed or maintained upon the Lot otherwise than as approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee ever having been obtained as required by these restrictions.

1.05. Any agent or officer of Declarant or the Committee may from time to time at any reasonable hour or hours in the presence of the occupant thereof enter and inspect any property subject to these restrictions as to its maintenance or improvement in compliance with the provisions hereof; and the



Committee and/or any agent thereof shall not thereby be deemed guilty of any manner of trespass for such entry or inspection.

1.06. For the purpose of making a search upon, or guaranteeing or insuring title to, or any lien on and/or interest in, any of said Lots and for the purpose of protecting purchasers and encumbrancers for value and in good faith as against the performance or nonperformance of any of the acts in the restrictions authorized, permitted or to be approved by the Committee, the records of the Committee shall be prima facie evidence as to all matters shown by such records; and the issuance of a certificate of completion and compliance by the Committee showing that the plans and specifications for the improvements or other matters herein provided for or authorized have been approved, and that said improvements have been made in accordance therewith, or of a certificate as to any matters relating to the Committee shall be prima facie evidence and shall fully justify and protect any title company or persons certifying, guaranteeing or insuring said title, or any lien thereof and/or any interest therein, and shall also fully protect any purchaser or encumbrancer in good faith and for value in acting thereon, as to all matters within the jurisdiction of the Committee. In any event, after the expiration of two (2) years from the date of the completion of construction for any structure, work, improvement or alteration, said structure, work, improvement or alteration shall, in favor of purchasers and encumbrancers in good faith and for value, be deemed to be in compliance with all the provisions hereof, unless actual notice executed by the Committee of such noncompletion and/or noncompliance shall appear of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, or legal proceedings shall have been instituted to enforce compliance with these restrictions.

1.07. In the event the Committee or its duly authorized agent fails to take official action with respect to approval or disapproval of any such design or designs or location or any other matter or thing referred to herein, within thirty (30) days after being submitted and receipted for in writing, then such approval

will not be required, provided that the design and location on the Lot conform to and are in harmony with the existing structures on the Lots in this subdivision. In any event, either with or without the approval of the Committee or its agent, the size and setback requirements of residences shall conform with the requirements contained in these restrictions.

1.08. Any act, decision, or other thing which is required to be done or which may be done in accordance with the provisions of these restrictions by the Committee, may be done by the duly appointed agent or agents of the Committee, which authority may be further delegated.

#### ARTICLE VI

##### MAINTENANCE AND UPKEEP

##### AUTHORITY FOR FEES

1.01. Each ~~and every of said~~ Lots which has been sold, leased or conveyed by the Declarant, except Lots dedicated, reserved, taken or sold for public improvements or use, shall be subject to the per Lot maintenance fees as hereinafter provided. The entity responsible for the collection of the fees and for the disbursement of and accounting for funds is the Association. The operation of the Association shall be governed by the By-Laws of the Association, a copy of which is attached to Restrictions affecting certain lots in Prairie Creek, recorded in Book 296, Pages 601 through 635, inclusive of the Official Records of St. Johns County, Florida. No modification or amendment to the By-Laws of said Association shall be valid unless set forth in or annexed to a duly recorded amendment to the By-Laws in accordance with the formalities set forth herein. The By-Laws may be amended in the manner provided for therein, but no amendment to said By-Laws shall be adopted which would affect or impair the validity or priority of any mortgage covering or encumbering any Lot or which would change Section 3.01 herein pertaining to the amount and fixing of fees.

MEMBERSHIP.

2.01. Every Owner of any of said Lots, whether he has acquired the ownership by purchase, gift, conveyance or transfer by operation of law, or otherwise, shall be a member of the Association and shall be bound by the Certificate of Incorporation and By-Laws of the Association as they may exist from time to time. All maintenance and upkeep fees shall not be increased without the prior written consent of the Association.

FEES.

3.01. The initial monthly fee to be paid to the Association for maintenance and upkeep as is further described herein upon each and every of said Lots subject thereto, whether vacant lots or improved lots, shall be \$25.00 per month. Said fees shall be due and payable in advance on or before the first day of each and every month for the next succeeding month. Initial fees for a partial month may be collected in advance on a prorated basis. The Association may, but shall not be required to, provide for a reasonable and legal rate of interest to accrue on any of said overdue installments and may change the rate of interest from time to time. The Association may increase said fees from time to time as is hereinafter provided, but said initial fees shall not be increased prior to January 1, 1978. Thereafter, said fees may be increased or decreased by the Association, except that the said monthly charge or fee per Lot shall not be raised more than twenty-five percent (25%) of the then existing fee during any one (1) calendar year. Said fees may not be raised to a sum more than double the initial fees without the joint consent of the owners of record of not less than fifty-one percent (51%), in number, of all the Lot Owners subject thereto who actually vote for or against said increase including the Owners of those Lots covered by other restrictions containing similar provisions affecting other Lots shown on plats of units of Prairie Creek whether recorded now or in the future, and if said fees are decreased or extinguished by the Association, the services provided

by the Association may be decreased or extinguished so that the Association shall not be required to pay more for the service hereinafter enumerated than is collected by said fees. In regard to said joint consent, the Owner of each Lot shall be entitled to one (1) vote for each Lot owned by him and each Lot shall not be entitled to more than one (1) vote.

3.02. In the event any sales taxes or other taxes are required to be paid or collected on said fees by any governmental authority, said taxes shall be added to the fees due from time to time.

3.03. The Association shall not make a profit from the collection of said fees or from the furnishing of the services hereinafter enumerated and all of said fees shall be appropriated and spent for the things hereinafter enumerated, except that the Association shall apply a reasonable portion thereof to be retained as reserves for various contingencies. Said fees shall not be spent or used for any development costs of the Declarant, or for the maintenance and upkeep of any Lots owned by the Declarant prior to the first sale, conveyance or lease of said Lots by the Declarant. The Association shall account to the Lot Owners as to the method of spending of said funds at least once each and every calendar year commencing with the year 1978. Said accounting shall be made in conformity with generally accepted accounting principles applied on a consistent basis and if said accounting is certified by a Certified Public Accountant, then the accounting shall be conclusively presumed to be accurate as set forth therein.

3.04. The Association may comingle the sums collected hereunder with those collected under other similar provisions of other recorded restrictions affecting other lands shown on plats of Prairie Creek, recorded now or in the future in the Public Records of St. Johns County, Florida, which funds are intended thereby to be used for similar purposes.

LIENS.

4.01. Each such fee and interest thereon and reasonable

court costs and legal fees expended in the collection thereof shall from the date it is due, or expended, constitute a lien on the lot or property with respect to which it is due. The Association may take such action as it deems necessary to collect overdue fees by personal action or by enforcing and foreclosing said lien and the Association may negotiate disputed claims or liens and settle or compromise said claims. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose said lien and to apply as a cash credit against its bid, all sums due the Association covered by the lien foreclosed. In case of such foreclosure, the Lot Owner shall be required to pay a reasonable rental for the Lot, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect same. The Association may file for record in the Office of the Clerk of the Circuit Court of St. Johns County, Florida, on and after sixty (60) days after a fee is overdue, the amount of said overdue fee, together with the interest and costs thereon and a description of the Lot and the name of the Owner thereof and such additional information, as may be desirable, and upon payment in full thereof, the Association shall execute a proper recordable release of said lien.

4.02. Said lien shall be subordinate to any institutional first mortgage or first trust. Where an institutional first mortgage or lender of record or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of said mortgage or where an institutional first mortgagee of record accepts a deed to said Lot in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the fees due to the Association pertaining to such Lot and chargeable to the former Lot owner of such Lot which became due prior to acquisition of title as a result of the foreclosure, or the acceptance of such deed in lieu of foreclosure. The term "institutional first mortgagee" means a bank, or a savings and loan association, or an insurance company, or a pension fund, or a bona fide mortgage company, or a real estate investment trust, transacting business in Florida which owns or holds a mortgage encumbering a subdivision parcel.



4.03. Any person who acquires an interest in a Lot except through foreclosure of an institutional first mortgage of record (or deed in lieu thereof) including purchasers at judicial sales, shall not be entitled to occupancy of the Lot until such time as all unpaid fees due and owing by the former Lot Owner have been paid.

4.04. The Association shall have the right to assign its claim and lien rights for the recovery of any unpaid fee to any Lot Owner or group of Lot Owners or to any third party.

4.05. The purchasers or lessees of Lots or parcels in Prairie Creek by the acceptance of deeds or leases therefor, whether from the Declarant or subsequent owners or lessees of such Lots, or by the signing of contracts or agreements to purchase the same, shall become personally obligated to pay such fees including interest upon Lots purchased or agreed to be purchased by them, and if payment is not made as provided for herein, said fees shall constitute a lien on the said Lot as otherwise provided for herein, and the Association shall have and retain the right or power to bring all actions for the collection of such fees and interest and the enforcement of the lien securing the same. Such right and power shall continue in the Association and its assigns and such obligation is to run with the land so that the successors or Owners of record of any portion of said property, and the holder or holders of contracts or agreements for the purchase thereof, shall in turn become liable for the payment of such fees and interest which shall have become due during their Ownership thereof.

UNSOLD/REPOSSESSED LOTS.

5.01. The Declarant or its successors and assigns, shall not be obligated to pay to the Association any fees upon any of said Lots owned by the Declarant which are subject thereto, prior to the first sale, conveyance or lease of said Lots by the Declarant, but shall be obligated to pay any such fees for any Lot or Lots acquired from successive Owners of said Lots.

USE OF FEES.

6.01. Upon the Declarant deeding to the Association, the Association shall apply the proceeds received from such fees toward the payment of the cost of any of the following matters and things in any part of Prairie Creek, whether within units partially or fully restricted by other restrictions recorded or intended to be recorded or recorded in the future in the Public Records of St. Johns County, Florida, affecting properties located in Prairie Creek, namely:

- A. Maintain the streets and mow grass on the road rights-of-way;
- B. Maintain two (2) tennis courts;
- C. Maintain guard gate and provide guard and/or patrol service from dusk to dawn commencing with the beginning of the erection of the first dwelling;
- D. Maintain the common areas;

upon the dedication of each of the above by the Declarant to the Association.

6.02. The enumeration of the matters and things for which the proceeds may be applied shall not require that the Association actually spend the said proceeds on all of said matters and things or during the year that said fees are collected and the Association shall apportion the monies between said matters and things and at such times as it may determine in its sole judgment to be reasonably exercised.

6.03. No lot owner, parcel owner or lessee shall be excused from the payment of the fees provided for herein because of his or her failure to use any of the said facilities to be maintained.

6.04. The Association may assign its rights, duties and obligations under this section, including its right to collect said fees and to have same secured by a lien and its obligation to perform the services required hereunder, by recording an appropriate assignment document in the Official Records of St. Johns

County, Florida, making said assignment.

6.05. Reference herein to the fees shall include the fees set forth and shall also include such reasonable collection expenses, court costs and attorney's fees as may be expended in the collection of said fees.

ARTICLE VII  
MISCELLANEOUS

ADDITIONAL RESTRICTIONS.

1.01. The Declarant may, in its sole judgment, to be reasonably exercised, make reasonable modifications, amendments or additions to these restrictions applicable to the said Lots, provided, however, that any such additional restrictive covenants or modifications or amendments thereto shall not affect the lien of any mortgage then encumbering any of the said lots and shall not affect the rights and powers of any mortgagees under said mortgages and provided further that any additional restrictions, covenants or modifications, or amendments shall not change Article VI, Section 3.01 herein pertaining to the amount and fixing of fees. No modifications, amendments or additions will be made to the restrictions without the prior written approval of the Association.

DURATION OF RESTRICTIONS.

2.01. These covenants and restrictions are to run with the land and shall be binding upon the undersigned and upon all the parties and all persons claiming under them until December 31, 2000, at which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years, unless commencing with the year, 1986, by vote of ninety percent (90%) of the then Owners of all of the Lots or tracts in Prairie Creek, or commencing with the year 2001, by vote of seventy-five percent (75%) of the then Owners of all of the Lots or tracts in Prairie Creek, it is agreed to change said covenants in whole or in part.

REMEDIES FOR VIOLATIONS.

3.01. In the event of a violation or breach of any of these restrictions by any person or concern claiming by, through or under the Declarant, or by virtue of any judicial proceedings, any member of the Association, or any of them jointly or severally shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation, restriction or condition contained in this Declaration of Restrictions, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

SEVERABILITY.

4.01. Invalidation or removal of any of these covenants by judgment, decree, court order, statute, ordinance, or amendment by the Declarant, its successors and assigns, shall in nowise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant, a limited partnership authorized to and doing business in the State of Florida, has caused these presents to be executed at St. Augustine, St. Johns County, Florida, this 13<sup>th</sup> day of February, A.D. 1976.

In the presence of:

James A. Sisk  
Janet E. Doyle

MAIDEN PARTNERSHIP, LTD.

By Terry W. Pacetti  
TERRY W. PACETTI, General Partner

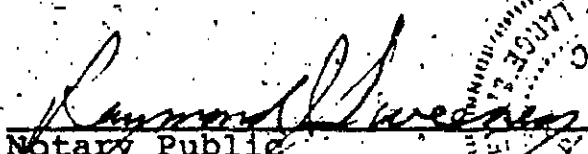
(SEAL)

STATE OF FLORIDA )  
COUNTY OF ST. JOHNS )

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Before me personally appeared TERRY W. PACETTI, to me well known and known to me to be the General Partner of Maiden Partnership, Ltd., the Limited Partnership named in the foregoing instrument, and known to me to be the person who as General Partner of said Limited Partnership executed the same; and then and there the said TERRY W. PACETTI, General Partner of Maiden Partnership, Ltd., did acknowledge before me that said instrument is the free act and deed of said Limited Partnership, executed by such General Partner for the purposes therein expressed.

WITNESS my hand and official seal, this 13<sup>th</sup> day  
of February, A.D. 1976.

  
Notary Public  
State of Florida at Large

My Commission Expires: January 24, 1980

1-21-80



OF

MOULTRIE CREEK PROPERTY OWNERS ASSOCIATION, INC.  
(A Non-Profit Corporation)

## ARTICLE I

GENERAL

Section 1. THE NAME: The name of the corporation shall be "Moultrie Creek Property Owners Association, Inc." (hereinafter referred to as the "Corporation").

Section 2. PRINCIPAL OFFICE: The principal office of the Corporation shall be at Number One Realty of St. Augustine Office Building, U. S. Highway #1 South, St. Augustine, Florida, or at such other place as may be subsequently designated by the Board of Directors for the Corporation.

Section 3. RESIDENT AGENT: For the purpose of service of process the Corporation shall designate a resident agent or agents, which designation may be changed from time to time, and his or their office shall be deemed an office of the Corporation for the purpose of service of process.

Section 4. DEFINITIONS: As used herein, references to the lots, tracts or parcels of land shall mean the same as in the various Declarations of Restrictions, affecting property located in Prairie Creek, St. Johns County, Florida, (hereinafter referred to as the "Restrictions") made by Maiden Partnership, Ltd., a limited partnership authorized to and doing business in the State of Florida, and recorded or intended to be recorded, or recorded in the future in the Official Records of St. Johns County, Florida.

## ARTICLE II

DIRECTORS

Section 1. NUMBER AND TERM: This Corporation shall be governed by a Board of Directors consisting of five (5) persons to serve until their resignation or until the first meeting of the voting membership to be held on the second Monday of September,

1976. Directors need not be members of the Corporation. Commencing with the first meeting of the member or members, directors shall be elected annually by the members who are entitled to vote at said meeting.

Section 2. VACANCY AND REPLACEMENT: Except as otherwise set forth herein and in the Charter, if the office of any director or directors becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining directors shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred.

Section 3. REMOVAL: Except as otherwise set forth herein and in the Charter, directors may be removed for cause by the voting member or members from time to time.

Section 4. FIRST BOARD OF DIRECTORS: The first Board of Directors shall consist of Terry W. Pacetti, William D. Mitchell, II, John E. Wilson, Jr., Raymond J. Sweeney, Jr. and Samuel C. Sawyer, Jr., who shall hold office and exercise all powers of the Board of Directors until the first meeting of the voting member or members, anything herein to the contrary notwithstanding.

Section 5. POWERS: The property and business of the Corporation shall be managed by the Board of Directors, which may exercise all corporate powers not specifically prohibited by statute, the Certificate of Incorporation, these By-Laws or the Restrictions. The powers of the Board of Directors (but not the requirements) shall specifically include, but shall not be limited to the following:

A. To make and collect fees as set forth in the Restrictions, and establish the time within which payment of same are due subject, however, to the requirements set forth in the Restrictions;

B. To use and expend the fees collected for those purposes set forth in the Restrictions;

C. To purchase the necessary furniture, equipment and tools necessary or incidental to the business and purposes

of the Corporation;

D. To enter into and upon the lots and building sites when necessary and with as little inconvenience to the owner as possible in connection with the maintenance of lawns and the enforcement of the Restrictions;

E. To collect delinquent fees by suit or otherwise;

F. To employ such personnel as may be necessary or incidental in order to carry out the purposes and functions of the Corporation;

G. To enter into such contracts and bind the Corporation thereby as the Board of Directors may deem reasonable in order to carry out the powers and functions of the Board of Directors, including contracts with any of the Class A or Class B members;

H. To make reasonable rules and regulations for the collection of the fees;

I. To appoint the members of the Architectural Design Committee from time to time as set forth in the Restrictions.

Section 6. COMPENSATION: Directors and officers shall not receive compensation for their services, but may receive reimbursement for so-called "out-of-pocket" expenses incurred in the actual performance of their duties.

Section 7. MEETINGS:

A. The first meeting of each newly elected Board shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the meeting of the voting member or members and immediately after the adjournment of same;

B. Special meetings shall be held whenever called by the direction of the President or a majority of the Board, or a majority of each Class of voting members. The Secretary shall give notice of each special meeting either personally

or by mail or telegram, at least three (3) days before the date of such meeting, but the directors may at any time waive notice of the calling of the meeting;

C. A majority of the Board shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business, and the act of a majority present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present, at the meeting, the directors then present may adjourn the meeting without notice other than the announcement at the meeting until a quorum shall be present.

Section 8. ORDER OF BUSINESS: The order of business at all meetings of the Board shall be as follows:

- A. Roll call;
- B. Reading of Minutes of last meeting;
- C. Consideration of communications;
- D. Resignations and elections;
- E. Reports of officers and employees;
- F. Reports of committees;
- G. Unfinished business;
- H. Original resolutions and new business.

Section 9. ANNUAL STATEMENT: The Board shall account to the members no less often than once each year commencing with the year 1977 as to the total fees collected from the Class A members and as to the method of disbursement of said funds.

### ARTICLE III

#### OFFICERS

Section 1. EXECUTIVE OFFICERS: The executive officers of the Corporation shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected annually by said Board. Any two of said offices may be united in one person, except that the President shall not also be the Secretary or an Assistant Secretary of the Corporation. The President shall be a director ex officio, unless elected by the Board. If the Board so determines, there may be more than one Vice President.

Section 2. SUBORDINATE OFFICERS: The Board of Directors may appoint such other officers and agents as they may deem necessary, who shall hold office during the pleasure of the Board of Directors and have such authority and perform such duties as from time to time may be prescribed by said Board.

Section 3. TENURE OF OFFICERS; REMOVAL: All officers and agents shall be subject to removal, with or without cause, at any time by action of the Board of Directors. The Board may delegate powers of removal of subordinate officers and agents to any officer.

Section 4. THE PRESIDENT:

A. The President shall preside at all meetings of the voting membership and of the directors; he shall have general and active management of the business of the Corporation; he shall see that all orders and resolutions of the Board are carried into effect; he shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation; the seal when affixed shall be attested by the signature of the Secretary;

B. He shall have general superintendence and direction of all the other officers of the Corporation and shall see to the best of his ability that their duties are performed properly;

C. He shall submit a report of the operation of the Corporation for the fiscal year to the directors whenever called for by them and from time to time shall report to the Board all matters within his knowledge which the interest of the Corporation may require to be brought to their notice;

D. He shall be an ex officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of the President of a Corporation.

Section 5. THE VICE PRESIDENT: The Vice President shall be vested with all the powers and required to perform all the duties of the President in his absence, and such other duties



as may be prescribed by the President or the Board of Directors.

Section 6. THE SECRETARY:

A. The Secretary shall keep the minutes of the meetings of the voting membership and of the Board of Directors' meetings in one or more books provided for that purpose;

B. He shall see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law;

C. He shall be custodian of the corporate records and of the seal of the Corporation and shall see that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these By-Laws;

D. He shall keep a register of the post office address of each member;

E. In general, he shall perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors or as set forth in the Restrictions.

Section 7. THE TREASURER:

A. The Treasurer shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all monies and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors;

B. He shall disburse the funds of the Corporation as ordered by the President or the Board, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Corporation;

C. He may be required to give the Corporation a bond in a sum and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and the restoration to the Corporation in case of his death,

resignation or removal from office, of all books, papers, vouchers, money or other property of whatever kind in his possession belonging to the Corporation. The Corporation shall pay all premiums for issuance of said bond.

Section 8. VACANCIES: If the office of the President, Vice President, Secretary or Treasurer becomes vacant by reason of death, resignation, disqualification or otherwise, the Directors, by a majority vote of the whole Board of Directors, may choose a successor or successors who shall hold office for the unexpired term in respect to which such vacancy occurred.

Section 9. RESIGNATIONS: Any directors or other officer may resign his office at any time, such resignation to be made in writing, and to take effect from the time of its receipt by the Corporation unless some time be fixed in the resignation, and then from that date. The acceptance of a resignation shall not be required to make it effective.

#### ARTICLE IV

##### MEMBERSHIP

Section 1. DEFINITION: Each lot owners shall be a member of the Corporation and membership in the Corporation shall be limited to said lot owners and Maiden Partnership, Ltd. An owner will cease to be a member of the Corporation upon the sale, transfer or disposition of the member's lot or parcel.

Section 2. CLASSES AND VOTING: Membership shall be divided into two (2) classes, namely Class A and Class B. Class A members shall consist of the lot owners and the sole Class B member shall be Maiden Partnership, Ltd. Class A members shall have limited voting power in the Corporation until such time as hereinafter set forth, to-wit: Each Class A member shall be entitled to vote for one (1) position on the Board of Directors of the Corporation. The Class B member shall have full voting powers in the Corporation until January 1, 1986, or such prior time as the Class B member shall determine, in its sole judgment, as evidenced by an amendment to the By-Laws of this Corporation at

which time the Class A members shall become full voting members of the Corporation. At such time as the Class A members become full voting members of the Corporation, said Class A members shall be entitled to one (1) vote in the affairs of the Corporation for each lot, tract or parcel owned by said member and the Class B membership shall terminate. In the event a lot, tract or parcel is owned by more than one person, firm or corporation, the membership relating thereto shall nevertheless have only one (1) vote which shall be exercised by the owner or person designated in writing by the owners as the one entitled to cast the vote for the membership concerned.

Section 3. TRANSFER OF MEMBERSHIP AND OWNERSHIP:  
Membership in the Corporation may be transferred only as an incident to the transfer of a lot or parcel, and such transfer shall be subject to the procedures set forth in the Declaration.

#### ARTICLE V MEETINGS

Section 1. PLACE: All meetings of the voting membership shall be held at the main office of the Corporation in St. Augustine, Florida, or such other place and time as may be stated in the notice thereof.

#### Section 2. ANNUAL MEETING:

A. The first annual meeting shall be held on the second Monday of September of 1976 or such prior or later time as the first Board of Directors may determine;

B. Regular annual meetings subsequent to the first meeting shall be held on the second Monday of September of each year, if not a legal holiday, or non-business day, and if a legal holiday, or non-business day, then on the next business day following;

C. At the annual meeting, the membership entitled to vote shall elect a Board of five (5) Directors as provided for in Article II, Section 1, and transact such other business as may properly come before the meeting;

D. All annual meetings shall be held at the hour of 7:00 O'Clock P.M.

Section 3. SPECIAL MEETINGS: Special meetings of the voting membership for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the President, a majority of the Board of Directors or by a majority of each class of voting membership. Such request shall state the purpose or purposes of the proposed meeting.

#### ARTICLE VI

##### NOTICES

Section 1. DEFINITION: Whenever under the provisions of the statutes or of the Certificate of Incorporation or of these By-Laws, notice is required to be given to any director or voting member, it shall not be construed to mean personal notice; but such notice may be given in writing by mail, by depositing the same in a post office or letter box in a postpaid, sealed wrapper, addressed to the address of the person entitled thereto as appears on the books of the Corporation or by causing same to be delivered to the residence of the person entitled thereto.

Section 2. SERVICE OF NOTICE - WAIVER: Whenever any notice is required to be given under the provisions of the statutes or of the Restrictions or the Certificate of Incorporation or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

Section 3. ADDRESS: The address for notice to the Corporation is Number One Realty of St. Augustine Office Building, U. S. Highway #1 South, St. Augustine, Florida.

#### ARTICLE VII

##### FINANCES

Section 1. FISCAL YEAR: The Corporation shall operate upon the calendar year beginning on the 1st day of January and,

ending on the 31st day of December each year. The Board of Directors is expressly authorized to change from a calendar year basis to that of a fiscal year basis whenever deemed expedient for the best interests of the Corporation.

Section 2. CHECKS: All checks or demands for money and notes of the Corporation shall be signed by any one of the following officers: President or Treasurer or by such officer or such other person or persons as the Board of Directors may from time to time designate.

#### ARTICLE VIII

##### SEAL

The seal of the Corporation shall have inscribed thereon the name of the Corporation, the year of its organization, and the words "Non-Profit". Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

#### ARTICLE IX

##### NO STOCK

This Corporation shall never have or issue shares of stock and/or certificates of membership.

#### ARTICLE X

##### DEFAULT

In the event a lot or parcel owner does not pay any of the fees required to be paid to the Corporation at the time same may be due, the Corporation, acting on its own behalf or through its Board of Directors or their agents, may enforce its lien for the fees, or take such other action to recover the fees to which it is entitled, in accordance with the Restrictions and any statutes made and provided. If an action of foreclosure is brought against the owner of a lot or parcel for non-payment of monies due the Corporation and as a result thereof, the interest of the said owner in and to the lot or parcel is sold, then the



owner will thereupon cease to be a member of the Corporation.

If the Corporation becomes the owner of a lot or parcel by reason of foreclosure, it shall offer said lot or parcel for sale and at such time as the sale is consummated, it shall deduct from such proceeds all sums of money due it for the fees, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the resale of the lot or parcel, which shall include, but not be limited to, advertising expenses, real estate brokerage fees and expenses necessary for the repairing and refurnishing of the unit in question. All monies remaining after deducting the foregoing items of expense shall be returned to the former owner of the lot or parcel in question.

#### ARTICLE XI

##### MISCELLANEOUS

Section 1. BINDING CORPORATION: No lot or parcel owner or member, except as an officer of this Corporation shall have any authority to act for the Corporation or bind the Corporation.

Section 2: INVALIDITY: If any By-Law or part thereof shall be adjudged invalid, the same shall not affect the validity of any other By-Law or part thereof.

#### ARTICLE XII

##### AMENDMENT

These By-Laws may only be altered, amended or added to at any duly called meeting of the voting membership or as otherwise provided by law, or in the Certificate of Incorporation or the Restrictions.

#### ARTICLE XIII

##### CONSTRUCTION

Wherever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine,

feminine or neuter; singular or plural, wherever the context so requires. In the event of any discrepancy between these By-Laws and the Certificate of Incorporation of Moultrie Creek Property Owners Association, Inc., then the Certificate of Incorporation shall prevail.

FILED AND RECORDED IN  
PUBLIC RECORDS OF  
ST. JOHNS COUNTY, FLA.

FEB 24 12 31 PM '76

*Alan L. D.*  
CLERK OF COURT