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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BLACKHAWK, a Subdivision

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made this 8th day of April, 1993, by and between the NATIONAL BANK OF LEE COUNTY, a Florida Banking Corporation, its successors and assigns and all future property owners owning property within the BLACKHAWK Subdivision.

Recitals:

WHEREAS, Declarant owns the real property described on attached Exhibit "A" and hereinafter referred to as the BLACKHAWK Subdivision property, and

WHEREAS, Declarant has sub-divided such property into seventy-three (73) single family platted lots, and

WHEREAS, Declarant reserves the right to subdivide additional lands and add it to this Declaration, and

WHEREAS, Declarant desires for its benefit as well as the benefit of all future owners to restrict the use of the property in a way that preserves and enhances its value as a single family residential community.

NOW, THEREFORE, Declarant declares that the single family residential lots shown on the plat for the BLACKHAWK Subdivision are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, assessments, charges and liens hereinafter set forth. This Declaration shall constitute a covenant running with the land and this Declaration shall be binding upon the undersigned, and on all Persons gaining title through the undersigned, its successors and assigns.

ARTICLE I

DEFINITIONS

The following words when used in this Declaration shall have the following meanings:

1.1. "Articles" means the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit "B".

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2 1/2" X 3 1/2" PHOTO COPY

THIS INSTRUMENT WAS PREPARED BY
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P. O. DRAWER 1507, FORT WALKER, R. 31002
PETER J. GRAVINA

1.2. "Assessments" shall mean those charges made by the Association from time to time against each lot for the purposes set forth herein.

1.3. "Association" shall mean The Blackhawk Property Owners Association, Inc., the purpose of which is to administer the Common Properties within the subdivision within the provisions of this Declaration and the governing documents of the Association and to enforce and otherwise discharge those obligations granted the Association under this Declaration.

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

1.5. "Bylaws" means the Bylaws of the Association.

1.6. "Common Expenses" means all expenses incurred by the Association in connection with its ownership and maintenance of the Common Properties and other obligations relating thereto set forth herein.

1.7. "Common Properties" shall mean (i) those areas of land, together with improvements thereon, if any, either shown on the Development Plan or any Plat as such and intended to be devoted to the common use and enjoyment of the owners of The Properties including any land and improvements which may have been dedicated to a governmental entity and accepted for maintenance by such governmental entity, (ii) those areas of land, together with improvements thereon, as might be independently submitted as Common Properties by amendment to this Declaration by the Declarant, and (iii) the Surface Water Management System is hereby declared to be a part of the Common Properties.

1.8. "Declaration" means this document entitled Declaration of Covenants and Restrictions as same may be amended from time to time.

1.9. "Declarant" means NATIONAL BANK OF LEE COUNTY and its successors and assigns.

1.10. "First Mortgagee" means an Institutional Lender who holds a first mortgage on a lot.

1.11. "Improvements" means any structure of any kind including, without limitation, any building, fence, wall, sign, paving, grading, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building, recreational facility, landscaping, exterior lighting or landscape device or object.

1.12. "Lakes" means those certain areas designated "Lake" on the Plat.

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1.13. "Lot" means any portion of the Properties (other than the Common Properties) shown on the Plat as intended to be used as a parcel for a single family residence.

1.14. "Member" means those persons who are entitled to membership in the Association as provided in its Articles and Bylaws.

1.15. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any lot but shall not mean or refer to a mortgagee of such lot unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.16. "Plat" means those subdivision plats which are recorded from time to time in the land records of Lee County, Florida, effecting a legal subdivision of all or any portion of the Properties.

1.17. "Rules" means any and all rules and regulations of the Association promulgated by the Board pursuant to its powers under this Declaration.

1.18. "Single Family" means either (i) a single person occupying a residence and maintaining a household, including not more than one tenant under a lease authorized by this Declaration, (ii) two (2) or more persons related by blood, marriage, or adoption occupying a residence and living together and maintaining a common household, including not more than one tenant authorized by this Declaration, or (iii) not more than four (4) unrelated persons occupying a residence.

1.19. "Surface Water Management System" means the surface water management system for the Community as permitted by the South Florida Water Management District and shall include the lake, structures, swales and other facilities authorized by said permit.

1.20. "Turnover" means that date following conversion of Class B to Class A Members upon which the Declarant conducts a special meeting of the Members for the purposes of election of officers and directors, as set forth in Article III of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

2.1. The Properties. The Properties which are and shall be held, transferred, sold, conveyed and occupied subject to this Declaration are located in Lee County, Florida, and are more particularly described in Exhibit "A" attached hereto. The Declarant reserves the right to make such changes and/or

modifications to the Development Plan and/or Plat as are required by appropriate governmental authorities without obtaining the consent or approval of the Association, any Owner, any Mortgagee (except as otherwise expressly provided herein) or any other person or entity. Declarant reserves the right to add additional property to the subdivision providing for up to eight (8) additional lots, the owners of which to be members of the Association entitled to all rights, privileges and obligations set forth herein.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; TURNOVER

3.1. Membership. Every Owner of a Lot which is then part of The Properties shall be a Member of the Association, provided that any such person or entity, including any mortgagee, who holds an interest merely as security for the performance of an obligation shall not be a Member.

3.2. Voting Rights. The Association shall have two classes of voting membership.

3.2.1. Class "A": Class "A" Members shall consist of all Owners other than the Declarant so long as the Class "B" membership exists. Class "A" Members shall be entitled to one vote for each lot.

3.2.2. Class "B": The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to ten (10) votes for each lot in which it holds an ownership interest. Notwithstanding the foregoing, the Class "B" Membership shall cease and become converted to Class "A" Membership on the earlier of the sale of the last Lot in the subdivision in the ordinary course or at such earlier time as the Declarant may elect to convert its voting rights.

3.2.3. Notwithstanding any other provision in this Declaration to the contrary, the Declarant shall have the right to elect or appoint a majority of the Board of Association until the occurrence of either (i) one year after the Declarant no longer holds title to any Lot within the subdivision, or (ii) Declarant involuntarily releases its rights by recording an instrument to such effect among the land records of Lee County, Florida. Upon the occurrence of either such event, the then existing Members shall be entitled to elect the Board and assume full control of the Association. Voting for directors shall be by cumulative voting.

3.3. Turnover. Within ninety (90) days after the happening of either of the events described in Section 3.2.3., there shall be

a Special Meeting of the Members ("Turnover Meeting") for the purpose of electing directors of the Association.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

4.1. Members' Easements of Enjoyment. Subject to the provisions of Section 4.2 and the additional provisions of this Declaration, every Member, his family, agents, licensees or invitees, shall have a permanent and perpetual non-exclusive easement for the use and enjoyment of the Common Properties, and each easement shall be appurtenant to and shall pass with the title to every lot. Such easements of enjoyment shall include but not be limited to the Members' right of ingress and egress over the streets, roadways and walkways on the Common Properties for purposes of access to a lot, which right of ingress and egress shall not be subject to the fees and charges described in Section 4.2.1.

4.2. Limitation of Members' Easements. The rights and easements of use and enjoyment created hereby shall be subject to the following:

4.2.1. The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Members for any period during which any assessment remains unpaid, or for a period that may be determined by the Board for any violation of this Declaration, the Association's Articles, Bylaws or Rules;

4.2.2. The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Association; provided that no such dedication or transfer, determination as to purposes or as to the conditions thereof, shall be effective unless an instrument signed by the appropriate officers of the Association shall be attached thereto certifying that at a special or regular meeting of the Members called for such purpose, of which thirty (30) days' written notice was sent to each Member, that the vote of two-thirds (2/3) of the Members present, either in person or by proxy was obtained, agreed to such dedication or transfer;

4.2.3. The right of the Association to mortgage, pledge or otherwise grant a security interest in all or any portion of the Common Properties, provided that no such mortgage, pledge or security interest shall be effective unless an instrument signed by

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the appropriate officers of the Association shall be attached thereto certifying that at a special or regular meeting of the Members called for such purpose, of which 30 days' written notice was sent to each Member, that the vote of two-thirds of the Members present, either in person or by proxy was obtained, agreed to such mortgage, pledge or other security interest;

4.2.4. The right of the Association to grant exclusive easements and rights-of-way over certain parts of the Common Properties to Members of the Association when the Association deems it necessary;

4.2.5. The right of the Declarant, without approval of the Association, any mortgagee or any Owner to add to or delete parts of the Common Properties and to dedicate easements and rights-of-way over the Common Properties;

4.2.6. The right of the Association to adopt and enforce at any time Rules governing the use of the Common Properties and all facilities situated thereon, including the right to fine Members as provided in Article X of this Declaration. Any rules and/or regulation so adopted shall apply until rescinded or modified as if originally set forth in this Declaration and the other Land Use Documents;

4.2.7. Anything to the contrary herein notwithstanding, the right of the Declarant, its successors and assigns to permit persons other than Members and designated persons to use certain portions of The Properties and any roads, bridges, recreational or utility facilities that may be constructed thereon under such terms as Declarant, its successors and assigns, may from time to time desire;

4.2.8. No nuisance or obnoxious or offensive activities shall be conducted or permitted on any Common Properties so long as there is a Class "B" Member. The Declarant shall have the right and the power and the exercise of its reasonable discretion to determine what activities or uses constitutes nuisances, obnoxious or offensive activity. Nothing shall be done within the Common Properties which may be or become a nuisance to residents or members;

4.2.9. So long as there is a Class "B" Member, any type of use of the Common Properties shall be subject to the prior written approval of the Declarant.

4.3. Utility and Irrigation Easements. There is reserved unto the Declarant so long as there is Class "B" voting rights the right to grant, without the joinder of the Association or any Member, reasonable easements for the installation and maintenance of roads, cable television services, security system services, public utilities, storm water management, drainage and retention

OR2390 pg4 003

easements (including those which might burden property not historically burdened with drainage) and irrigation systems (including the installation of irrigation pumps) on the Common Properties and The Properties in addition to those easements already reserved. The Declarant is hereby appointed the attorney-in-fact of the Association and each Member to execute such documents as may be necessary in connection with the creation of such easements, such power of attorney to be deemed coupled with an interest and irrevocable, and the Association and each Member shall cooperate as necessary to create any such easements. This provision shall not limit the Declarant's rights under Article IX, Section 9.15 of this Declaration.

4.4. Easement for Governmental, Health, Sanitation and Emergency Services. A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, postal service, police services and any emergency services such as fire, ambulance and rescue services for purposes of ingress and egress over the Common Properties.

ARTICLE V

COVENANT FOR ASSESSMENTS

5.1. Creation of the Lien and Personal Obligation of Assessments. Except as hereinafter provided, each Owner of any lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (i) Periodic Assessments and (ii) Special Assessments for capital improvements and other expenditures that the Association deems appropriate, all such assessments to be fixed, established, and collected from time to time as hereinafter provided. The Periodic Assessments and Special Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be the personal obligation of each Owner of such lot at the time when the assessment came due.

5.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in The Properties and in particular, for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the lots situated upon The Properties, including but not limited to, the payment of taxes and insurance on the Common Properties, and repair, replacement, and additions thereof, for the cost of labor, equipment, materials, management and supervision thereof, and for the maintenance of reasonable reserves for the future maintenance, repair and replacement of the Common Properties.

5.3. Procedure for Levying Assessments. Any determination by the Association to levy Assessments and/or of their respective amounts shall be made in the following manner:

5.3.3. By not later than the 60th day before an Assessment Year commences, the Board of Directors shall adopt a budget for the Association for such Assessment Year, setting forth (i) the aggregate amount of the Periodic Assessments to be levied, and (ii) the respective amount of the Periodic Assessment to be levied against each lot. By not later than the 45th day before an Assessment Year commences, the Association shall provide a copy of such budget to each Owner. The Association's failure to take any such action by the time set forth hereinabove for taking the same shall not invalidate such action if taken later, but until such action is taken, each Owner of a lot shall pay to the Association on account of the Periodic Assessment for the next Assessment Year an amount equal to the Periodic Assessment for the preceding Assessment Year (or the initial installment thereof, if such Periodic Assessment was payable in installments).

5.3.4. If the Association so determines, any Periodic Assessment or Special Assessment may be paid to the Association in monthly or other installments in accordance with a schedule determined by the Association.

5.3.5. Periodic Assessments (or one installment of such Periodic Assessment, if payable in installments) shall be due on the first day of such Assessment Year without the necessity of further action by the Association (and any subsequent installments thereof shall be due on the dates determined by the Association).

5.3.6. Any Special Assessment (or the initial installment thereof, if payable in installments) shall be due on the later of (i) the first day of the Assessment Year for which it is levied, or (ii) any later date specified therefor by the Association (and any subsequent installments thereof shall be due on the dates determined by the Association).

5.4. Special Assessments. In addition to the Periodic Assessments authorized by Section 5.3 hereof, the Board may levy in any Assessment Year a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, or for other purposes deemed appropriate by the Association. The due date of any Special Assessment under this Article shall be fixed in a resolution authorizing such assessment. The Declarant shall not be obligated to pay a Special Assessment levied on any Unimproved lot. This Article V shall not be applicable to a "Special Assessment for

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Non-Compliance", which Special Assessment is described in Section 10.3 of this Declaration.

5.5. Certificate as to Payment of Assessments. The Association shall, upon written request of any Owner of any Lot, deliver to such Owner a certificate signed by an officer of the Association, setting forth whether the Periodic Assessment and Special Assessment or installments thereof for such lot have been paid. Any such certificate so delivered shall be conclusive evidence of the payment of each assessment or installment thereof therein stated to have been paid.

5.6. Effect of Non-Payment of Assessment. If any assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the lot for which such Assessment has not been paid which shall bind such lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment shall remain his personal obligation for the statutory period, provided that no voluntary sale of any lot shall be effective, nor shall any marketable title be conveyed, unless and until the Owner has obtained from the Association a certificate attesting to the fact that the Owner has paid all assessments to date. If no such certificate is obtained, the purchaser of such lot shall be conclusively presumed to have assumed such past-due assessments and shall become forthwith liable therefor. The Owner requesting the certificate shall pay to the Association a reasonable sum to cover the costs of examining records and preparing the certificate. If any Assessment is not paid within 30 days after the date when due, the Assessment shall bear interest from the date when due at the rate established by the Board, not to exceed the maximum legal rate of interest, and the Association may bring an action at law against the Owner personally obligated to pay the outstanding assessments and/or bring an action to foreclose the lien against the lot which is subject thereto; and there shall be added to the amount of such Assessment all costs of collection, including, but not limited to, the cost of preparing and filing the complaint in such action, the cost of any and all attorneys' fees incident to collection whether or not suit is brought, including attorneys' fees on appeal. In the event a judgment is obtained, such judgment shall include interest on the assessment as provided above and a reasonable attorneys' fee to be fixed by the Court, together with costs incident to the action. In addition to the foregoing remedies, the Board may assess a "Late Fee" of 18%, compounded monthly, of the delinquent Assessment for each Periodic Assessment or Special Assessment which is more than 10 days delinquent, for the purposes of helping defray collection costs.

5.7. Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate

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to the lien of any First Mortgage now or hereafter placed upon any Lot subject to Assessment, provided that as to a First Mortgage of record, or other purchaser who obtains title to such property as a result of foreclosure of the lien of such First Mortgage or as a result of a deed given in lieu of foreclosure thereof, such acquirer of title and his successors and assigns shall not be liable for the assessments by the Association chargeable to the former Owner of such property which became due and payable prior to the acquisition of title as a result of the foreclosure or deed given in lieu of foreclosure, unless such assessments are secured by a Claim of Lien for Assessments that is recorded prior to the recording of such First Mortgage. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, or from the lien of any such subsequent assessment; provided, however, that any such Assessment shall be subordinate to the lien of a First Mortgage placed upon any Lot prior to the time of the recording of such subsequent Assessment lien.

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5.8. Special Assessment for Capital Improvements. Funds in excess of \$10,000.00 in any one case which are necessary for the addition of capital improvements (as distinguished from repairs, replacements and maintenance) relating to the Common Properties and which have not previously been collected as reserves or are otherwise presently available to the Association shall be obtained by the Association by levying Special Assessments but only upon approval of a majority of the Board of Directors of the Association and upon approval by two-thirds favorable vote of the Members of the Association voting at a duly constituted meeting of the Association.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

6.1. Members of Committee. The Architectural Control Committee ("ACC") shall consist of 3 members. The initial members of the ACC shall consist of persons designated by the Declarant. Each of said persons shall hold office until all Dwelling Units contemplated under the Development Plan have been constructed and conveyed, or sooner at the option of the Declarant. Thereafter, each new member of the ACC shall be appointed by the Board and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the ACC may be removed at any time without cause. Except for members of the ACC appointed by the Declarant, the Board shall have the right to appoint and remove all members of the ACC.

6.2. Review of Proposed Construction. Subject to Section 6.9 below, no improvements shall be commenced, painted, erected or maintained on the Properties, nor shall any addition, change or alteration visible from the exterior be made, nor shall any awning,

OR2390 PCL008

canopy or shutter be attached to or placed upon outside walls or roofs or buildings or other improvements, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to, and approved in writing by, the ACC. The ACC shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the Community as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The ACC may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The ACC may also issue rules and design review guidelines setting forth procedures for the submission of plans for approval. A copy of the design review guidelines shall be made available at the office of the Association, and EACH MEMBER OR PROSPECTIVE MEMBER SHALL BE RESPONSIBLE FOR OBTAINING A COPY OF SUCH DESIGN REVIEW GUIDELINES AND COMPLYING WITH THEM. The ACC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ACC of all required plans and specifications, the ACC may postpone review of any plans submitted for approval. The ACC shall have 30 days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved. All construction, changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any decision of the ACC may be appealed to the Board within 15 days from the date of rendition of the decision of the ACC pursuant to procedures established by the Board.

6.3. Meetings of the ACC. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may from time to time, by resolution unanimously adopted in writing, designate an ACC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ACC, except the granting of variances pursuant to Section 6.8 hereof. In the absence of such designation, the vote of any 2 members of the ACC shall constitute an act of the ACC.

6.4. No Waiver of Future Approvals. The approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or

matters whatever subsequently or additionally submitted for approval or consent.

6.5. Compensation of Members. The members of the ACC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder. The ACC, however, shall have the power to engage the services of professionals for compensation for purposes of aiding the ACC in carrying out its functions.

6.6. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

6.6.1. Upon the completion of any work for which approved plans are required under this Article VI, the applicant ("Applicant") shall give written notice of completion to the ACC.

6.6.2. Within 60 days after its receipt of such notice, the ACC or its duly authorized representative may inspect such improvement. If the ACC finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such 60 day period, specifying the particulars of noncompliance and shall require the Applicant to remedy the same.

6.6.3. If, upon the expiration of 30 days from the date of such notification, the Applicant shall have failed to remedy such noncompliance, the ACC shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than 45 days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the noncomplying improvements or remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a Special Assessment for Non-Compliance against such Applicant for reimbursement.

6.6.4. If for any reason the ACC fails to notify the Applicant of any noncompliance within 60 days after receipt of said written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with said approved plans.

6.7. Non-Liability of ACC Members. Neither the ACC nor any member thereof, nor its duly authorized ACC representative, shall be liable to the Association or any Owner or any other person or entity for any loss, damage or injury arising out of or in any way

connected with the performance or non-performance of the ACC's duties hereunder, unless due to the willful misconduct or bad faith of a member and then only that member shall be liable therefor. The ACC shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Development. The ACC shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

6.8. Variance. The ACC may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing which must be signed by at least 2 members of the ACC. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provisions hereof covered by the variance, nor shall it affect in any way the owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot, including, but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority.

6.9. Exemptions. The Declarant shall be exempt from the provisions of this Article VI with respect to alterations and additions desired to be effected by it and shall not be obligated to obtain ACC approval for any construction or changes in construction which it may elect to make at any time.

6.10. Attorneys' Fees. For all purposes necessary to enforce this Article, the Association shall be entitled to collect reasonable attorneys' fees, court costs and other expenses against the Owner of a lot, whether or not litigation is instituted, and the Board may assess such amounts in the form of a Special Assessment for Non-Compliance.

ARTICLE VII

INSURANCE

7.1. Insurance on Common Properties. The Association shall maintain property and casualty insurance on the Common Properties

in an amount equal to the maximum insurable value thereof. All damaged Common Properties shall be repaired and restored to the original condition using the proceeds of the insurance. In the event that the insurance proceeds are inadequate to cover the costs of such repair and restoration, a Special Assessment shall be assessed against each Owner as provided for in this Declaration. In the event that the insurance proceeds shall be greater than the amount required to repair and restore the damage, the excess shall be deposited with the Association for the operation of the Association and/or maintenance of The Properties. Prior to the end of each policy year, the Association shall adjust the insurance coverage so that the insured Common Properties are insured for their maximum insurable value.

7.2. Other Insurance. The Association shall also purchase such other insurance as may be necessary on the Common Properties and for purposes of properly operating the Association. Without limiting the generality of the foregoing, the Association may purchase errors and omissions insurance covering the Association's Directors and Officers.

7.3. Fidelity Bonds. Each director, officer and employee of the Association or of any manager employed by the Association whose duties as such require him to handle or be responsible for funds of the Association shall, if demanded by the Association, before commencing such duties, furnish the Association with a fidelity bond covering his activities, in form and amount and with a corporate surety which are satisfactory to the Board. The premium for any such bond shall be paid by the Association.

7.4. General Expenses of Association. The premiums for all insurance policies purchased by the Association shall be deemed to be general expenses of the Association and shall be paid through the Periodic Assessments levied against each lot, as provided in this Declaration.

7.5. Insurance by Owner. Each Owner shall be responsible for obtaining insurance on his lot and on any personal property contained within such Lot.

ARTICLE VIII

MAINTENANCE RESPONSIBILITIES OF OWNERS AND THE ASSOCIATION

8.1. Responsibility. The responsibility for the maintenance of The Properties and the Common Properties is divided between the Association and the Owners. Maintenance of each Lot is the responsibility of the Owner of such Lot. The Board has the right to require the Members to maintain their lots in a manner befitting the standards of the Community, and this responsibility of the Owner, shall include the Owner's obligation to maintain the lawn

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and shrubbery and to remove all objectionable debris or material as may be located on the lot. After notice by the Board to correct deficient maintenance of a lot, if said deficiencies remain uncured, then the Board shall have the right to employ persons to perform maintenance work as shall be prescribed by the Board and for this purpose each Owner grants unto the Board, its agents, employees, and all others designated by the Board, the right to enter upon the lot of each Owner for the purpose of completing such maintenance work, all without liability or responsibility, criminal or civil, for trespass or any other action. The cost of such work required by the Board to cure maintenance deficiencies shall be paid by the Owner of such lot and a Special Assessment for non-compliance may be levied against the lot of the deficient Owner as provided in Section 8.2 hereof.

8.2. Assessment of Costs. The cost of any maintenance which is performed by the Association upon the failure of the Owner so to do shall be assessed against the lot upon which such maintenance is performed, and, at the option of the Board, either be added to and become part of the Periodic Assessment or charge to which such lot is subject under Article V hereof, or become a Special Assessment for such expenses; and, as a part of such Periodic Assessment or charge or as a Special Assessment, it shall be a lien against the lot and obligation to the Owner and shall become due and payable in all respects as provided in Article V hereof.

8.3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance authorized by this Article, or accessing a lake easement or other common area not otherwise reasonably accessible, the Association through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon the exterior of any lot at reasonable hours on any day except Sunday.

8.4. Dissolution of Association. As more fully set forth in the Articles, the term during which the Association is to exist is perpetual. In the event of the dissolution or termination of the Association, Lee County, Florida shall not be obligated to carry out any of the maintenance obligations of the Association unless such obligations are undertaken by way of a resolution of the County.

8.5. Maintenance of Lakes. The Association shall be responsible for the water quality and bed of a Lake to the edge of the water and the area by the edge of the water and the top of the slope of such Lake.

8.6. Management Services. The Association may contract for the management of all or part of The Properties for purposes of carrying out all or a portion of the maintenance services provided for in this Declaration.

8.7. Utility Services. The Association may contract with public or private utility services to The Properties and may assess the costs and expenses charged by such utility companies as part of the Periodic Assessments. Alternatively, the Association may operate and maintain its own utility or security facilities serving the Properties, in which event the cost of so operating and maintaining such utility facilities shall be a general expense payable from the amounts collected through Periodic Assessments.

8.8. Maintenance of Common Area Facilities. The Association shall maintain the gatehouse, if installed, and all recreational, security, utility (including, without limitation, Surface Water Management Systems) and other facilities owned by the Association and located upon the Common Properties.

8.9. Surface Water Management System. The Declarant has created a community property owners' association. The association has the power to own and convey property, and the power to operate and maintain common property, specifically and especially the Surface Water Management System as permitted by the South Florida Water Management District, including all lakes, retention areas, culverts and related appurtenances.

8.9.1. The name of the association is BLACKHAWK PROPERTY OWNERS ASSOCIATION, INC.. In order to provide for the continued maintenance of the drainage and Surface Water Management System, as well as all other common elements, each grantee and each of the grantee's heirs, successors and assigns, by virtue of being the owner of any site, unit or parcel, including but not limited to any condominium parcels within the Properties, shall be a Member of BLACKHAWK PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association".

8.9.2. In addition to any powers that may be granted to the Association by its Articles, Bylaws or this Declaration, the Association shall have the power as an association to enforce the restrictions and restrictive covenants to the Property, and said restrictions shall run with the land, and in addition thereto, the Association shall have the power to levy assessments and collect the same for the purpose of providing funds to enforce and implement these restrictions and with which to continue the operation and maintenance of the drainage and surface water management system as well as the roadway system, as designed for the Properties, and permitted by appropriate regulatory agencies. The Association also has the power to own and convey property, to operate and maintain the Common Properties, to establish rules and regulations regarding the operation of the Association, to sue and be sued, and to contract for services as needed to maintain the Common Properties. Any assessment which the Association is herein empowered to levy shall be secured by a lien on the real property of the Members so assessed, which may be enforced in accordance

with the Florida Lien Law if said assessments are not paid when due.

8.9.3. The common property of BLACKHAWK is to be operated and maintained by the Association. The common property includes, but is not limited to, the drainage and Surface Water Management System and all necessary appurtenances, together with all common elements, as well as any other areas deemed part of the common area by the Board. The common area may also contain wetlands areas which will be shown as wetland conservation areas on the Plat(s) to be recorded for the Properties. The wetland conservation areas are hereby declared Common Areas. They shall be the perpetual responsibility of the Association and may in no way be altered from their natural state.

8.9.4. If the Association is dissolved, then the water management system shall be dedicated to an appropriate agency of local government. If the local government refuses to accept the water management system, then the Surface Water Management System must be dedicated to a similar non-profit organization.

ARTICLE IX

PERMITTED AND PROHIBITED USES:

9.1. Driveways. All driveways shall be kept in the style originally established by the Declarant.

9.2. Trash Containers. All trash containers and contents thereof shall be stored out of site in an area not visible from the streets or adjoining lots. No lot shall be used or maintained as a dumping ground for rubbish. For purposes of periodic trash removal, however, an Owner, within 24 hours prior to pick-up, may place the covered trash containers at locations convenient for pick-up.

9.4. Exterior Antennas. No exterior radio, television or other electronic device or antennae shall be permitted on any lot without the prior written approval of the ACC.

9.5. Parking.

9.5.1. The parking and storage of automobiles and other motor vehicles shall be limited to the driveways and garages of lots and other paved surfaces designated by the Association.

9.5.2. No commercial or recreational vehicle of any variety shall be parked or stored overnight on the Common Properties or on any lot except within any enclosed garage located on such lot. By way of example, but not limitation, this provision shall apply to boats, campers, trailers and vans except those types

of vans used as an everyday vehicle other than for commercial purposes.

9.5.3. The Board is specifically authorized to promulgate additional rules and regulations pertaining to parking, and the Board is specifically granted by this Declaration the right to enforce this Declaration and the rules and regulations of the Board pertaining to parking by the towing of the vehicles which are in violation.

9.6. Signs. No sign of any nature whatsoever shall be erected or displayed upon any lot except where express prior written approval of the size, shape, content and location thereof has been obtained from the ACC, which approval may be arbitrarily withheld.

9.7. Additional Temporary or Permanent Structures. No additional structure of a temporary or permanent character, including but not limited to, basements, tents, shacks, garages, barns, or other out buildings shall be used or erected on any lot without the prior consent of the Association.

9.8. Livestock and Poultry. 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 or in excessive numbers.

9.9. Commercial Activities. No lot shall be used or occupied for any purpose other than as a residential dwelling by a Single Family, its household servants and guests. No business or commercial building shall be erected on any lot, nor shall any business be conducted on any part thereof. This provision, however, shall not be deemed to prohibit the Association from acquiring any lot within The Properties for such purposes as it may deem necessary or beneficial, including, but not limited to, recreational purposes.

9.10. Leases. No portion of a lot (other than an entire lot) may be rented. All leases shall be restricted to occupancy by a Single Family. All leases shall be on forms approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, the By-Laws and the Rules. Leasing of lots shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld. No lot shall be leased for a term less than 28 days. The Owner will be jointly and severally liable with the tenant to the Association for any injury or damage to persons and property caused by the negligence of the tenant or the breach by the tenant of this Declaration, the By-Laws or the Rules. The Association is hereby deemed the agent of the Owner for purposes of bringing any eviction proceedings deemed necessary by

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the Association. The Association and the Owner shall both have the right to collect attorneys' fees against any occupant or tenant in the event that legal proceedings must be instituted against such occupant or tenant for his eviction or for enforcement of the Land Use Documents.

9.11. Exterior Alterations. No structural changes, exterior color changes, or alterations shall be made or added to any Unit without the prior written approval of the ACC.

9.12. Destruction of a Dwelling Unit. In the event that any Dwelling Unit is destroyed by or removed for any cause whatsoever, any replacement must be with a Dwelling Unit of a similar size and type. The plans and specifications for any new Dwelling Unit must be approved, in writing, by the ACC.

9.13. Fencing. No fences or any similar type of enclosure may be erected on any lot without the prior written approval of the ACC.

9.14. Exemption for Declarant's Declarant's Easements.

9.15.1. The Declarant shall have and hereby reserves, perpetual, non-exclusive easements in and through the Common Properties for the following purposes:

(a) For pedestrian and vehicular ingress and egress over and across every bridge and roadway within The Properties for access by (i) the Declarant and its heirs, personal representatives, successors and assigns, (ii) any contractor, subcontractor, real estate agent or broker or other salesperson utilized by the Declarant, and (iii) their respective agents, officers, employees, and invitees, all for any purpose consistent with applicable law in connection with the construction, replacement, repair, maintenance, development, marketing or leasing of the Development or any part thereof; and

(b) For the construction, installation, maintenance, repair, replacement and use of any or all utility lines and facilities for the benefit of (i) the Declarant and its heirs, personal representatives, successors and assigns, (ii) each resident or other occupant of such lot or portion of the Community, and (iii) their respective agents, employees, invitees, visitors and guests.

9.15. Additional Rules and Regulations. The Declarant, until Turnover, and thereafter the Board may establish such additional Rules as may be deemed for the best interests of the Association and its Members for purposes of enforcing the provisions of this Article IX.

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9.16. Right to Abate Violations. The Association or the Declarant, prior to Turnover, and the Association thereafter, after reasonable notice and opportunity to cure any violations given to an owner, may enter upon a lot for the purposes of curing the violation. The cost thereof shall be charged against the Owner as a Special Assessment for NonCompliance.

9.17. Docks. No dock or pilings shall be constructed unless approved by the ACC.

9.18. Mailboxes. The ACC shall approve the location, size, design and material of any mailbox, paperbox or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material to a Unit.

9.19. Awnings. No awnings, canopies or shutters, including hurricane or storm shutters, shall be attached or affixed to the exterior of any Unit unless such awnings, canopies or shutters have been approved by the ACC.

9.20. Pools. No swimming pool may be constructed on any lot without the prior approval of the ACC, the grounds for approval of which shall include, but not be limited to the following:

9.20.1. Composition to be of material thoroughly tested and accepted by the industry for such construction; and

9.20.2. All pools shall be screened, such screening shall not be visible from the street in front of the Unit and such screening shall be in harmony with the exterior of the Unit.

ARTICLE X

ENFORCEMENT PROVISIONS

10.1. Rules. The Board is specifically granted the power to pass Rules for purposes of enforcing this Declaration.

10.2. Enforcement - General. Failure of an Owner to comply with a provision in this Declaration or a provision in the By-Laws, Articles, or Rules of the Association (including without limitation the design review guidelines) shall provide the Association with the right to bring legal action in law or in equity, including but not limited to an action for injunctive relief, damages, or a combination thereof. All costs and expenses incurred by the Association in terminating or resolving a violation of this Declaration, inclusive of attorneys' fees (whether or not litigation is instituted) shall be the responsibility of the Owner determined by the Association to be in violation. Collection of such attorneys fees may be enforced by any method in this

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Declaration providing for the collection of a Periodic Assessment, including but not limited to a foreclosure proceeding.

10.3. Special Assessment for Non-Compliance. In addition to all other remedies provided in this Declaration, the Board, in its sole discretion, may levy a Special Assessment upon an Owner for failure of the Owner, his family, guests, invitees, or employees, to comply with any provision in this Declaration or the Articles, By-Laws or Rules of the Association, provided that the following procedures are followed:

10.3.1. The Association shall notify the Owner of the infraction or infractions. Included in the Notice shall be the date and time of the next meeting of the Board at which the Owner shall be entitled to present testimony as to why the Special Assessment should not be imposed.

10.3.2. The non-compliance shall be presented to the Board of Directors at the time and place provided in the Notice, at which meeting a hearing shall be conducted for purposes of obtaining testimony as to the levying of a Special Assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board shall be submitted to the Owner not later than 21 days after the hearing.

10.3.3. In addition to all other costs and expenses, the Board may impose a fine constituting a Special Assessment against the Owner of the lot in the event a violation is found:

(a) A fine in an amount not in excess of \$100.00 for the first violation;

(b) A fine in an amount not in excess of \$500.00 for the second violation; and

(c) A fine in an amount not in excess of \$1,000.00 for the third or subsequent violation or violations which are of a continuing nature.

10.3.4. A Special Assessment as provided in this Article shall be due and owing not later than 30 days after the written decision as provided in subsection 10.3.2. above.

10.3.5. Any Special Assessment levied in accordance with this Article may be enforced by the Association in the same manner as the enforcement of a Special Assessment provided for in Article V of this Declaration.

ARTICLE XI

GENERAL PROVISIONS

11.1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 30 years from the date this Declaration is recorded, after which time the covenants and restrictions contained in this Declaration shall be automatically extended for successive periods of 10 years unless prior to the end of such 30 year period, or each successive 10 year period, an instrument signed by the then Owners of two-thirds of the lots agreeing to terminate the covenants and restrictions at the end of such 30 year or 10 year period has been recorded in the Public Records of Lee County. Notwithstanding the foregoing, any covenants and restrictions inuring to the benefit of Lee County shall run in perpetuity unless terminated by or with the approval of Lee County, provided that if a court of competent jurisdiction determines that a covenant or restriction cannot run in perpetuity then the duration of such covenant or restriction shall be 50 years.

11.2. Enforcement. Enforcement of these covenants and restrictions shall be permissible by any 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 restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

11.4. Amendment. This Declaration may be amended from time to time by recording amount the Public Records of Lee County, Florida, an instrument executed by the President and attested to by the Secretary of the Association, indicating that a Meeting called for purposes of amendment was held, and that two-thirds of the votes of all Members of the Association approved of such amendment, provided that so long as the Declarant owns a lot, no such Amendment may be made without the consent of the Declarant, and provided further that no such amendment shall affect or interfere with vested property rights previously acquired by an Owner or a First Mortgagee. Notwithstanding any provision contained in this Declaration to the contrary, the Declarant, without the joinder or approval of the Association, the Board, the owners, or any mortgagee may record any amendment to this Declaration which is permitted by this Declaration to be made by the Declarant without.

OR2390 Pcl 019

the approval of the Association, the Board, the Owners, or any mortgagees of The Properties.

11.5. Limitation on Amendment. Anything to the contrary contained herein notwithstanding, any amendment to this Declaration which would affect the Surface Water Management System for the Properties, including the water management portions of the Common Properties, shall require the prior written approval of the South Florida Water Management District.

11.6. Temporary Committees. The Declarant, prior to Turnover, at its sole discretion, may create temporary committees for the purpose of aiding in the transition of the Association from the Declarant control to control by the Membership.

11.7. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles and ByLaws of the Association and the Articles shall take precedence over the By-Laws. In the event of any conflict between the provisions of this Declaration, the Articles and By-Laws and any agreement entered into between Declarant and any Declarant, the agreement between Declarant and the Declarant shall take precedence.

IN WITNESS WHEREOF, this Declaration has been signed by Declarant and joined in by the Association, as of the day and year first above set forth.

WITNESSES:

[Signature]

(Print Name)
Kathleen S. Thomas

KATHLEEN S. THOMAS
(Print Name)

NATIONAL BANK OF LEE COUNTY,
a Florida Banking Corporation

BY: [Signature]

Its President

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 9th day of April, 1993, by Richard P. Roberts, President of NATIONAL BANK OF LEE COUNTY, a Florida Banking Corporation, on behalf of the corporation. He/She is personally known to me or has produced N/A as identification and did (did not) take an oath.

(Notary Seal)

Kathleen S. Thomas

Signature of Notary Public
KATHLEEN S. THOMAS

(Print, type or stamp commissioned name of Notary Public)

Commission No: _____

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EXHIBIT "A"

LEGAL DESCRIPTION:

A TRACT OF LAND LYING IN SECTION 32, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 32, SAME BEING THE NORTHWEST CORNER OF FIDDLESTICKS COUNTRY CLUB, AS RECORDED IN PLAT BOOK 34, PAGE 148 LEE COUNTY RECORDS; THENCE RUN SOUTH 00°52'23" EAST, ALONG THE WEST LINE OF SAID PLAT AND ALONG THE WEST LINE OF THE EAST 1/2 OF THE NORTHEAST 1/4, FOR A DISTANCE OF 1650.10 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE EAST SOUTHEAST 1/4, OF THE NORTHEAST 1/4; THENCE RUN NORTH 88°58'41" EAST, ALONG THE SOUTH LINE OF SAID NORTH 1/2, NORTH 1/2, SOUTHEAST 1/4, NORTHEAST 1/4, AND ALONG THE SOUTH LINE OF SAID FIDDLESTICKS COUNTRY CLUB, FOR A DISTANCE OF 660.84 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2, OF THE SOUTH 1/2, OF THE NORTH 1/2, OF THE SOUTHEAST 1/4, OF THE NORTHEAST 1/4; THENCE RUN SOUTH 00°51'02" EAST, ALONG THE WEST LINE OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 FOR A DISTANCE OF 1128.83 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF BRIARCLIFF ROAD; THENCE SOUTH 88°58'35" WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY OF BRIARCLIFF ROAD, FOR A DISTANCE OF 1612.07 FEET TO THE SOUTHEAST CORNER OF BRIAR RIDGE SUBDIVISION, AS RECORDED IN PLAT BOOK 33, PAGE 24-26, OF SAID LEE COUNTY RECORDS, THENCE RUN NORTH 00°57'41" WEST, ALONG THE EAST LINE OF SAID PLAT FOR A DISTANCE OF 2779.77 FEET TO THE NORTHEAST CORNER OF SAID PLAT SAME BEING A POINT ON THE NORTH LINE OF SAID SECTION 32.; THENCE RUN NORTH 89°01'38" EAST, ALONG SAID NORTH SECTION LINE, FOR A DISTANCE OF 955.96 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINING 77.98 ACRES MORE OR LESS.

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EXHIBIT "B"

ARTICLES OF INCORPORATION
OF
THE BLACKHAWK PROPERTY OWNERS' ASSOCIATION, INC.

WE, the undersigned, acting as incorporators of a non-profit corporation under Chapter 617 of the Florida Statutes, do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE I.

The name of the corporation (hereinafter called Association) is THE BLACKHAWK PROPERTY OWNERS' ASSOCIATION, INC.

ARTICLE II.

The specific primary purposes for which the Association is formed are to provide for maintenance, preservation, and architectural control of the Lots within a certain tract of real property described in the Declaration of Covenants, Conditions and Restrictions of BLACKHAWK, a Subdivision (the Declaration) and to promote the health, safety, and welfare of the residents within the above-described development and such additions thereto as may hereafter be brought within the jurisdiction of the Association for such purposes. In furtherance of such purposes, the Association shall have the power to:

(a) Perform all of the duties and obligations of the Association as set forth in the Declaration applicable to the development and to be recorded in the Public Records of Lee County, Florida;

(b) Affix, levy, and collect, and enforce payment by any lawful means of all charges and assessments pursuant to the terms of The Declaration; and pay all expenses in connection therewith, and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied on or imposed against the property of the Association;

(c) Acquire (by gift, purchase or otherwise), own, hold and improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate to public use, or otherwise dispose of real and personal property in connection with the affairs of the Association;

(d) Borrow money and, subject to the consent by vote or written instrument of two-thirds (2/3) of each class of members, mortgage, pledge, convey by deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

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(e) Dedicate, sell, or transfer all or any part of the common areas to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(f) Participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, or annex additional residential property or common elements, provided that any merger or consolidation shall have the assent by vote or written instrument of two-thirds (2/3) of each voting class of members, except as otherwise provided in Article II of the Declaration.

(g) Have and exercise any and all power, rights, and privileges that a non-profit corporation organized under Chapter 617 of the Florida Statutes by law may now or hereafter have or exercise. The Association is organized and shall be operated exclusively for the purposes set forth above. The activities of the Association will be financed by assessments against members as provided in the Declaration, and no part of any net earnings of the Association will inure to the benefit of any member.

ARTICLE III.

Every person or entity who is a record owner of a fee or undivided fee interest in any lot, which is subject by covenants of record to assessment by the Association, including contract sellers, but excluding persons or entities, including any mortgagee, holding title merely as security for performance of any obligation, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a lot which is subject to assessment by the Association.

ARTICLE IV.

The period of duration of the Association shall be perpetual.

ARTICLE V.

The principal place of business and the mailing address of the company and the name and mailing address of each subscriber is:

Name

RICHARD C. ACKERT

Address

The National Bank of Lee County
1530 Heitman Street
Fort Myers, FL 33902-2425

CRAIG D. SHERMAN

The National Bank of Lee County
1530 Heitman Street
Fort Myers, FL 33902-2425

DAVID L. ROBBINS

The National Bank of Lee County
1530 Heitman Street
Fort Myers, FL 33902-2425

ARTICLE VI.

The affairs of the Association shall be managed by a Board of Directors, a President and Vice President, who shall at all times be members of the Board of Directors, and a Secretary and Treasurer. Such officers shall be elected at the first meeting of the Board of Directors following each annual meeting of the members. The manner in which the directors are to be elected or appointed is as stated in the bylaws.

The names of the officers who are to serve until the first election are:

<u>Name</u>	<u>Address</u>
RICHARD C. ACKERT President	The National Bank of Lee County 1530 Heitman Street Fort Myers, FL 33902-2425
CRAIG D. SHERMAN Secretary	The National Bank of Lee County 1530 Heitman Street Fort Myers, FL 33902-2425
DAVID L. ROBBINS Treasurer	The National Bank of Lee County 1530 Heitman Street Fort Myers, FL 33902-2425

ARTICLE VII.

The number of persons constituting the first Board of Directors of the Association shall be three (3), and thereafter, the membership shall consist of not more than five (5), and the names and addresses of the persons who shall serve as Directors until the first election are:

<u>Name</u>	<u>Address</u>
RICHARD C. ACKERT	The National Bank of Lee County 1530 Heitman Street Fort Myers, FL 33902-2425

CRAIG D. SHERMAN

The National Bank of Lee County
1530 Heitman Street
Fort Myers, FL 33902-2425

DAVID L. ROBBINS

The National Bank of Lee County
1530 Heitman Street
Fort Myers, FL 33902-2425

ARTICLE VIII.

The By-Laws of the Association may be made, altered, or rescinded at any annual meeting of the Association, or at any special meeting duly called for such purpose, on the affirmative vote of two-thirds (2/3) of each class of members existing at the time of and present in person or by proxy at such meeting, except that the initial By-Laws of the Association shall be made and adopted by the Board of Directors.

ARTICLE IX.

Amendments to these Articles of Incorporation may be proposed by any member of the Association. These Articles may be amended at any annual meeting of the Association, or at any special meeting duly called and held for such purpose, on the affirmative vote of two-thirds (2/3) of each class of voting members existing at the time of such meeting.

ARTICLE X.

The Association shall have two classes of voting members as follows: Class A. Class A members shall consist of all lot owners with the exception that whenever the Class B membership exists the Developer shall not be a Class A member. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership pursuant to the Declaration. When more than one person holds such interest or interest in any Lot, all such persons shall be members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot. The By-Laws may establish procedures for voting when the title to a Lot is held in the name of a corporation or other entity or more than one person or entity. Class B.

(a) The Class B member shall be the Developer. The Class B member shall be entitled to ten (10) votes for each Lot in which it holds the interest required for membership pursuant to the Declaration, provided that the Class B membership shall cease and become converted to Class A membership on the happening of the earlier of either of the following events:

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(i) when the total votes outstanding in the Class membership equal the total votes outstanding in the Class B membership; or

(ii) at any earlier time that the Developer, in its sole discretion, converts its Class B membership to Class A membership by recordation of an instrument to such effect among the land records.

(b) From and after the happening of the earlier of these events, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which it holds the interest required for membership under the Declaration.

(c) Notwithstanding any provision in this Article X to the contrary, the Developer shall have the right to elect or appoint a majority of the Board of Directors of the Association until the occurrence of either of the following events:

(i) one (1) year after the Developer no longer holds the title to any portion of the Development; or

(ii) the Developer relinquishes its rights under (a) (ii) of this Article by recordation of an instrument to such effect among the land records. Upon the occurrence of either of such events, the then existing members shall be entitled to elect the Board and assume full control of the Association.

ARTICLE XI.

On dissolution, the assets of the Association shall be distributed to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event such distribution is refused acceptance, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust, or other organization organized and operated for such similar purposes.

ARTICLE XII. REGISTERED AGENT AND REGISTERED ADDRESS

The initial registered agent of the corporation shall be Peter J. Gravina, and the initial registered address of the corporation shall be 1833 Hendry Street, Fort Myers, Florida, 33901.

ARTICLE XIII.
EFFECTIVE DATE

The effective date of this corporation shall be upon filing with the office of the Secretary of State of the State of Florida.

ARTICLE XIV.

Each Director and Officer of this Association shall be indemnified by the Association against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or Officer of this Association, such expense to include the cost of reasonable settlements (other than amounts paid to the Association itself).

IN WITNESS WHEREOF, the undersigned subscribers have executed these Articles of Incorporation on this 11/22/93 day of November, 1993.

WITNESSES:

Kathleen B. Thorne
KATHLEEN B. THORNE
(Print Name)

Barbara A. Persons
BARBARA A. PERSONS
(Print Name)

Kathleen B. Thorne
KATHLEEN B. THORNE
(Print Name)

Barbara A. Persons
BARBARA A. PERSONS
(Print Name)

Kathleen B. Thorne
KATHLEEN B. THORNE
(Print Name)

Barbara A. Persons
BARBARA A. PERSONS
(Print Name)

THE BLACKHAWK PROPERTY OWNERS' ASSOCIATION, INC.

Richard C. Ackert
RICHARD C. ACKERT, President

Craig D. Sherman
CRAIG D. SHERMAN, Secretary

David L. Robbins
DAVID L. ROBBINS, Treasurer

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STATE OF FLORIDA §
COUNTY OF LEE §

BEFORE ME, the undersigned authority personally appeared RICHARD C. ACKERT, CRAIG D. SHERMAN and DAVID L. ROBBINS to me known to be the persons described in and who executed the foregoing Articles of Incorporation and acknowledged before me, according to law, that they executed the same for the purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County and State above mentioned, this 11th day of May, 1991.

My Commission Expires:

Kathleen B. Thorne
NOTARY PUBLIC
KATHLEEN B. THORNE
(Print, type or stamp
commissioned name of Notary
Public)

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

FILED
MAY 12 11 48 25
CLERK OF COURT
LEE COUNTY, FLORIDA

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

That THE BLACKHAWK PROPERTY OWNERS' ASSOCIATION, INC. desiring to organize under the laws of the State of Florida, with its principal office as indicated in the Articles of Incorporation at the City of Fort Myers, County of Lee, State of Florida, has named Peter J. Gravina, 1833 Hendry Street, Fort Myers, Florida, 33901 as its agent to accept service of process within this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above-stated corporation at place designated in this Certificate, I hereby accept to act in this capacity and agree to comply with the provision of said Act relative to keeping open said office.

By: PETER J. GRAVINA,
Resident Agent

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CHARLE GREEN LEE CTY, FL
93 MAY 26 PM 3:46

CONSENT TO AMENDMENT TO DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
BLACKHAWK, A SUBDIVISION

This Consent to Amendment to Declaration of Covenants, Conditions and Restrictions of Blackhawk, a subdivision, is made as of this 26th day of JUNE, 1996, by The Citizen's Banking Company, an Ohio banking corporation (hereinafter referred to as "Lender").

BACKGROUND

A. Blackhawk Development Corporation, a Florida corporation (hereinafter "Declarant") is the owner of the real property described in the attached Exhibit "A".

B. Declarant acquired title from Declarant's predecessor in interest by virtue of that Warranty Deed dated the 14th day of August, 1995 and recorded the 18th day of August, 1995 in O.R. Book 2627, Page 3101, Public Records of Lee County, Florida.

C. Declarants predecessor in interest recorded that certain Declaration of Covenants, Conditions and Restrictions of Blackhawk, a Subdivision (hereinafter referred to as "Declaration") against the real property described in the attached Exhibit "A", which Declaration is recorded in O.R. Book 2390, Page 3998, et seq., Public Records of Lee County, Florida.

D. Declarant desires to amend certain terms and conditions of the Declaration.

E. Lender desires to join in and consent to the Amendment to Certain Terms and Conditions of the Declaration.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the above premises and the below promises, Lender hereby states as follows:

TERMS OF AGREEMENT

1. The above recitals are true and correct and incorporated herein.
2. Lender hereby consents and joins in that certain Amendment to Declaration of Covenants, Conditions and Restrictions to Blackhawk, a subdivision, which Amendment is recorded in O.R. Book 2653, Page 2946, et seq., Public Records of Lee County, Florida.

RECORD & RETURN TO;
MORRISON & CONROY
975 6th AVENUE SOUTH
NAPLES, FLORIDA 33940



IN WITNESS WHEREOF, the parties hereto have executed this documents the day and year set forth above.

Witnesses:

"LENDER"

[Handwritten signature]
Glenn J. Mow

THE CITIZENS BANKING COMPANY,
an Ohio banking association

[Handwritten signature]
By: Marty E. Adams
Its: Authorized Agent

OR2723 PG1419

STATE OF Ohio

COUNTY OF Columbiana

The foregoing instrument was acknowledged before me this 26th day of June, 1996 by Marty E. Adams, Authorized Agent of The Citizens Banking Company, an Ohio banking association, on behalf of the corporation. He is personally known to me or has produced _____ (type of identification) as identification and did (did not) take an oath. NOTE: If a type of identification is not inserted in the blank provided, then the person executing this instrument was personally known to me. If the words in the parenthetical "did not" are not circled, then the person executing this instrument did take an oath.

[Handwritten signature]
Signature
Rebecca Tolson
(Type or print Name of Acknowledger)
Notary Public
(Title or Rank)
Commission Expires: 12-15-2000
(Serial Number, if any)

