DECLARATION OF COVENANTS AND RESTRICTIONS FOR

843728

WESTWOOD COUNTRY ESTATES

THIS DECLARATION is made this 17th day of 1990, by WESTWOOD COUNTRY ESTATES, INC., a Florida corporation, hereinafter called "Developer", who declares that the real property located in Martin County, Florida, described in Exhibit "A" attached hereto and made a part hereof, which is known as WESTWOOD COUNTRY ESTATES, a Planned Unit Development, (hereinafter called "WESTWOOD"), and which is owned by the Developer, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I

Definitions

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- 1. "Association" shall mean and refer to WESTWOOD COUNTRY ESTATES PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not for profit, the Articles of Incorporation and By-Laws of which are attached hereto and made a part hereof as Exhibits "B" and "C", respectively. This document is the Declaration of Covenants and Restrictions for WESTWOOD to which the Articles of Incorporation and By-Laws of the Association make reference.
- "Developer" shall mean and refer to WESTWOOD COUNTRY ESTATES, INC., a Florida corporation, its successors or assigns.
- 3. "WESTWOOD" shall mean and refer to the real property described in Exhibit "A" attached hereto.
- 4. "Lot" shall mean and refer to any platted subdivision lot or parcel in the property described in Exhibit "A" attached hereto.
- 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is a part of WESTWOOD, including contract sellers (but not contract purchasers) and Developer.
- 6. "Common Area" shall mean and refer to all real property owned or maintained by the Association.
- 7. "Lawn" shall mean that portion of any lot not occupied by a building, pool or other permitted structure.

ARTICLE II

Purpose

A. STATEMENT OF PURPOSE. It is the purpose of these Covenants and Restrictions to assure all owners, present and future, of any interest in WESTWOOD, or any part, parcel or lot thereof, that the integrity and quality of the project will be preserved and maintained; that the real property and all of the improvements located thereon from time to time shall be subject to the covenants, restrictions, reservations, servitudes and easements as set forth herein for the protection and benefit thereof; that the community of interest of all persons, firms or corporations owning lands within this development shall be maintained; that the means and procedures for the enforcement of these Covenants and Restrictions and the preservation, protection and maintenance of

the properties be established; and that the value of all properties within the development be preserved and enhanced.

ARTICLE III

Property Subject to this Declaration

LEGAL DESCRIPTION. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Martin County, Florida and is legally described in Exhibit "A" attached hereto, all of which real property shall hereinafter be referred to as "WESTWOOD".

ARTICLE IV

Property Rights

- A. TITLE TO COMMON AREA. The Developer will convey, at such time as he in his sole discretion deems appropriate, the title to areas which are for the use and benefit of all of the Owners of property in WESTWOOD subject to any mortgages for improvements to such Common Area parcel or parcels, to taxes for the year of conveyance, to restrictions, conditions, limitations, road dedications and rights-of-way, easements of record and for drainage and public or private utilities, and to perpetual non- exclusive easements for ingress to and egress from Developer's property in WESTWOOD, for Developer, his invitees, licensees, successors and assigns. Any roads and other areas which are for the use and benefit of only the Owners may, at the discretion of the Developer, be conveyed to the Association for such area.
- B. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:
- (1) the rights of either the Developer or of the Association (in accordance with its Articles of Incorporation and By-Laws), whichever holds title to the Common Area at the time, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said properties;
- (2) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;
- (3) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility;
- (4) all provisions to this declaration, any plat of the property in WESTWOOD and the Articles of Incorporation and By- Laws of the Association;
- (5) rules and regulations governing the use and enjoyment of the Common Area adopted by the Association, including reasonable admission charges if deemed appropriate; and
- (6) restrictions contained on any and all plats of all or any part of the Common Area or filed separate but in conjunction with such platting.
- (7) The Preserve Area Management Plan approved by the Board of County Commissioners of Martin County, Plorida, which is attached hereto as Exhibit "D".

ARTICLE V

The Association

- A. MEMBERSHIP. Every Owner of a lot in WESTWOOD shall become, by virtue of such ownership, a member of the Association and such membership shall be appurtenant to each Lot and may not be separated from the ownership of a Lot.
 - B. CLASSES OF MEMBERSHIPS.
 - 1. The Class A members shall be all Owners.
- 2. The Class B member shall be the Developer. The Class B membership shall terminate when (a) the Class B member so designates in writing delivered to the Association, or (b) when the Developer shall have completed all lots and they are owned by persons other than the Developer, whichever shall first occur.
- C. <u>VOTING RIGHTS</u>. When entitled to vote, each lot shall be entitled to one vote. All votes shall be cast in the manner provided in the Articles of Incorporation and By-Laws of the Association.
- D. CLASS B TO HAVE SOLE VOTING PRIVILEGES. Until such time as the Class B membership terminates, the Class B member shall be vested with the sole voting rights in the Association, and the Class A membership shall have no voting rights except on such matters as to which these Covenants and Restrictions, the Articles of Incorporation of the Association, or the By-Laws of the Association specifically require a vote of the Class A members.

ARTICLE VI

Use and Building Restrictions

- A. PRIVATE RESIDENCE. The use of each Lot is restricted to the construction and maintenance thereon of one (1) single family dwelling, which shall be used for private residential purposes only, and for no other purposes, although the foregoing shall not be construed as preventing the leasing of a dwelling to a tenant or tenants for residential purposes.
- B. <u>NUISANCES</u>. There shall not be erected, maintained, operated, carried on, permitted or conducted upon any Lot any thing or activity which shall be or become noxious or offensive or an annoyance or a nuisance to the neighborhood or to the owner or owners of other Lots.
- C. RESIDENCE SPECIFICATIONS. No single-story dwelling shall be less than one thousand eight hundred (1,800) square feet in living area, exclusive of porches, balconies and garages. No two (2)-story dwelling shall be less than two thousand (2,000) square feet in living area, exclusive of porches, balconies and garages. All dwellings shall have, at a minimum, a two (2) car attached garage. All dwellings shall have a cedar shake or tile roof, except flat porch roofs. All driveways shall be cement or asphalt. There shall be no flat roofs on any dwelling, except for porch roofs. No fence shall be erected on any lot streetward of the front of the dwelling building structure. In addition to these requirements, all construction on lots shall comply with the Martin County Land Development (Zoning) Code.
- D. <u>BUILDING SETBACKS</u>. The following building setbacks shall be the minimum standards in WESTWOOD, as follows:

Front yard: 40 feet (1/2-acre lots) 50 feet (1-acre lots)

Exceptions: Lots 26 and 50 shall be 30 feet only

Rear yard: 25 feet (all lots)

Side yard: 20 feet (interior lots)

25 feet (corner lots) 30 feet (corner lots--street side)

Preserve Areas:

10 feet (Pools, decks and patios may be setback five (5) feet from Preserve Areas)

- E. LOT SPECIFICATIONS. All lots with dwellings shall be fully sodded with St. Augustine, Floritam, Bahia or similar grass sod and shall have an irrigation system to water all grass and planted landscaping. On lakefront lots, sod shall extend to the lake. Natural existing vegetation shall be utilized in landscaping. Undeveloped lots (i.e., lots with no dwellings) shall be kept mowed by the Owner. If a lot becomes unsightly and the Owner, after notification, fails to mow the lot, then the Association may do so and bill the Owner for the cost, which shall be added to the assessment owed by the Owner to the Association, as set forth in Article VIII, below.
- F. DRAINAGE REQUIREMENTS. Prior to the installation of a driveway culvert on a lot, the owner or owner's contractor shall obtain from the owner's surveyor or engineer the grade stakes for the construction and installation of the swale and culvert. All driveway culverts shall be 13" x 17" BCCSP with mitered ends and concrete aprons on each end. Swale and culvert flow lines shall be 1.2 feet below the crown of the road. All swales shall be fully constructed for the entire lot frontage plus three (3) feet beyond each lot line. Prior to driveway construction on any lot, the owner or owner's contractor shall contact the Association and shall have received final culvert and swale inspection and approval.
- G. WELL AND SEPTIC TANK REQUIREMENTS. All septic tanks and drainfields on any lot shall be installed in front yards and all wells shall be installed in rear yards. The location of all septic tanks, drainfields and wells shall, prior to construction, be approved by the Association and the Martin County Health Department.
- H. <u>BUILDING AND LANDSCAPE REVIEW</u>. At least fifteen (15) days prior to the commencement of construction of any improvements on any lot, the owner or owner's contractor shall submit to the Association detailed building and landscape plans for review by the Association to ensure compliance with the Declaration of Covenants and Restrictions for WESTWOOD and to further ensure compatibility with the building and landscape standards of WESTWOOD as adopted by the Association. The Association shall have fifteen (15) days after receipt to review the building and landscape plans and approve or disapprove the same. If any plan or portion thereof is disapproved the planned improvement shall not be constructed until modified and approved by the Association.
- I. <u>BEACH IMPACT FEES</u>. Each lot owner shall be responsible for the applicable Beach Impact Fee assessed by Martin County, if any, which is in force and effect upon the issuance of a building permit for construction on the particular lot. The payment of this fee is required for the issuance of a building permit.

ARTICLE VII

Covenants for Maintenance Assessments

- A. COVENANT OF PERSONAL OBLIGATION TO PAY ASSESSMENTS. The Developer, for each Lot owned by him within WESTWOOD, hereby covenants, and 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), including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association:
 - 1. any annual assessments or charges;

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- any special assessments for capital improvements or major repair;
- 3. exterior maintenance assessments (as set forth herein); and
- 4. any lawn maintenance fees to be fixed, established and collected from time to time as hereinafter provided.
- B. <u>PURPOSE OF ASSESSMENTS</u>. 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 WESTWOOD and in particular for services or activities authorized, directed or permitted by these Covenants and Restrictions. Such activities shall include the maintenance of the Common Area including, but not limited to, the cost of street lighting, taxes, insurance, labor, equipment, materials, management, maintenance and supervision thereof, as well as for such other purposes as are permissible activities of the Association and undertaken by it.
- C. <u>BUDGET</u>. The Board of Directors of the Association shall from time to time, at least annually, prepare a budget and determine the amount of assessments to be payable by the Owners to meet the current expenses, reasonable reserve requirements, and special charges or expenses, if any. The Association shall notify each Owner annually, in writing, of the amount of expenses payable by them as determined by the budget of the Association and shall furnish a copy of the budget to each Owner.
- D. <u>UNIFORMITY OF ASSESSMENTS</u>. All assessments levied against the Owners shall be uniform; provided, however, the Association may make a specific charge or assessment against a particular Owner for work individually performed on his Lot, pursuant to contract, or as provided in ARTICLE VIII of these Covenants and Restrictions, which special charge or assessment shall be in addition to the assessment provided for in ARTICLE VII of these Covenants.
- E. SPECIAL ASSESSMENTS. The Board of Directors of the Association may at any time determine in their sole discretion that the assessments based upon the budget are, or may prove to be, insufficient to pay the expenses of the Association, or that an emergency situation exists requiring the payment of additional monies to provide for the expenses of the Association, in which event the Board of Directors of the Association shall have the authority to levy such additional or special assessment or assessments as it shall deem necessary, and to establish the time and manner for payment of such additional or special assessment. All such additional or special assessments all such additional or special assessments.
- F. <u>DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS</u>; <u>DUE DATES</u>. The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement.

The annual assessments shall be payable in advance, in periodic installments if so determined by said Board.

The due date of any special assessment or exterior maintenance assessment hereof shall be fixed in the resolution authorizing such assessment.

G. EFFECT OF NON-PAYMENT OF ASSESSMENT: LIEN FOR UNPAID ASSESSMENTS: REMEDIES OF ASSOCIATION. If the assessments are not paid on the date when due, such assessment(s) shall then become delinquent and shall, together such interest thereon and cost of collection thereof, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns,

and shall also be the continuing personal obligation of the Owner against whom the assessment is levied.

The Association shall have a lien on each Lot for any unpaid assessments with interest at the maximum legal rate allowed by law, plus reasonable attorney's fees and court costs incurred by the Association incident to the collection of the assessment or enforcement of the lien. Liability for assessments, liens and priority thereof, interest, collection and enforcement shall be governed by and conducted in accordance with Section 718.116, Florida Statutes (1987), being that section of the Florida Condominium Act regarding assessments and collection thereof.

- H. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any bona fide mortgage or mortgages (except from the buyer to the seller of a Lot) now or hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. No sale or transfer shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The written opinion of either the Developer or the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.
- I. EXEMPT PROPERTY. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:
- 1. all land in WESTWOOD to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
 - 2. all Common Area as defined in Article I hereof; and
- 3. all properties exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VIII

Exterior Maintenance and Appearance

MAINTENANCE OF EXTERIOR. It shall be the responsibility of each Owner to maintain and keep in good repair and maintenance his dwelling unit and parcel (Lot). In the event that the Owner does not maintain and keep in good repair and condition his dwelling unit and parcel (Lot), the Association shall have the right to order any unsightly, unkept, poorly maintained, unrepaired or dangerous condition to be corrected within seven (7) days of the written notice, by means of certified mail, return receipt requested, mailed to the said Owner. Within the seven (7) day period above provided the Association may, at the Owner's sufferance, enter upon any dwelling unit and parcel and correct the unsightly, unkept, poorly maintained, unrepaired or dangerous condition, and shall have the right to charge said Owner for the actual cost incurred by the Association in the correction of such condition. The Association shall have the right to charge the Owner interest at the maximum rate authorized by Florida law from the date of demand for such payment until the time that such payment is received and shall have the further right to recover all costs of collection, including reasonable attorneys' fees and court costs, in the event that it shall be necessary to effect recovery thereof through the services of an attorney and/or the courts of the State of Florida. All such amounts as provided for herein shall be a lien upon the parcel and shall be collectible in

accordance with the provisions of these Covenants and Restrictions.

- B. ACCESS AT REASONABLE HOURS. For the purpose of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any living unit at reasonable hours.
- C. <u>SIGNS AND ADVERTISING</u>. Signs advertising any Lot for sale or rent shall be erected, posted and displayed on any lot only in accordance with the rules and regulations of the Board of Directors of the Association regarding such sign or signs as to color, size, number and location. No other signs or advertising devices of any character shall be permitted on or about any Lot.
- D. TRUCKS, COMMERCIAL VEHICLES, MOBILE HOMES, BOATS, CAMPERS AND TRAILERS. No truck or commercial vehicle of any kind shall be permitted to be parked for a period of more than four (4) hours upon any Lot unless the same is temporarily present and necessary in the actual construction or repair of buildings on any Lot. No truck or commercial vehicle of any kind shall be parked overnight and no boats, boat trailers, or trailers of any kind, or campers or mobile homes shall be permitted to park on or near the property at any time, unless kept fully enclosed inside the building. None of the aforementioned shall be used as a domicile or residence, either permanently or temporarily.
- E. <u>ACCESSORY OR TEMPORARY BUILDINGS</u>. No tents and no accessory or temporary buildings or structures shall be permitted unless approved in writing by the Board of Directors.
- F. CLOTHES DRYING AREA. Outdoor clothes drying area shall be screened from view from any adjacent lot or roadway.

ARTICLE IX

Maintenance of Common Properties

- A. ASSOCIATION TO MAINTAIN. The Association shall preserve, protect, manage and maintain all property dedicated to the Association on the plat of Westwood Country Estates, all property owned by the Association and all common property within Westwood Country Estates.
- B. RESTRICTION ON DISSOLUTION OR CONVEYANCE. The Association shall not be dissolved nor shall it dispose of any common property in Westwood Country Estates, by sale or otherwise (except to an organization conceived and organized to own and maintain the common property) without first receiving approval from the Board of County Commissioners. The Board, as a condition precedent to the dissolution or disposal of common property, may require dedication of the common property to the public.
- C. FAILURE TO MAINTAIN. If the Association (or any successor organization) fails at any time to maintain the common property in reasonable order and condition in accordance with the approved final development plan, then the Board of County Commissioners can serve written notice by certified mail, return receipt requested, upon such organization and upon each owner of real property within Westwood Country Estates, which notice shall set forth the manner in which the organization has failed to maintain the common property in reasonable order and condition and shall demand that such failure be remedied within thirty (30) days of the sending of such notice or in the alternative that such organization appear before the Board at a specified time (at least ten (10) days but not more than thirty (30) days after the sending of such notice) either to contest the alleged failure to maintain the common

property or to show cause why it cannot remedy such failure within the thirty-day period. If such failure has not been remedied within the thirty-day period or such longer period as the Board may have allowed, then the Board, in order to preserve the taxable values of the real property within the development and to prevent the common property from becoming a public nuisance, shall hold a public hearing to consider the advisability of the County entering upon such common elements and maintaining them for a period of one year. Notice of such hearing shall be sent by certified mail, return receipt requested, to the organization involved and to each owner of real property within Westwood Country Estates and shall be published one time in a newspaper of general circulation published in the county. Such notice shall be sent and published at least fifteen (15) days in advance of the hearing. At such hearing the Board may determine that it is or is not advisable for

the county to enter upon such common property, take possession of

them and maintain them for one year.

The county shall have such right of entry, possession and maintenace, provided that the above procedures have been followed and such entry, possession and maintenance shall not constitute a trespass. Such entry, possession and maintenance shall not give the pulic any right to use the common elements.

The Board may upon public hearing with notice given and published in the same manner as above, return possession and maintenance of such common property to the Association, or successor organization, abandon such possession and maintenance, or continue such possession and maintenance for additional one-

year periods.

The cost of such maintenance by the County shall be assessed ratably against the properties within Westwood Country Estates that have a right to enjoyment of the common elements and shall become a charge or lien on said properties, and such charge shall be paid by the owners of said properties within thirty (30) days after receipt of a statement therefor.

ARTICLE X

General Provisions

- A. DURATION AND MODIFICATION. These Covenants shall run with and bind the land subject hereto and shall remain in effect and inure to the benefit of and be enforceable by the Association or a member thereof, or the Owner of any land subject hereto or their respective legal representatives, heirs, successors and assigns, and may be changed, modified, amended, altered or terminated only by a duly recorded written instrument executed by the President and Secretary of the Association upon affirmative vote by:
- during the time there are two classes of members, by the Class B member; or
- 2. after Class B membership is terminated, by both a majority vote of the Board of Directors of the Association and a two-thirds (2/3) majority vote of all of the Class A members.
- B. $\underline{\text{NOTICES}}$. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.
- ENFORCEMENT. Enforcement of these Covenants and Restrictions shall be 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.

- D. <u>SEVERABILITY</u>. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.
- E. <u>SUBDIVISION USE RESTRICTIONS</u>. Subdivision use restrictions may be filed in connection with any plat of WESTWOOD provided the same do not conflict with the provisions hereof.
- F. <u>EFFECTIVE DATE</u>, This Declaration shall become effective upon recordation of this Declaration in the public records of Martin County, Florida.

IN WITNESS WHEREOF, Developer executed this instrument the day and year first above written.

Signed, sealed and delivered in the presence of:

WESTWOOD COUNTRY ESTATES, INC., a Florida corporation

BY:
BRASILINO FILIPE
Its: President

(Corporate Seal)

STATE OF FLORIDA

COUNTY OF MARTIN

BEFORE ME, the undersigned authority, personally came and appeared BRASILINO FILIPE, as President of WESTWOOD COUNTRY ESTATES, INC., a Florida corporation, who acknowledged that he executed the above instrument as such officer on behalf of the corporation for the purposes stated therein.

WITNESS my hand and seal this 1774 day of July

1990.

(Notary Seal)

NOTARY PUBLIC
My Commission expires

Notory Public, State of Florida
My Commission Expires March 17, 1993
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EXHIBIT A

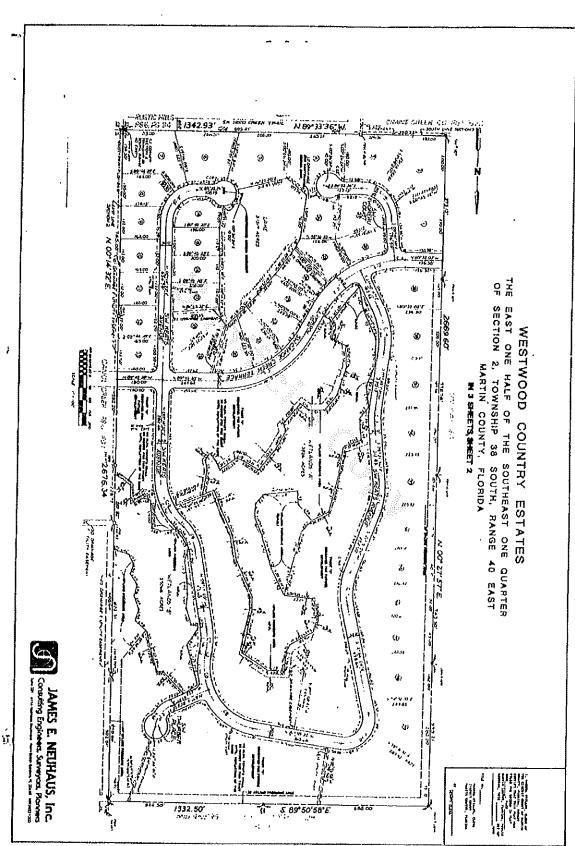
LEGAL DESCRIPTION

The East One-Half (E 1/2) of the Southeast One-Quarter (SE 1/4) of Section 2, Township 38 South, Range 40 East, Martin County, Florida, containing 82.086 acres, more or less.

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