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INDENTURE OF RESTRICTIONS  
REGARDING CYPRESS VILLAGE

This Indenture is made and entered into this 12th day of  
March, 1990.

WITNESSETH THAT:

WHEREAS, The National Benevolent Association of the  
Christian Church (Disciples of Christ) (hereinafter referred to  
as "the NBA") owns certain real property located in Duval  
County, Florida, which is more particularly described in  
Exhibit A attached hereto (hereinafter referred to as the  
"Owned Property"); and

WHEREAS, pursuant to a long term lease, the NBA has leased  
additional real property located in Duval County, Florida,  
which is more particularly described in Exhibit B attached  
hereto (hereinafter referred to as the "Leased Property") for a  
term ending February 21, 2014, and holds the exclusive option  
to purchase such property at the expiration of such term; and

WHEREAS, it is the intention of the NBA to develop on the  
Owned Property and Leased Property a community, to be known as  
Cypress Village, expressly designed to meet the special needs  
of older adults by providing a nursing home, a facility for  
assisted living, and independent living apartments designed to  
permit older adult residents to live independent lives for the  
longest possible time together with religious, recreational,  
social, dining and other common facilities designed to meet the  
unique needs of all of the older adult residents of Cypress  
Village: and

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WHEREAS, NBA will contract with Cypress Village, Inc., (hereinafter referred to as "the Operator") to operate Cypress Village to meet the special needs of older adults; and

WHEREAS, NBA has determined that many older adults in the metropolitan area of Jacksonville, Florida, who are not presently in need of nursing care or assisted living and not interested in occupying an apartment unit, still desire to live in a community designed specifically for older adults offering to them religious, recreational, social, dining and other common facilities and, Therefore, NBA has determined to meet the needs of such older adults by selling and conveying all or a portion of the Owned Property described in Exhibit C to Homes of Cypress, Inc., in order to permit it to develop, construct, and sell single family attached dwellings (hereinafter referred to as "Homes") to such older adults; and

WHEREAS, it is the intent of NBA in establishing Cypress Village that all of its Common Areas and Common Facilities will be available to all of its residents, including residents of the independent living apartment units, nursing and assisted care facilities, and the Homes.

NOW, THEREFORE, in order to assure that the development, construction and sale of the Homes is in keeping with the overall purposes of Cypress Village and to establish the rights, duties and obligations of Owners and Occupants of the Homes, NBA, as hereinafter set forth, hereby subjects the Owned Property and the Leased Property (during the term of the Lease and, thereafter, if purchased by the NBA) to this Indenture of Restrictions:

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ARTICLE I  
Definitions

Unless otherwise specifically indicated, all capitalized terms used in this Indenture shall be defined as set out in this ARTICLE.

Section 1. Committee. "Committee" shall mean the Architectural Committee composed of at least three (3) members who shall be appointed by the Operator. The members of such Committee shall serve for such terms as the Operator may determine, provided, however, that the Operator may, at any time and for any reason, remove any member so appointed by designating a new member to replace the member to be removed.

Section 2. Common Areas. "Common Areas" shall mean the Total Property exclusive of (i) those portions of such property on which, pursuant to provisions of Article XI, the NBA may construct independent living apartment facilities and nursing, residential care and other health care facilities, (ii) any streets or walkways dedicated to public use, and (iii) the Lots (except those portion of lots on which sidewalks, trails, and other pathways for walking, jogging, bicycling and other similar purposes shall be constructed).

Section 3. Common Facilities. "Common Facilities" shall be those which are designated as such by the Rules and Regulations. Such Common Facilities may include, but are not limited to, cafeteria and dining facilities, meeting facilities, recreational and social facilities, hobby and craft rooms, barber and beauty shop facilities, maintenance and service facilities, and facilities for religious worship, constructed anywhere on the Total Property and which are used for the benefit of or made available for the use of all

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Occupants as well as for other persons residing in Cypress Village.

Section 4. Cypress Village. "Cypress Village" shall mean the Total Property and all buildings, improvements and facilities located thereon.

Section 5. Home. "Home" shall mean a single family residential unit specifically designed to meet the special needs of older adults which may be attached to one or more other Homes and which is constructed on portions of one or more Lots. Home shall include a Wraparound Home.

Section 6. Homes of Cypress. "Homes of Cypress" shall refer to Homes of Cypress, Inc., a Florida not-for-profit corporation, its successors and assigns.

Section 7. Indenture. "Indenture" shall mean this instrument as the same may be amended from time to time.

Section 8. Leased Property. "Leased Property" shall refer to that real property described in Exhibit B.

Section 9. Lot. "Lot" shall mean the real property identified as such on the Plat (hereinafter defined) of Cypress Village to be filed of record in the Recorder's Office for Duval County, Florida together with the Home and any other improvements located thereon, except that in referring to the Lot on which a Wraparound Home is located, the term "Lot" shall also include that portion of the adjoining Lot onto which the Wraparound Home extends.

Section 10. NBA. "NBA" shall mean The National Benevolent Association of the Christian Church (Disciples of

Christ), a Missouri not-for-profit corporation, or any other corporation, organization, or entity designated by it to fulfill any obligation imposed upon the NBA under the terms of this Indenture.

Section 11. Occupant. "Occupant" shall mean those individuals who, in accordance with the covenants and restrictions of this Indenture, resides in a Home.

Section 12. Operator. "Operator" shall mean the corporation, organization, or entity from time to time under a contractual obligation with the NBA, to manage and operate Cypress Village. The initial Operator at the date of execution of this Indenture is Cypress Village, Inc., a Florida not-for-profit corporation. NBA may, at any time, by contract, designate another corporation, person, or entity as the Operator.

Section 13. Owned Property. "Owned Property" shall mean the real property described in Exhibit A.

Section 14. Owner. "Owner" shall mean the person(s), firm(s) or corporation(s) (except Homes of Cypress, NBA or the Operator) who may, from time to time, own a Home and the Lot on which the Home is located.

Section 15. Plat. "Plat" shall refer collectively to all plats to be filed of record in the Recorder's Office for Duval County, Florida, showing the division of Cypress Village into Lots, streets, sidewalks, and Common Areas.

Section 16. Rules and Regulations. "Rules and Regulations" shall mean the Rules and Regulations from time to time issued by Operator with respect to Cypress Village.

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Section 17. Total Property. "Total Property" shall mean the Owned Property and the Leased Property.

Section 18. Wraparound Home. "Wraparound Home" shall mean a Home which is constructed principally on one Lot, but a portion of which also extends onto an adjoining Lot.

ARTICLE II  
Binding Effect

Section 1. Persons Bound. All persons, firms, corporations or other entities who now hold or shall hereafter acquire any interest in any portion of (i) the Owned Property (including any Lot) or (ii) the Leased Property shall be bound by and shall conform to and observe the restrictive covenants and conditions set forth in this Indenture.

Section 2. Rules and Regulations. To insure the creation and maintenance of a living area specifically designed to meet the needs of older adults, all Owners and Occupants and any other person, firm, or corporation making any use of any portion of the Total Property or any facilities or improvements located thereon shall be subject to the Rules and Regulations and shall use any such property and any improvements, structures or facilities erected thereon in compliance with such Rules and Regulations.

Section 3. Additional Property. NBA may, at any time, subject other real property to the terms of this Indenture.

Section 4. Right to Sell or Encumber. This Indenture shall not be construed to prohibit the NBA from (i) selling that portion of the Owned Property described in Exhibit C to Homes of Cypress for the construction of Homes as herein

described, (ii) leasing, selling, or otherwise transferring or conveying to any entity or person (regardless of consideration received) subject to all of the duties, rights and obligations imposed upon it by this Indenture, all or any portion of the Total Property to which it may, from time to time, hold title, or (iii) encumbering, by deed of trust, mortgage, or otherwise, all or any portion of the Total Property to which it may, from time to time, hold title, in order to secure any loan or other obligation incurred. In the event of a sale, transfer, or conveyance of any portion of the Total Property, and the full assumption by the transferee of the duties and obligations imposed upon NBA under the terms of this Indenture, NBA shall be relieved of all such duties and obligations. In the event the NBA (or any assign of the NBA) should encumber, by deed of trust, mortgage, or otherwise, all, or any portion, of the Total Property to which it may, from time to time, hold title or otherwise control, the right of any Owner or Occupant to use or have access to any Common Area or Common Facility shall be subordinate to such deed of trust, mortgage, or other encumbrance and any Owner shall, upon request, execute such instruments, notarized or otherwise, as shall be required by any lender to evidence such subordination.

### ARTICLE III

#### Leases

The lease of a Home shall, in addition to all the other covenants and conditions of this Indenture, be permitted only in accordance with the following provisions:

Section 1. Approval by the Operator. Any lease of a Home shall be in writing in a form prescribed by the Operator, and shall be approved in writing by the Operator prior to occupancy of such Home by the lessee. The Operator may

withhold its approval of any lease for any reason related to the covenants and conditions of this Indenture or the general purposes of the operation of Cypress Village.

Section 2. Incorporation of Indenture. Any lease of a Home must incorporate by reference all of the covenants and conditions of this Indenture, state such covenants and conditions as limitations on the use and occupancy of the Home, and state that the lessee must comply with all such covenants and conditions and such other conditions as the Operator may reasonably require.

Section 3. Subleasing. Subleasing of any Home shall not be permitted and must be specifically prohibited by the terms of any lease of a Home.

Section 4. Additional Terms. Any lease of a Home shall contain such additional terms as the Operator requests for the reasonable administration of Cypress Village, enforcement of this Indenture, or the well-being of other Owners and Occupants.

Section 5. Holder to Remain Obligated. No lease of a Home, or approval of such lease by the Operator, shall release the Owner of such Home from the covenants, conditions and obligations of this Indenture. The Owner shall be and remain liable for any fees, monthly service charges, other assessments, penalties and interest which may be assessed with respect to the use and occupancy of such Home as well as attorneys' fees and court costs incurred by the Operator in collection.

Section 6. Use of Cypress Village By Owner. If an Owner leases a Home during the term of such lease such Owner shall have no right as an Owner of such Home to use or have



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access to any services and facilities made available to Occupants by Cypress Village, except for access to such Home for inspection or display purposes.

## ARTICLE IV

Occupancy and Use Restrictions

Section 1. Minimum Age of Occupants. No person under the age of 55 years shall be an Occupant except, with the express prior written approval of the Operator, if (i) such person is residing in a Home with a spouse who is at least 55 years of age, or (ii) such person is the surviving spouse of a deceased Occupant and such surviving spouse was married to and lived with such deceased Occupant in such Home at the time of the death of such deceased Occupant.

Section 2. Qualification of Occupant. In addition to the restrictions stated in Section 1, occupancy of a Home is further restricted as follows:

A. Only the following persons shall be permitted to occupy a Home: (i) an Owner, (ii) a lessee under a lease executed by an Owner as lessor pursuant to the covenants and conditions contained in this Indenture, (iii) the spouse of either of them, or (iv) with the express written permission of the Operator, another relative of either of them.

B. No more than two persons shall be permitted to occupy a Home without the express prior written approval of the Operator.

C. No one shall be permitted to occupy a Home without the prior written approval of the Operator. The Operator may require that anyone seeking such approval first

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submit a written application to it providing such information as it may determine to be necessary for its consideration in conjunction with a request for approval for occupancy.

Section 3. Right to Remove. The Operator shall have the right, by all available remedies at law or in equity, to compel the removal from a Home of any person residing in a Home in violation of any covenant or condition of this Indenture or in violation of any Rule or Regulation issued by the Operator, and shall be entitled to collect from the Owner of any Home from which such person is removed court costs, reasonable attorneys' fees, and any other losses, expenses or damages incurred by it in conjunction with such action(s).

## ARTICLE V

Right of First Refusal

First Refusal to NBA. If an Owner, other than Homes of Cypress, shall desire, at any time, to dispose of a Lot, by sale or gift, or to lease a Home, the Owner shall first give NBA at least thirty (30) days prior written notice of the proposed sale, gift or lease, including the name(s) of the buyer(s), donee(s) or lessee(s) and all of the terms of the proposed transaction. Except for a gift transaction for no consideration, NBA shall have the right to purchase such Lot or lease such Home, upon the same terms as those contained in such notice. If NBA shall fail to exercise such right of refusal prior to the expiration of thirty (30) days from the date of its receipt of such notice, such right shall expire and the Owner may proceed to sell such Lot or lease such Home upon the same terms as were contained in the written notice given to NBA. Even if NBA has not chosen to exercise its option hereunder as to any previous proposal, any material change in

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such terms or a new proposal of any sort must be resubmitted to NBA in accordance with the above provisions.

NBA's failure to exercise its right of refusal as to any transaction shall not constitute an approval or satisfaction of any of the terms of such transaction which may be in violation of this Indenture, and NBA shall retain any rights which it may have under this Indenture to approve or disapprove any proposed sale of a Lot or lease of a Home and to enforce all or the other restrictions, conditions, obligations, covenants and easements contained in this Indenture.

## ARTICLE VI

Fees, Assessments and Enforcement

Section 1. Fee Charges and Assessments. The Operator shall have the right to assess to each Owner (except Homes of Cypress, NBA or the Operator), and each Owner shall pay, such fees, charges and assessments as the Operator may determine to be reasonably necessary for the operation of Cypress Village. These fees, charges and assessments shall include, but not be limited to, the following:

A. Monthly Service Fee. A Monthly Service Fee in such amount as the Operator shall determine, shall be assessed to and be payable by each Owner in order to enable the Operator to administer, operate, maintain, and provide the facilities and services either required or authorized by this Indenture, and to provide for the replacement and expansion of improvements and facilities in Cypress Village as the need occurs. The Monthly Service Fee shall be payable in accordance with the following provisions:

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(i) The Monthly Service Fee shall be due from each Owner, monthly, in advance, beginning on the earlier of (a) if the Home located on the Owner's Lot is being constructed for the Owner, the date on which such Home is substantially complete as determined pursuant to the terms of the Real Estate Purchase and Home Construction Contract for construction of such Home, (b) if the Home located on the Owner's Lot has been previously occupied, the date the Owner takes title to the Lot, and payable, thereafter, for every monthly period or portion thereof until the date of transfer of the title of the Owner's Lot into a name not including the name of the Owner.

(ii) The Owner of each such Lot shall be required to pay the Monthly Service Fee to the Operator, whether or not the Home located on such Lot is leased or occupied.

(iii) The amount of the Monthly Service Fee assessed to each Owner will be established by the Operator. Such Fee shall include such amount as the Operator may determine to be the portion allocable to each Owner of the actual cost incurred by the Operator in the overall administration and operation of Cypress Village and reasonable reserves for depreciation, capital replacement, and operations, as well as the total cost of special services performed with respect to the Owner's Lot or for the Owner of such Lot. The costs incurred by the Operator in the overall administration and operation of Cypress Village shall include, but not be limited to, such portion of the following costs as the Operator, in its sole discretion, may determine to be properly allocable to services and benefits provided to Owners:

(a) The cost of maintenance to Homes and the Lots on which such Homes are located, the Common Areas and other services including, but not limited to, those

maintenance and other services described in Section 2 of ARTICLE XI and in the Rules and Regulations.

(b) The cost of the maintenance, expansion, improvement and operation of the Common Facilities and the cost of providing health, recreational, religious and social services all as described in Section 1 of Article XI.

(c) Debt service (including both principal and interest) on any loan, the proceeds of which have been used for the acquisition, construction, maintenance, improvement or expansions of any Common Area or Common Facility, or any other improvement constructed in any Common Area and available to the Occupants of any Home.

(d) Reasonable allowances for depreciation with respect to Common Facilities or facilities and improvements constructed in Common Areas and other facilities available or used to provide services to Occupants of any Home.

(e) The cost of all utilities of any kind required for the operation of any Common Areas or Common Facilities.

(f) The cost of public liability and fire and extended coverage insurance and other insurance required or which the Operator deems advisable in connection with the operation of Common Areas or Common Facilities as well as in connection with the overall operation of Cypress Village.

(g) Taxes or payments in lieu of taxes, if any, applicable to Common Areas or Common Facilities.

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(h) All salaries and other personnel costs incurred in the overall operation and administration of Cypress Village.

(i) The cost of providing and maintaining any administrative, service or maintenance offices or buildings necessary in connection with the overall operation and administration of Cypress Village.

(j) Such other costs as may normally be associated with the overall maintenance and operation of Cypress Village and with the services provided to the Owner of any Lot and/or the Occupant of any Home.

B. Special Use Fees. Special Use Fees for the actual use of certain facilities and services shall be determined by the Operator and assessed monthly to and paid by the Owner of any Home occupied by an Occupant who has actually used such facilities or services.

C. Rental Fee. The Owner of any Home who leases such Home to another individual shall be assessed and shall pay an initial fee which shall be used by the Operator to permit it to verify that the proposed lease meets the requirements of this Indenture and the Rules and Regulations and shall also pay a monthly fee in an amount determined by the Operator to be sufficient to cover its administrative expenses and costs resulting from such Lease.

D. Penalties and Interest. The Operator may assess to any Owner a penalty, not to exceed ten (10%) percent of the amount of any fee, charge or assessment which is not paid within thirty (30) days of the date due. In addition, each unpaid fee, charge or assessment, together with any penalty

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assessed, shall bear interest from the due date of such fee, charge or assessment and, with respect to any penalty, from the assessment date, at a rate which is two percentage points above the prime annual lending rate of interest from time to time charged by the largest commercial banking institution (as determined by the amount of its reported capital and surplus) having its principal office in the City of Jacksonville, Florida, but in no event shall such rate of interest exceed the amount which may be charged from time to time under applicable usury laws. This interest shall constitute an additional assessment to be paid by the Owner required to pay such fee, charge, assessment or penalty.

E. Use of Fees Charges and Assessments. Any fee charge, assessment, penalty, or interest assessed or charged may be used for any purpose in connection with the operation of Cypress Village.

Section 2. Enforcement. All fees, charges and assessments, together with any associated penalties and interest, shall be the personal obligation of the Owner subject to such fee, charge, assessment, penalty or interest, and NBA and the Operator are hereby granted a continuing lien on the Lot owned by such Owner in order to secure the timely payment of such fees, charges, assessments and any associated penalties and interest. The lien provided for herein shall be subordinate to the lien of any mortgage or deed of trust theretofore or thereafter placed upon such Lot in conjunction with the purchase of the Lot and/or the construction of the Home on such Lot. The transfer of title to any Lot upon which there is an unpaid fee, charge or assessment, penalty, or interest shall not relieve said Lot from the liability of the lien which shall run with the title to the Lot. The claim of such lien shall be effective from and after recording, in the

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public records of Duval County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the record Owner, the amount and the date when due, and shall continue in effect until all sums secured thereby shall have been fully paid. Such claims of lien shall include only fees, charges, assessments and associated penalties which are due and payable when the claim of lien is recorded, plus interest to date when all sums secured by such lien are paid in full and costs and attorney's fees associated with enforcement of such lien and the collection of the sums secured by such lien. Such claims of lien shall be signed and verified by an officer or agent of either the NBA or the Operator. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Collection of fees, charges and assessments together with penalties and interest may be enforced by:

A. Lawsuit and execution of judgment against the Owner personally obligated, or

B. Lawsuit to foreclose any lien filed against a Lot to secure the timely payment of such fee, charge, or assessments and any associated penalty or interest.

C. Any other remedy available at law or in equity.

Section 3. Failure to Occupy Home or Utilize Services.  
Failure of any Owner to occupy a Home or to utilize the facilities of Cypress Village shall not relieve said Owner from liability for the fees, charges or assessments assessed to such Owner.



## ARTICLE VII

Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot nor shall any changes or alterations be made to the exterior, or any structural changes be made to the interior of any Home, until the plans and specifications showing the nature, kind, shape, height, materials, exterior color scheme, and locations of the same shall have been submitted, in writing, to, and approved, in writing, by the Operator, or by the Committee. Complete copies of such plans and specifications showing all structural details of the proposed construction, change or alteration, including floor plans, construction materials, exterior finish and such other information as may be requested by the Operator or Committee shall be delivered, in person, or by certified mail, to the Operator and each member of the Committee. All buildings and other structures constructed in Cypress Village shall be in keeping with the architectural style and purposes of Cypress Village.

## ARTICLE VIII

Easements

The NBA shall have the right, at any time, to use and have access to, and to create, grant and convey easements upon, across, over and under any portion or all of the Total Property (including any Lot). Such easements shall include, but not be limited to, the following:

A. Utility Easements. Lines, pipes, conduits, meters and other facilities (hereafter referred to as "utility lines") have been or will be installed for the purpose of providing sewage, electricity, gas, water, telephone,

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television and other services to Homes and other improvements and facilities. One or more such utility lines may serve several Lots. To insure that such utility lines may be installed, kept, maintained, restored, repaired and replaced, NBA hereby establishes and reserves to itself its successors and assigns, and grants to the Operator and, to the extent necessary to assure utility service to a Lot, to the Owner of such Lot, the following easements:

(i) An easement to install, keep, maintain, restore, repair and replace any such utility line over, under and across the Total Property (including any Lot); and

(ii) An easement to place utility connections and metering device(s) on one Lot which will serve one or more other Lots and to run utility lines under or across any Lot in order to serve any other Lot.

(iii) An easement for ingress and egress over, under and across the Total Property (including any Lot) for the purpose of maintaining, restoring, repairing or replacing any utility line and for the purpose of reading any meter installed in connection with any utility line.

The exercise of the easements so reserved shall be subject to the following terms and conditions:

(a) If, in order to maintain, restore, repair or replace a utility line which serves only one Lot, it becomes necessary to break through walls, excavate or otherwise damage any other Lot, Home, Common Area or Common Facility, such damage shall be repaired and such Lot, Home, Common Area, or Common Facility shall be

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restored to its former condition at the expense of the Owner whose Lot is served by such utility line.

(b) If it becomes necessary to maintain, restore, repair or replace a utility line which serves more than one Lot, then the cost of such maintenance, restoration, repair or replacement, and the cost to repair and restore to its former condition any other Lot, Home, Common Area or Common Facility damaged as the result of such repair shall be shared equally by the Owners of the Lots served by such utility line, except that where the maintenance, restoration, repair or replacement of a utility line serving two or more Lots is made necessary by the negligent or willful act (as determined by the Operator) of the Owner or Occupant of a single Home, then the full cost of such maintenance, restoration, repair or replacement (including the cost to repair and restore to its former condition any other Lot or Home or any Common Area or Common Facility) shall be borne by such Owner.

B. Easements for Minor Encroachments. If any portion of a Home or other improvement located on a Lot as originally constructed encroaches on another Lot, or on any Common Area, a valid easement for said encroachment, and for the maintenance of the same, shall exist for so long as the encroaching Home or other improvement remains standing. In the event that any Home or other improvement as originally constructed is partially or totally destroyed and then reconstructed, the minor encroachments on an adjoining Lot or Common Area or other improvement shall be permitted to the extent that they are of no greater magnitude than the encroachment which existed prior to the destruction of such Home or other improvement, and a valid easement shall exist for said encroachment and for the maintenance of the same.

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C. Easement for Ingress and Egress to Lots. The NBA hereby establishes and reserves to itself, its successors and assigns, and grants to the Operator and to the then current Owner of each Lot an easement for ingress and egress to each such Lot over and across the Common Areas including any private streets or walkways. NBA further establishes and reserves to itself, its successors and assigns and grants to the Operator an easement over and across the Common Areas including any private streets or walkways for ingress and egress to any property upon which, pursuant to Article XI, the NBA elects to construct any independent living apartment facilities, nursing, residential care and other health care facilities.

D. Easement for Maintenance. The NBA hereby establishes and reserves to itself, its successors and assigns, and grants to the Operator an easement to enter any Lot (and the home constructed on such Lot) to perform any maintenance or repair authorized pursuant to this Indenture.

E. Easement for Enjoyment. NBA hereby establishes and reserves to itself, its successors and assigns and grants to the Operator and to the Owner of each Lot a right and easement of enjoyment for the use of the Common Areas and Common Facilities. Such easement shall be subject to the terms of this Indenture and the Rules and Regulations.

F. Easement for Construction of Certain Common Facilities. NBA hereby establishes and reserves to itself, its successors and assigns and grants to the Operator an easement to construct sidewalks, trails and other pathways for walking, jogging, bicycling and other similar purposes over and across any portion of a Lot other than those portions on which a Home has been constructed.

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## ARTICLE IX

Party Walls

Homes to be constructed in Cypress Village may have at least one wall in common with an adjoining Home which common wall or walls will be built on the dividing line between Lots. Each such common wall shall be a party wall, and the rights and obligations of the Owners of such party walls shall be as set out in the Cypress Village Party Wall Declaration of Homes of Cypress, Inc., a copy of which is attached hereto as Exhibit D. To the extent settling, subsidence, imprecisions in initial construction or subsequent reconstruction, or other conditions cause encroachment of one adjoining Home (Encroaching Home) onto the Lot on which the other adjoining Home is located, an easement is hereby granted to the Owner of the Encroaching Home for any such encroachment.

## ARTICLE X

General RestrictionsSection 1. Residential Purposes Only and Exceptions.

No Lot may be improved, used or occupied for other than single-family residential purposes; provided, however, that this restriction shall not apply to:

A. Any building or structure which is constructed on a Lot and is, with prior written consent of the Operator or the Committee, used exclusively by a public utility company in connection with the furnishing of services to Cypress Village.

B. Any building or portion of a building located on any Lot and used by the Operator, its agents or employees or by any other person, corporation or entity with the express permission of the Operator for a manager's office, sales

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office, display home, for construction or maintenance purposes, or for other purposes which the Operator deems necessary to the operation of Cypress Village.

C. Any Lot which shall be designated by the NBA or the Operator as a recreation area and which shall be improved and used solely for the benefit of all of the Occupants and other persons residing in Cypress Village.

Section 2. Prohibition on Subdivision of Lots. Except with the written permission of the Operator, Owner shall not be permitted to sell or otherwise transfer any portion of any Lot which is less than the entire Lot, or to otherwise subdivide any Lot. This restriction shall not, however, apply to any Lot owned by the NBA, the Operator or Homes of Cypress, Inc.

Section 3. Awnings. No awning or sun screen of any type shall be affixed or attached to any Home or Lot without the prior written consent of the Operator or the Committee.

Section 4. Exterior Placement. No truck, trailer, commercial vehicle, boat, equipment or other machinery of any type, nor cars not in daily use, shall ever be parked, placed, located or otherwise maintained on any Lot, parking area, street or on any part of the Common Areas except for those areas which may, by Rules and Regulations be designated for the parking of certain designated types of vehicles. Automobiles shall be parked only in designated parking areas.

Section 5. Antennas and Satellite Receiving Equipment. No external antenna of any type, nor any satellite receiving equipment, shall be erected on or about any Lot or any Home located on any Lot, except with the prior written approval of the Operator or the Committee. One or more master television

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antenna(s) or satellite receiving dish(es) may be erected by or with the consent of the Operator for the benefit and use of Occupants and other persons residing in Cypress Village.

Section 6. Clotheslines. No clothelines or other clothes hangers may be constructed, used, or maintained on any Lot or on the exterior of any Home, unless completely concealed within enclosed patio areas.

Section 7. Livestock and Poultry Prohibited. No animals, livestock or poultry of any kind shall be raised or kept on any Lot or in any Home located on a Lot other than household pets of such type and number as may be defined by Rules and Regulations. No such pet shall be kept, bred or maintained for commercial purposes.

Section 8. Plantings. No shrubbery, trees or other plantings shall be planted on any Lot or in any Common Area without the prior approval of the Operator or the Committee. Vegetable gardening shall be limited to areas designated by the Operator in the Rules and Regulations. Flowers may be planted on a Lot within 5 feet of the porch, patio or foundation of the Home located on such Lot, but if planted they must be maintained by the Occupant. All other plantings on any Lot shall require written approval of the Operator or the Committee. No plantings shall obstruct the natural access to or view of Common Areas.

Section 9. Noxious Activity. No noxious or offensive activity shall be carried on within Cypress Village, nor shall any trash or other refuse be thrown, placed or dumped upon any Lot or Common Area, whether vacant or not, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

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Section 10. Signs and Billboards. No sign, billboard, advertising board, or other structure or sign of any kind or nature may be placed on any Lot or any Home or other part of Cypress Village except with the prior express written consent of the Operator.

Section 11. Outbuildings and Detached Structures. No outbuilding or other detached or attached structure may be erected on any Lot without the prior written consent of the Operator or the Committee.

Section 12. Temporary Structures. No trailer, basement, (standing alone without a structure), tent, shack, garage, barn or other temporary structure shall be erected, used or maintained at any time on any Lot or other part of Cypress Village; provided, that the Operator or any other person, corporation or other entity with the express consent of the Operator, may locate, construct or maintain a temporary office, trailer, storage facility, garage or other structure relating to and during periods of construction, and may construct and maintain display homes, display apartments or offices on any part of the Total Property.

Section 13. Size Required. Each Home shall contain at least 850 square feet.

Section 14. No Business. Homes shall be used exclusively for residential purposes and, with the exception of a manager's office, sales office, display home operated with the express permission of the Operator, or other activity related to the maintenance and/or operation of Cypress Village, no business activity of any kind shall be conducted from or in any such Home.



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Section 15. Fences. No fences may be erected on any Lot except with the prior written approval of the Operator or the Committee obtained in the manner provided in Article VII. Any fence so constructed must also conform to the Rules and Regulations. Any portion of a Lot enclosed by a fence shall be maintained by the Owner of the Home.

Section 15. Exterior treatment & alignment. The Operator shall have the sole right to control the exterior treatment and materials used in the construction and repair of Homes and to direct the placement of Homes on Lots.

## ARTICLE XI

Powers and Obligations

Section 1. Rights and Authorities. In addition to the rights and authorities otherwise set forth in this Indenture, the following additional rights and authorities are hereby granted:

A. Independent Living Apartments. The NBA shall have the right, but not the obligation, to construct, maintain, and operate independent living apartments on any Common Areas, and the residents of such apartments shall have the right of access to and the use of all of the Common Areas and Common Facilities.

B. Nursing Residential Care and Other Health Care Facilities. The NBA shall have the right, but not the obligation, to construct on any Common Areas, maintain and operate adult assisted care (congregate) living facilities and nursing facilities (providing all levels of general nursing care including, without limitation, nursing care for persons afflicted with Alzheimers Disease and related dementia) as well

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as such other residential, nursing, and health care facilities as the NBA may deem appropriate. If so constructed, such facilities will be available, space permitting and pursuant to orders of priority from time to time established by the Operator, to Occupants, other residents of Cypress Village and other persons in need of such facilities and services, at such costs and charges as may be determined by the Operator from time to time.

C. Common Facilities. NBA shall have the right, but not the obligation, to construct anywhere on the Total Property (including on that portion of any Lot not occupied by a home), maintain and operate such Common Facilities appropriate to the general purposes of Cypress Village, as it, in its sole discretion, shall determine. Such Common Facilities shall be available for use by Occupants and other residents of Cypress Village. If and to the extent such Facilities are built as a part of Cypress Village, all or a portion (as determined by the Operator from time to time) of the cost of such Facilities (including debt service) and the maintenance, servicing, expansion and improvement of such Facilities shall be included in the Monthly Service Fee. In addition, a Special Use Fee, in an amount to be determined by the Operator, may be assessed to the Owner of any Home occupied by an Occupant who actually uses such Facilities.

D. Health, Recreational, Religious and Social Services. The Operator shall have the right, but not the obligation, to provide such other services as it determines are appropriate to the general purposes of Cypress Village. Such services may include, without limitation, medical, pharmaceutical, health care, social work, physical therapy, recreational, transportation and religious and psychological counseling services. If so provided, all or a portion (as

## OFFICIAL RECORDS

determined by the Operator from time to time) of the costs and expenses of making such services available to Occupants shall be added to the Monthly Service Fee. In addition, a Special Use Fee, in an amount to be determined by the Operator, may be assessed to the Owner of any Home occupied by an Occupant who actually uses such services.

Section 2. Rights and Obligations. In addition to the rights and obligations otherwise set forth in this Indenture, the Operator shall, to the extent provided herein, perform the services set out below. Neither the NBA nor the Operator shall, however, be liable to any Owner or Occupant for the failure or inability for reasonable cause to provide any of such services, and such failure or inability shall not give any Owner or Occupant any claim or cause of action against the NBA or the Operator nor affect an Owner's obligation to pay fees, charges and assessments in accordance with the covenants and conditions of this Indenture.

A. Maintenance of Interior of Homes. The Operator shall, at any time and in its sole discretion, have the right, but not the obligation to enter any Home to determine the need for maintenance, repair or replacement of the plumbing, heating, air conditioning, electrical and fixed kitchen equipment originally installed in the Home or subsequently replaced by the Operator. In the event that it is determined that the maintenance of such equipment has been neglected by the Owner, the Operator shall have the right, but not the obligation, to enter any Home and make any repairs deemed necessary. If the Operator undertakes any such repair or maintenance, any insurance proceeds or payment under any warranty to which the Owner may be entitled with respect to any damage or other condition necessitating such repair shall be paid to the Operator. The cost of all such maintenance, repair

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or replacement for which the Operator is not otherwise reimbursed shall be assessed as part of the Monthly Service Fee. All other maintenance of the interior of any Home is the sole obligation of the Owner, except that the Operator shall have the right, but not the obligation, if in its judgment, such other maintenance is required and has not been performed in a timely manner by such Owner, to perform such other interior maintenance as it may deem necessary and to assess the cost of such maintenance to the Owner of such Home as part of the Monthly Service Fee. The Operator shall have the right to enter any such Home at reasonable times and hours for the purposes of inspection or to perform interior maintenance.

B. Maintenance of Exterior of Homes and of Lots. In order to assure the uniform appearance and maintenance of the exterior of all buildings and improvements in Cypress Village, the Operator shall, at such times and in such manner as it deems necessary, maintain the exteriors of all structures in Cypress Village including the exteriors of Homes. Such maintenance shall include (i) painting of wood and metal surfaces, (ii) tuckpointing and concrete work, (iii) repair and replacement of roofs, windows, doors and guttering, (iv) the seeding, sodding, mowing and trimming of grass on the Lot on which a Home is located, and (v) maintenance, removal or replacement of the plantings on such Lot as, in the judgment of the Operator, may be required. In the event that the Operator undertakes any such maintenance or repair, any insurance proceeds to which the Owner may be entitled with respect to any damage or condition necessitating such maintenance or repair shall be paid to the Operator. The cost of all such maintenance or repair for which the Operator is not otherwise reimbursed shall be assessed as part of the Monthly Service Fee.

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C. Common Areas. The Operator shall, at such times and in such manner as it deems necessary, maintain all Common Areas, including mowing, trimming, seeding, sodding, spraying, planting trees and shrubs, lighting, the maintenance, repair, expansion, and improvement of utility service (not the responsibility of a public utility), the maintenance of private streets, cul-de-sacs, sidewalks, and other ways used for vehicular and pedestrian traffic, and the maintenance, repair, expansion and improvement of all facilities including the interiors and exteriors of those structures or portions of structures located in Common Areas. All or a portion (as determined by the Operator from time to time) of the cost of such maintenance shall be assessed to the Owners as part of the Monthly Service Fee.

D. Streets. The NBA, or the Operator with the written consent of the NBA shall have the right to dedicate to appropriate public agencies any street, drive, walkway, other right of way, utility transmission line, or other facilities located in Cypress Village or any portion of any such street, drive, walkway, other right of way, utility transmission line, or other facilities.

E. Security. In its discretion, the Operator may, but shall not be required to provide, either directly or by contract or agreement, security service and facilities for the Homes, the services and facilities to monitor emergency call buttons which may be located in Homes, and such other services as may, in the Operator's sole judgment, be in the interest of the health, safety and welfare of the Occupants and other residents of Cypress Village. The cost of such services, if provided, shall be assessed to the Owner as part of the Monthly Service Fee.

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## ARTICLE XII

Insurance

Section 1. Insurance by Owners of Homes. The Owner of a Home shall bear the entire risk of loss for, and shall maintain separate insurance on, household goods, furnishings, clothing and all other tangible personal property including automobiles located in Cypress Village. Such Owner shall bear the sole risk of loss of such Owner's Home and shall maintain fire and extended coverage insurance on such Home in an amount sufficient to assure that in the event of any loss insurance proceeds in an amount sufficient to pay for total reconstruction or replacement of the Home will be available. The Owner of such Home, the holder of any note secured by mortgage or deed of trust encumbering the Lot on which such Home is located, and the NBA (in order to assure the payment of insurance proceeds as provided in Section 2 of this Article) shall each appear as a named insured and/or loss payee on each such policy insuring a Home. Such fire and extended coverage insurance shall be maintained with such companies and in at least such amounts as may be acceptable to the Operator and a certificate of insurance evidencing such coverage, in a form acceptable to the Operator, shall be delivered to the Operator at or before the time title to a Lot is transferred to an Owner (other than Homes of Cypress). This certificate of insurance shall contain a provision stating that the coverage afforded under the policy will not be cancelled until at least thirty (30) days prior written notice has been given to the Operator.

Section 2. Proceeds Payable. In order to assure that if a Home is damaged or destroyed by fire or other casualty it will be rebuilt or repaired in a manner in keeping with the overall design and purposes of Cypress Village, all insurance proceeds payable as a result of the damage to or destruction of

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any Home shall be payable to NBA on behalf of the Owner of such Home and the holder of any note secured by mortgage or deed of trust which encumbers the Lot on which said Home is constructed as their respective interests may appear. The Operator shall, on behalf of NBA, have full authority to adjust the loss with such insurance company. The proceeds so received by NBA shall be dealt with as follows:

A. Repair or Reconstruction. Any insurance proceeds so received shall, subject to the provisions of paragraph B of this Section 2, be used by NBA to repair or reconstruct the Home or Homes damaged or destroyed unless (i) the Operator, (ii) the Owner(s) of all of the Homes so damaged or destroyed and located in a contiguous group of Homes, (iii) the holders of any notes secured by mortgages or deeds of trust which encumber the Lot(s) on which such Home or Homes damaged or destroyed in a contiguous group of Homes are constructed, (iv) the Owner of all undamaged Homes located in the contiguous group of Homes of which the Home(s) damaged or destroyed are a part, and (v) the holders of any notes secured by mortgages or deeds of trusts encumbering the Lot(s) on which such undamaged Home or Homes located in such contiguous group of Homes are constructed, shall all elect not to rebuild. In such latter event, debris shall be removed from the Lot(s) upon which such damaged or destroyed Home(s) are located, the Lot(s) and damaged Home(s) shall be cleaned up to the extent and in the manner determined by the Operator, and the damaged or destroyed Home(s) and the Lot(s) upon which they are situated shall be sold. The sale of any lot shall be subject to the express condition that the purchaser of each such Lot be obligated to repair or reconstruct the Home on such Lot within a reasonable period of time and that prior to the repair or reconstruction of such Home, the plans be approved as provided in Article VII to assure that the Home so repaired or reconstructed will be in

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keeping with the other Homes in Cypress Village. The net proceeds received from the sale of each such Lot, together with the insurance proceeds received as a result of the damage to the Home located on such Lot (less any costs incurred to remove all debris from the Lot and any fees, charges or assessments or any associated penalties and interest due hereunder) shall be paid to the Owner of the Home so damaged or destroyed and the holder(s) of any note(s) secured by mortgage(s) or deed(s) of trust encumbering the Lot on which such Home was constructed, as their respective interests appear.

B. Proceeds Insufficient. If it is determined that a Home that is damaged or destroyed is to be repaired or rebuilt but the insurance proceeds are insufficient to pay all of the cost thereof, the Owner of such Home shall pay to NBA all amounts in excess of such insurance proceeds which the NBA may determine to be necessary to rebuild or repair such Home. In the event that more than one Home in a contiguous group of Homes is damaged or destroyed, the amount to be contributed by the Owner of each damaged or destroyed Home will be determined by a qualified appraiser selected by NBA. Until all amounts necessary to rebuild or repair all damaged or destroyed Homes in a contiguous group of Homes have been paid to the Operator, the Operator shall have no obligation to repair or rebuild any damaged or destroyed Home in the group. If all such amounts are not paid by the Owner or the insurance company for the Owner, as herein required, within one hundred eighty (180) days of the damage or destruction of such Home(s), the NBA shall have the absolute right, but not the obligation, to purchase the Lot (including such Home as is) upon which each such Home is located, at its fair market value, as determined by a qualified appraiser selected by NBA. Upon payment to the Owner and the holder of any note secured by mortgage against such Home (as their respective interests may appear) of such amount



(less any fees, charges, or assessments and any associated penalties or interest due hereunder and less any costs incurred to remove all debris from the Lot) plus the amount of any casualty insurance proceeds received by NBA, the Owner shall forthwith deliver to NBA a duly executed general warranty deed conveying the Lot and improvements as is, to the NBA, in marketable fee simple title, subject only to the restrictions herein set forth and any other matters appearing of record prior to the date hereof.

Section 3. Insurance by NBA. NBA shall maintain fire and extended coverage insurance on all Common Facilities and other buildings and improvements located in Common Areas and shall use its best efforts to maintain such insurance at full replacement value; provided, however, that neither NBA nor its directors, employees or agents shall be liable for failure to maintain adequate insurance.

Section 4. Liability for Loss. If any Common Area or Common Facility should, for any reason, be damaged, destroyed, or otherwise rendered unusable, neither NBA nor the Operator shall have any obligation under this Indenture to indemnify the Owner of any Home for any loss of the right to use any such Common Area or Common Facility.

Section 5. Replacement of Improvements. If any Common Area or Common Facility is substantially damaged by fire or other casualty, NBA shall have the absolute right to elect whether or not to reconstruct such structure or facility. In the event that NBA, as the result of any such fire or other casualty receives any insurance proceeds, no Owner of a Home shall have any right or interest in any such insurance proceeds. All such insurance proceeds shall, at all times, be the property of, and payable only to NBA.

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Section 6. Release. Each Owner releases each other Owner, NBA, its agents, employees, successors, and assigns, and the Operator, its agents, employees, successors and assigns, from any claim for damage to such Owner's Property arising out of any occurrence covered by fire and extended coverage insurance.

Section 7. Obligation of Owner or Occupant. In the event of the substantial loss or destruction of a Home with the result that such Home cannot be occupied, if the Home is rebuilt pursuant to Section 2, the obligation of the Owner to pay continuing fees, charges and assessments shall be suspended from the date of the damage or destruction to such Home to the date the Occupants of such Home are reasonably able to re-occupy it. In the event that a Home so damaged or destroyed is not rebuilt pursuant to Section 2, then, except to the extent of any unpaid and outstanding fees, charges, assessments or any associated penalties or interest due from such Owner as of the date of such damage or destruction or any other obligation which accrued prior to the date of such damage or destruction, the Owner shall have no further obligation to pay fees, charges, and assessments until a new Home is constructed on such Lot and is reasonably able to be occupied.

Section 8. Indemnification. Each Owner shall indemnify and hold NBA, its agents, employees, successors and assigns, and the Operator, its agents, employees, successors and assigns harmless from any claim of personal injury or property damage by such Owner, such Owner's guests and invitees, any Occupant of the Home owned by Owner, any guest or invitee of such Occupant, or by any other person, corporation or other entity arising from the use and/or occupancy of any Home, Lot, Common Area, Common Facility or other portion of Cypress Village, by Owner, Owner's guests or invitees, any Occupant of Owner's

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Home, or any guest or invitee of such Occupant except if NBA or the Operator is determined to be solely negligent in causing such injury or damage.

Each Owner shall maintain a policy of general liability insurance in at least such amount as may, from time to time, be established by Operator in the Rules and Regulations. The Operator and the NBA shall both appear as additional named insureds and/or loss payees on each such policy. Each such policy shall be maintained with such companies as may be acceptable to Operator and a certificate evidencing such coverage in a form acceptable to Operator shall be delivered to Operator at or before the time title to a Lot is transferred to an Owner (other than Homes of Cypress) and will be maintained constantly current. This certificate of insurance shall contain a provision stating that the coverage afforded under the policy will not be cancelled until at least 30 days prior written notice has been given to the Operator.

## ARTICLE XIII

Enforcement

NBA, the Operator, or any one or more Owners shall have the right to enforce, by any proceeding at law or in equity, any or all restrictions, conditions, obligations, covenants, easements or other provisions which are or may hereafter be contained in this Indenture. Failure to enforce any such restrictions, conditions, obligations, covenants, easements or other provisions shall, in no event, be deemed a waiver of the right to do so thereafter for the same or for a different violation, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE XIV  
General Provisions

Section 1. Notices. All notices to be given hereunder shall be in writing and either delivered in person or sent by receipted, certified, or registered mail, return receipt requested. All notices sent to an Owner shall be sent to the address of the Home owned by such Owner or to the last address furnished in writing to the Operator by the Owner. Each Owner shall be responsible to timely inform the Operator, in writing, of any change of address. All notices to be sent to Operator or NBA shall be sent to the then current business address of the Operator. A notice shall be deemed received on the date delivered in person or on the date receipt is acknowledged on the certified or registered mail receipt.

Section 2. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define limit or describe the scope of this Indenture or the intent of any provision thereof.

Section 3. Gender and Number. Whenever the context so requires, the use of any gender in this Indenture shall be deemed to include any other gender, and the use of the singular shall be deemed to include the plural.

Section 4. Covenants Running With the Land. All of the provisions of this Indenture shall be deemed to be covenants running with the land.

Section 5. Severability. Invalidity of any one or more of the foregoing restrictions, conditions, obligations, covenants, easements or other provisions by judgment of a court of law shall in no manner affect any of the other restrictions,

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conditions, obligations, covenants, easements and other provisions herein, which all shall remain in full force and effect.

Section 6. Joint and Several Liability. This Indenture and all of its restrictions, conditions, obligations, covenants, easements and other provisions shall be binding upon each individual Owner and upon each joint Owner, jointly and severally and upon each of their heirs, personal representatives, successors and assigns.

## ARTICLE XV

Amendments

The provisions of this Indenture may be amended at any time by majority vote of the Board of Trustees of NBA upon a written Declaration signed by an officer of NBA and duly filed and recorded, provided that any such amendment which significantly impairs or eliminates the use of or access to any Lot by its Owner is effective only with the approval of such Owner.

IN WITNESS WHEREOF, The National Benevolent Association of the Christian Church (Disciples of Christ) has caused this Indenture to be executed the day and year first above written.

THE NATIONAL BENEVOLENT  
ASSOCIATION OF THE CHRISTIAN  
CHURCH (DISCIPLES OF CHRIST)

By

Richard R. Lance, President

Witness:

James F. White

Attest:

Ronald L. Hollon  
Secretary

Witness:

James F. White

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STATE OF MISSOURI       )  
                                  )  
COUNTY OF ST. LOUIS    )

SS

On this 12th day of March, 1990, before me, a Notary Public in and for the State of Missouri, personally appeared Richard R. Lance and Ronald L. Hollon to me personally known, who being by me duly sworn, did acknowledge and say that they are respectively the President and Secretary of The National Benevolent Association of the Christian Church (Disciples of Christ), a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed by them in behalf of said corporation by authority of its Board of Directors, and that said instrument is the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in St. Louis, Missouri, the day and year last above written.

Gwendolyn Jefferson  
Notary Public

My commission expires:  
GWENDOLYN JEFFERSON  
NOTARY PUBLIC - STATE OF MISSOURI  
ST. LOUIS COUNTY  
MY COMMISSION EXPIRES JAN. 27, 1994

This Document was Prepared by, and  
after recording, should be returned to:

DRAHEIM & PRANSCHKE  
Karl E. Holderle, III  
12444 Powerscourt Drive, Suite 450  
St. Louis, Missouri 63131  
(314) 965-6455

## EXHIBIT A

A part of the Peavett Grant, Section 41; Township 3 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

Begin at the intersection of the westerly line of said Section 41, with the northerly right-of-way of J. Turner Butler Boulevard (A 300.0 foot wide right-of-way): Thence North  $39^{\circ} - 35' - 38''$  West, along the westerly line of said Section 41, 926.17 feet; thence North  $18^{\circ} - 08' - 56''$  East, along said westerly line, 607.64 feet; thence North  $89^{\circ} - 24' - 21''$  East, 1036.72 feet; thence South  $00^{\circ} - 14' - 11''$  East, 1270.37 feet to a point on the northerly right-of-way line of said J. Turner Butler Boulevard, said point also lying in a curve concave to the northwest and having a radius of 3669.72 feet; thence along and around said curve through a central angle of  $05^{\circ} - 21' - 50''$ , an arc distance of 343.55 feet (chord bearing and distance of South  $85^{\circ} - 55' - 04''$  West, 343.43 feet) to its point of tangency; thence South  $88^{\circ} - 35' - 59''$  West, along the northerly right-of-way line of said J. Turner Butler Boulevard, 287.93 feet to the point of beginning.

And

A part of the Peavett Grant, Section 41 and the J. Peavett Grant, Section 42, both being in Township 3 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

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Commence at the intersection of the westerly line of said Section 41, with the northerly right-of-way of J. Turner Butler Boulevard (a 300.0 foot wide right-of-way); thence North  $39^{\circ}$  -  $35'$  -  $38''$  West, along the westerly line of said Section 41, 926.17 feet; thence North  $18^{\circ}$  -  $08'$  -  $56''$  East, 607.64 feet; thence North  $89^{\circ}$  -  $24'$  -  $21''$  East, 200.00 feet to the point of beginning; thence North  $39^{\circ}$  -  $24'$  -  $21''$  East, 250.00 feet; thence North  $19^{\circ}$  -  $23'$  -  $15''$  West, 403.49 feet; thence North  $49^{\circ}$  -  $10'$  -  $35''$  East, 670.00 feet; thence South  $73^{\circ}$  -  $49'$  -  $25''$  East, 170.00 feet; thence South  $00^{\circ}$  -  $39'$  -  $25''$  East 470.00 feet; thence South  $66^{\circ}$  -  $20'$  -  $35''$  West, 245.00 feet; thence South  $40^{\circ}$  -  $50'$  -  $35''$  West, 215.00 feet; thence south  $04^{\circ}$  -  $09'$  -  $25''$  East, 120.00 feet; thence North  $79^{\circ}$  -  $27'$  -  $07''$  East, 174.53 feet; thence North  $32^{\circ}$  -  $50'$  -  $35''$  East, 235.00 feet; thence North  $70^{\circ}$  -  $50'$  -  $35''$  East, 140.00 feet, thence South  $09^{\circ}$  -  $39'$  -  $25''$  East, 160.00 feet; thence South  $88^{\circ}$  -  $39'$  -  $25''$  East, 240.00 feet; thence South  $30^{\circ}$  -  $12'$  -  $57''$  East, 224.77 feet; thence South  $10^{\circ}$  -  $44'$  -  $57''$  West, 261.67 feet; thence South  $59^{\circ}$  -  $49'$  -  $15''$  West, 265.11 feet; thence North  $18^{\circ}$  -  $10'$  -  $45''$  West, 133.41 feet; thence North  $00^{\circ}$  -  $14'$  -  $11''$  East, 240.72 feet; thence South  $89^{\circ}$  -  $24'$  -  $21''$  West, 836.72 feet to the point of beginning.



## EXHIBIT B

A part of the Peavett Grant, Section 41 and the J. Peavett Grant, Section 42, both being in Township 3 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

Commence at the intersection of the westerly line of said Section 41, with the northerly right-of-way of J. Turner Butler Boulevard (A 300.0 foot wide right-of-way); thence North  $39^{\circ}$  -  $35'$  -  $38''$  West, along the westerly line of said Section 41, 926.17 feet; thence North  $18^{\circ}$  -  $08'$  -  $56''$  East, along said westerly line, 607.64 feet to the point of beginning; thence continue North  $18^{\circ}$  -  $08'$  -  $56''$  East, 618.56 feet to the corner common to Sections 41, 42, and 11; thence North  $49^{\circ}$  -  $10'$  -  $35''$  East, along the northeasterly line of said Section 42, 823.86 feet; thence South  $26^{\circ}$  -  $59'$  -  $30''$  East, 1570.28 feet to a point on the westerly line of a 100.00 foot wide Jacksonville Electric authority right-of-way; thence South  $01^{\circ}$  -  $04'$  -  $22''$  East, along said westerly right-of-way and its prolongation, 888.35 feet to a point on the northerly right-of-way line of said J. Turner Butler Boulevard. Said point also lying in a curve concave to the northwest and having a radius of 3669.72 feet; thence along and around said curve through a central angle of  $08^{\circ}$  -  $10'$  -  $42''$ , an arc distance of 523.81 feet (chord bearing and distance of South  $79^{\circ}$  -  $03'$  -  $48''$  West, 523.37 feet); thence North  $00^{\circ}$  -  $14'$  -  $11''$  East, 1270.37 feet; thence South  $89^{\circ}$  -  $24'$  -  $21''$  West, 1036.72 feet to the point of beginning.

Excepting therefrom:

A part of the Peavett Grant, Section 41 and the J. Peavet Grant, Section 42, both being in Township 3 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

Commence at the intersection of the westerly line of said Section 41, with the northerly right-of-way of J. Turner Butler Boulevard (a 300.0 foot wide right-of-way); thence North  $39^{\circ}$  -  $35'$  -  $38''$  West, along the westerly line of said Section 41, 926.17 feet; thence North  $18^{\circ}$  -  $08'$  -  $56''$  East, 607.64 feet; thence north  $89^{\circ}$  -  $24'$  -  $21''$  East, 200.00 feet to the point of beginning; thence north  $39^{\circ}$  -  $24'$  -  $21''$  East, 250.00 feet; thence North  $19^{\circ}$  -  $23'$  -  $15''$  West, 403.49 feet; thence North  $49^{\circ}$  -  $10'$  -  $35''$  East, 670.00 feet; thence South  $73^{\circ}$  -  $49'$  -  $25''$  East, 170.00 feet; thence South  $00^{\circ}$  -  $39'$  -  $25''$  East 470.00 feet; thence South  $66^{\circ}$  -  $20'$  -  $35''$  West, 245.00 feet; thence South  $40^{\circ}$  -  $50'$  -  $35''$  West, 215.00 feet; thence South  $04^{\circ}$  -  $09'$  -  $25''$  East, 120.00 feet; thence North  $79^{\circ}$  -  $27'$  -  $07''$  East, 174.53 feet; thence North  $32^{\circ}$  -  $50'$  -  $35''$  East, 235.00 feet; thence North  $70^{\circ}$  -  $50'$  -  $35''$  East, 140.00 feet, thence South  $09^{\circ}$  -  $39'$  -  $25''$  East, 160.00 feet; thence South  $88^{\circ}$  -  $39'$  -  $25''$  East, 240.00 feet; thence South  $30^{\circ}$  -  $12'$  -  $57''$  East, 224.77 feet; thence South  $10^{\circ}$  -  $44'$  -  $57''$  West, 261.67 feet; thence South  $59^{\circ}$  -  $49'$  -  $15''$  West, 265.11 feet; thence North  $18^{\circ}$  -  $10'$  -  $45''$  West, 133.41 feet; thence North  $00^{\circ}$  -  $14'$  -  $11''$  East, 240.72 feet; thence South  $89^{\circ}$  -  $24'$  -  $21''$  West, 336.72 feet to the point of beginning.

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## EXHIBIT C

A part of the Peavett Grant, Section 41 and the J. Peavett Grant, Section 42, both being in Township 3 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

Commence at the intersection of the westerly line of said Section 41, with the northerly right-of-way of J. Turner Butler Boulevard (A 300.00 foot wide right-of-way); thence North  $39^{\circ}$  -35' -38" West, along the westerly line of said Section 41, 195.00 feet to the point of beginning; thence continue North  $39^{\circ}$  -35' -38" West, along said westerly line, 731.17 feet; thence North  $18^{\circ}$  -08' -56" East, 607.64 feet; thence North  $89^{\circ}$  -24' -21" East, 200.00 feet; thence north  $39^{\circ}$  -24' -21" East, 250.00 feet; thence North  $19^{\circ}$  -23' -15" West, 403.49 feet; thence North  $49^{\circ}$  -10' -35" East, 670.00 feet; thence South  $73^{\circ}$  -49' -25" East, 170.00 feet; thence South  $00^{\circ}$  -39' -25" East 470.00 feet; thence South  $66^{\circ}$  -20' -35" West, 245.00 feet; thence South  $40^{\circ}$  -50' -35" West, 215.00 feet; thence South  $04^{\circ}$  -09' -25" East, 120.00 feet; thence North  $79^{\circ}$  -27' -07" East, 174.53 feet; thence North  $32^{\circ}$  -50' -35" East, 235.00 feet; thence North  $70^{\circ}$  -50' -35" East, 140.00 feet, thence South  $09^{\circ}$  -39' -25" East, 160.00 feet; thence South  $88^{\circ}$  -39' -25" East, 240.00 feet; thence South  $30^{\circ}$  -12' -57" East, 224.77 feet; thence South  $10^{\circ}$  -44' -57" West, 261.67 feet; thence South  $59^{\circ}$  -49' -15" West, 265.11 feet; thence North  $18^{\circ}$  -10' -45" West, 345.00 feet; thence South  $89^{\circ}$  -15' -50" West, 366.92 feet; thence South  $03^{\circ}$  -09' -53" West, 769.28 feet; thence South  $39^{\circ}$  -54' -22" West, 442.00 feet to the point of beginning.

CYPRESS VILLAGE PARTY WALL DECLARATION

WHEREAS, the undersigned, HOMES OF CYPRESS, INC., a Florida not-for-profit corporation, is the present title holder of the real estate described on Exhibit A, attached hereto and incorporated herein by reference, upon which may be erected one or more number of adjoining residences connected by division walls, which division walls will be built on the dividing lines separating the parcels of real property on which the adjoining residential dwellings are to be erected;

WHEREAS, it is the intention of the undersigned that in the event of sale or transfer of any of said adjoining residences said division wall shall remain in the same condition for the use of any and all subsequent purchasers; and

WHEREAS, there may be settling, subsidence, imprecisions in initial construction or reconstruction, or other conditions which might cause the encroachment of one adjoining residence onto the adjoining real property;

NOW, THEREFORE, for the purpose of declaring its intentions, the undersigned hereby states:

1. Any said division wall shall be a party wall for said real estate, so long as either or both of said adjoining residences shall stand.

2. No persons shall have the right to add to or detract from the party wall in any manner whatsoever, it being the intention that the party wall shall, at all times, remain in the same position as when erected.

## OFFICIAL RECORDS

3. If it shall become necessary to repair or rebuild the party wall, the expense of repairing or rebuilding the same shall be borne by the owners of the two adjoining residences, in equal proportions, provided, that an owner shall have the right to call for a larger contribution from the other owner under any applicable rule of law regarding liability for negligent or willful acts or omissions. Whenever the party wall, or any portion thereof, shall be repaired or rebuilt, it shall be erected upon the same place where it stands and be of the same dimensions as when originally constructed.

4. A party wall damaged or destroyed by fire or other casualty shall be repaired or replaced by the owners of the adjoining residences, and the cost of such repairs or replacement shall be borne equally by said owners, provided, that an owner shall have the right to call for a larger contribution from the other owner under any applicable rule of law regarding liability for negligent or willful acts or omissions.

5. Any other provision of this Declaration notwithstanding, an owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and of repairing any damage to the wall caused by such exposure.

6. All rights granted herein, including but not limited to, the right of an owner to contribution from the owner of an adjoining residence, shall run with the land and shall pass to each owner's successors in interest in said land.

## OFFICIAL RECORDS

7. To the extent not inconsistent with the laws of the State of Florida regarding party walls, this Declaration shall apply.

8. To the extent of settling, subsidence, imprecisions in initial construction or subsequent reconstruction, or other conditions causing encroachment of one adjoining residence onto the real property occupied by the other adjoining residence, an easement is hereby granted to the owner of the encroaching residence by the owner of the real property encroached upon.

9. This Declaration shall be binding upon the undersigned, its successors, assigns, and grantees.

IN WITNESS WHEREOF, This Agreement has been signed this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

HOMES OF CYPRESS, INC.

BY: \_\_\_\_\_

ACKNOWLEDGMENT

[SEAL]

STATE OF FLORIDA       )  
                                  )  
COUNTY OF \_\_\_\_\_)

I hereby certify that on this day personally appeared before me, \_\_\_\_\_, an officer duly authorized to administer oaths and take acknowledgments, of HOMES OF CYPRESS, INC., a corporation, to me well known to be the corporation described in and who executed the foregoing Cypress Village Party Wall Declaration and duly acknowledged before me that he executed the same for the purposes therein expressed as the act and deed of said corporation.

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OFFICIAL RECORDS

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
my official seal at \_\_\_\_\_, said County and State,  
this \_\_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
Notary Public

My Commission Expires:

EXHIBIT A TO THE  
PARTY WALL AGREEMENT

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FILED & RECORDED  
IN THE OFFICE OF  
OF PUBLIC RECORDS  
TALLAHASSEE, FLA

MAR 19 4 22 PM '90

*Shirley Ann Smith*  
CLERK OF CIRCUIT COURT