

EXHIBIT "5"

ARTICLES OF INCORPORATION
OF
FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC.

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ARTICLES OF INCORPORATION OF
FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC.

We, the undersigned by these Articles, associate ourselves for the purpose of forming a corporation not for profit under and in accordance with the provisions of the laws of the State of Florida and certify as follows:

1. NAME. The name of this corporation shall be as indicated in the title of this instrument. This Corporation shall hereinafter be referred to as the "Homeowners Association", these Articles of Incorporation as "Articles", and the By-Laws as "By-Laws".
2. PURPOSE. The purpose for which the Homeowners Association is organized is to provide an entity pursuant to Chapter 617, Florida Statutes to operate that certain FOUNTAINS SOUTH ATRIUM HOMES AREA (hereinafter referred to as the "ATRIUM HOMES AREA"), located in Palm Beach County, Florida, in accordance with the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS (the "Declaration"), these Articles, and the By-Laws.
3. The Declaration, to which a copy of these Articles are attached, shall, prevail in this instrument when applicable, subject to the provisions of the MASTER DECLARATION OF COVENANTS AND RESTRICTIONS FOR FOUNTAINS SOUTH (the "Master Declaration"). The definitions contained in the Master Declaration shall apply herein supplemented by the provisions of the Declaration.
4. POWERS. The powers of the Homeowners Association shall include, and shall be governed by, the following:
 - 4.1 General. The Homeowners Association shall have all of the common law and statutory powers of a corporation not for profit under the laws of Florida that are not in conflict with the provisions of these Articles, the Declaration, or the Master Declaration.
 - 4.2 Enumeration. The Homeowners Association shall have all the powers and duties set forth in the Declaration and all exhibits thereto, except as limited by the Master Declaration and all exhibits thereto, and all of the powers and duties reasonably necessary to operate the ATRIUM HOMES AREA pursuant to the Declaration as it may be amended from time to time, including, but not limited to the following:
 - 4.2.1 To levy and collect assessments against members of the Homeowners Association to defray the common expenses of the ATRIUM HOMES AREA and other charges as provided in the Declaration, these Articles and the By-Laws, including the power to levy and collect assessments for the purposes of paying assessments levied against the Units and the Homeowners Association by the FOUNTAINS SOUTH PROPERTY OWNERS ASSOCIATION, INC. (the "Property Owners Association").
 - 4.2.2 To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the ATRIUM HOMES AREA.
 - 4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Atrium Homes Property, the Units, and other property acquired or leased by the Homeowners Association for use by or for the benefit of Unit Owners.
 - 4.2.4 To purchase insurance upon the Atrium Homes Property, and insurance for the protection of the Homeowners

Association, its Officers, Directors, and members (Unit Owners).

- 4.2.5 To make and amend reasonable rules and regulations for the maintenance, conservation and use of the ATRIUM HOMES AREA and for the health, comfort, safety and welfare of the Unit Owners, and to enforce same.
- 4.2.6 To approve or disapprove the selling, purchasing, leasing, transfer, mortgaging ownership and possession of Units.
- 4.2.7 To enforce by legal means the provisions of law, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the ATRIUM HOMES AREA.
- 4.2.8 To contract for the management and maintenance of the ATRIUM HOMES AREA and to authorize a management agent and/or the Master Association to assist the Homeowners Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the ATRIUM HOMES AREA with funds as shall be made available by the Homeowners Association for such purposes.
- 4.2.9 The Homeowners Association and its Directors and Officers shall, however, retain at all times the powers and duties granted by the Declaration, By-Laws, these Articles, and the rules and regulations including, but not limited to, the making of assessments, promulgation of rules and execution of contracts on behalf of the Homeowners Association, and the employment of personnel to perform the services required for proper operation of the Homeowners Association.
- 4.3 Atrium Homes Property. All funds and titles of all properties acquired by the Homeowners Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles, and the By-Laws, subject to all easements, public and private, thereof.
- 4.4 Distribution of Surplus. The Homeowners Association shall make no distribution of surplus.
- 5. MEMBERSHIP. Every person or entity who is a record owner of a fee or undivided fee interest in any Unit, which is subject by the Declaration to assessment by the Homeowners Association, including contract sellers, shall be a member of the Homeowners Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment by the Homeowners Association.
- 6. VOTING RIGHTS. The Homeowners Association shall have two (2) classes of voting membership:
 - 6.1 Class A. Class A members shall be all Unit Owners (with the exception of the Developer), each of whom shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any single Unit.
 - 6.2 Class B. The Class B member(s) shall be the Developer, its successors and assigns (including a mortgagee of record acquiring title to the property of the Developer either by foreclosure,

deed in lieu of foreclosure, or otherwise), who shall be entitled to three (3) votes for each vote held by the total of all Class A members. The Class B membership shall cease upon the conveyance by the Developer of the last Unit to be constructed within the ATRIUM HOMES AREA.

7. TERM OF EXISTENCE. The Homeowners Association shall have perpetual existence.

8. DIRECTORS.

8.1 The initial Board of Directors shall consist of three (3) members whose names and addresses are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Stephen M. Platt	6566 Fountains Circle Lake Worth, Florida 33467
Thomas Johnston	6566 Fountains Circle Lake Worth, Florida 33467
Claire M. Hoosac	6566 Fountains Circle Lake Worth, Florida 33467

8.2 These Directors or their successors shall serve until all possible Units in the ATRIUM HOMES AREA have been sold, with title thereto being recorded in the Public Records of Palm Beach County, Florida. The sole choice of successor Directors until the aforesaid number of sales have been made, shall be made by the remaining aforesaid initial members of the Board. When all such Units have been sold, as defined above, one (1) or more members of the Homeowners Association shall have the right to petition the Homeowners Association to hold a meeting of the members for the purpose of electing the members to the Board from Class A members.

* 8.3 The number of members of the Board shall initially be three (3), but may be increased after all of the units have been sold, as stated above, up to five ~~(5)~~ ^{seven (7)} ~~by vote of a majority~~ ^{nine (9)} of the members of the Homeowners Association., present or by proxy.

8.4 Duties and Powers. All of the duties and powers of the Homeowners Association shall be exercised exclusively by the Board of Directors, the Officers, their agents, or employees, subject only to approval by Unit Owners when that is specifically required.

8.5 Election; Removal. Directors of the Homeowners Association (other than the initial Board) shall be elected at the annual meeting of the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

9. OFFICERS.

9.1 The Officers of the Homeowners Association shall be appointed by the Board of Directors at the first annual meeting and annually thereafter and shall serve at the pleasure of the Board of Directors. The names and addresses of the Officers who shall serve until their successors are designated by the Board of Directors are as follows:

President:	Stephen M. Platt 6566 Fountains Circle Lake Worth, Florida 33467
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*See attached amendments

Vice President /
Treasurer:

Thomas Johnston
6566 Fountains Circle
Lake Worth, Florida 33467

Secretary :

Claire Hoosac
6566 Fountains Circle
Lake Worth, Florida 33467

9.2 These Officers or their successors shall serve until all possible Units in the ATRIUM HOMES AREA have been sold, with title thereto being recorded in the Public Records of Palm Beach County, Florida. The sole choice of successor Officers until the aforesaid number of sales have been made, shall be made by the remaining aforesaid initial Officers of the Board. When all such Units have been sold, as defined above, one (1) or more members of the Homeowners Association shall have the right to petition the Homeowners Association to hold a meeting of the members for the purpose of electing the members to the Board from Class A members.

10. INDEMNIFICATION. Every Director and Officer of the Homeowners Association shall be indemnified by the Homeowners Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed on him in connection with any proceeding or settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a Director or Officer of the Homeowners Association, whether or not he is a Director or Officer at the time such expenses are incurred, except with regard to expenses and liabilities incurred for any of the following:

10.1 Breach of any fiduciary duty owed by such Director or Officer to the Homeowners Association.

10.2 Willful and knowing failure to comply with the provisions of the Declaration, the By-Laws, these Articles of Incorporation, the rules and regulations, or the Master Declaration and all exhibits thereto, provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the Homeowners Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

11. BY-LAWS. The first By-Laws of the Homeowners Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Directors and members in the manner provided by the By-Laws.

Assoc. (sh)
Amend.
attached.
12. AMENDMENTS. Amendments to these Articles shall require the affirmative vote of two-thirds (2/3) of the ~~total votes of~~ the Homeowners Association.

members present or by proxy of
12.1 Limitation. Provided, however, that no amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of members without approval in writing by all members and the joinder of all First Mortgagees of Record. No amendment shall be made that is in conflict with the Declaration nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer, any First Mortgagee of Record, or an affiliate of the Developer, unless the Developer and all First Mortgagees of Record shall join in the execution of the amendment.

13. PRINCIPAL OFFICE. The registered office of the Homeowners Association shall be 6566 Fountains Circle, Lake Worth, Florida 33467, or at such other place as may be subsequently designated by the Board of Directors.

14. REGISTERED AGENT AND OFFICE. The name and address of the registered agent of the Homeowners Association is Mr. Stephen M. Platt, 6566 Fountains Circle, Lake Worth, Florida 33467, or such other person as may be subsequently designated by the Board of Directors.
15. INCORPORATOR. The name and address of the Incorporator is Mr. Stephen M. Platt, 6566 Fountains Circle, Lake Worth, Florida 33467.


IN WITNESS WHEREOF, we have hereunto set our hands and seals and acknowledged the execution of the foregoing Articles of Incorporation of FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC., this 1st day of December, 1986.


Stephen M. Platt

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 1st day of December, 1986, by STEPHEN M. PLATT.


Notary Public, State of Florida at
Large

(NOTARY SEAL)

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 24 1987
BONDED THRU GENERAL INSURANCE UND

**FIRST AMENDMENT TO
FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS**

WHEREAS, the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS was recorded on January 7, 1987, Official Record Book 5134, at Page 139, of the Public Records of Palm Beach County, Florida (the "ATRIUM HOMES DECLARATION"); and

WHEREAS, Paragraph 6 of the ATRIUM HOMES DECLARATION specifically provides that any property which is located within FOUNTAINS SOUTH may be annexed to the FOUNTAINS SOUTH ATRIUM HOMES AREA upon the recording of an amendment to the ATRIUM HOMES DECLARATION, in the Public Records of Palm Beach County, Florida; and

WHEREAS, the DEVELOPER is the owner of a parcel of real property more particularly described in Exhibit "1" attached hereto and by this reference made a part hereof (hereinafter referred to as the First Addition To The Atrium Homes Area), which parcel of real property is located within FOUNTAINS SOUTH; and

WHEREAS, the DEVELOPER wishes to annex the FIRST ADDITION TO THE ATRIUM HOMES AREA to the FOUNTAINS SOUTH ATRIUM HOMES AREA so as to enlarge same and to subject said FIRST ADDITION TO THE ATRIUM HOMES AREA to all of the terms, covenants and conditions of the ATRIUM HOMES DECLARATION and all exhibits and amendments thereto; NOW, THEREFORE, the ATRIUM HOMES DECLARATION described above and the same is hereby amended as follows:

1. That parcel of real property more particularly described in Exhibit "1" attached hereto and by this reference made a part hereof (the FIRST ADDITION TO THE ATRIUM HOMES AREA) is hereby annexed to the FOUNTAINS SOUTH ATRIUM HOMES AREA.
2. The above-described FIRST ADDITION TO THE ATRIUM HOMES AREA, is hereby declared committed to the provisions of the ATRIUM HOMES DECLARATION and, shall be owned, held, used, transferred, sold, conveyed, demised, and occupied subject to all of the covenants, restrictions, easements, reservations, regulations, burdens, and liens as set forth within the ATRIUM HOMES DECLARATION and all of the Exhibits thereto and any amendment thereto.
3. Except as modified herein, the ATRIUM HOMES DECLARATION remains in full force and effect according to its terms.

IN WITNESS WHEREOF, the Developer has executed this FIRST AMENDMENT to the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS this 4th day of February, 1987.

(Corporate Seal)

THE FOUNTAINS OF PALM BEACH, a
Florida general partnership

BY: Stephen M. Platt

STEPHEN M. PLATT
as Vice President of
Goldlist Construction, Incorporated
a Florida corporation

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Stephen M. Platt to me known to be the individual described in and who executed the foregoing instrument as Vice President of Goldlist Construction Corporation, Incorporated, a Florida corporation.

WITNESS my hand and seal this 4th day of February, 1987.

My Commission Expires:

Clarence R. Board
Notary Public, State of Florida
at Large

This Instrument was prepared by
and should be returned to:

ROBERT M. SCHWARTZ, ESQUIRE
DeSantis, Cook & Gaskill, P.A.
11001 NE Highway One

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 24, 1987
BOND: THE GENERAL INSURANCE UND

Developer's First

EXHIBIT "1"
to FIRST AMENDMENT
to FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS

First Addition to the ATRIUM HOMES AREA

All of the Plat of FOUNTAINS SOUTH TRACT B-4, Replat of a portion of Block 31 of Palm Beach Farms Co. Plat No. 3 (P.B. 2, PG. 45-54, P.B.C.R.) Section 34, Township 44 South, Range 42 East Palm Beach County, Florida, recorded in Plat Book 54 at Pages 95 and 96 of the Public Records of Palm Beach County, Florida.

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SEP-08-1987 02:42PM 87-267069

**CERTIFICATE OF AMENDMENT TO
FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS**

WHEREAS, the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS was recorded on January 7, 1987, in Official Record Book 5134, at Page 139, of the Public Records of Palm Beach County, Florida (the "ATRIUM HOMES DECLARATION"); and

WHEREAS, the FIRST AMENDMENT TO FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS was recorded on February 25, 1987, in Official Record Book 5186, at Page 404, of the Public Records of Palm Beach County, Florida (the "FIRST AMENDMENT"); and

WHEREAS, Paragraph 11.3 of the ATRIUM HOMES DECLARATION specifically provides that the ATRIUM HOMES DECLARATION may be amended by an instrument executed by the holders of two-thirds (2/3) of the voting interests of membership of the Homeowners Association; and

WHEREAS, pursuant to the provisions of the ARTICLES OF INCORPORATION of FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION, INC., the Developer (THE FOUNTAINS OF PALM BEACH, a Florida General Partnership) is, as of the date of this Certificate, the holder of more than two-thirds (2/3) of the voting interests of membership of the Homeowners Association; and

WHEREAS, it has become apparent to the Developer and to the other members of the Homeowners Association that it is essential that the provisions of Articles 11 and 12 of the ATRIUM HOMES DECLARATION be amended as same are currently in conflict with general insurance provisions for detached single-family residences; and

WHEREAS, there is attached to this Certificate of Amendment, a Second Amendment to the FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS which Second Amendment amends the provisions of Article 11 and Article 12 of the ATRIUM HOMES DECLARATION as required; and

WHEREAS, this Certificate and the attached Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS shall be recorded in the Public Records of Palm Beach County, Florida.

NOW, THEREFORE, the ATRIUM HOMES DECLARATION be and the same is hereby amended in the particulars as stated in the Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS which is attached hereto; said Amendment shall run with the real property described in the ATRIUM HOMES DECLARATION, as amended, and shall be binding on all parties having right, title, or interest in the said real property or and part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

RETURN TO:

This Instrument was prepared by:
ROBERT M. SCHWARTZ, ESQ.
DeSantis, Cook & Gaskill, P.A.
11891 U.S. Highway One
North Palm Beach F 33408

*Developer's
Second Amendment:
Sections 11 and 12
of Decl. of Cov.
& Restr.*

CERTIFICATE OF ADOPTION OF AMENDMENT

WE HEREBY CERTIFY that the attached Second Amendment to FOUNTAINS SOUTH ATRIUM HOMES DECLARATION OF COVENANTS AND RESTRICTIONS has been duly adopted as an Amendment to the ATRIUM HOMES DECLARATION.

IN WITNESS WHEREOF, we have hereby set our hands and seals this 31st day of August, 1987.

FOUNTAINS SOUTH ATRIUM HOMES ASSOCIATION,
INC., a Florida Corporation

By THE FOUNTAINS OF PALM BEACH, a Florida
Joint Venture, the holder of three-fourths
(3/4) of the voting interests of member-
ship of the FOUNTAINS SOUTH ATRIUM HOMES
ASSOCIATION, INC.



Sandra J. Otto

Deborah C. Truscinski

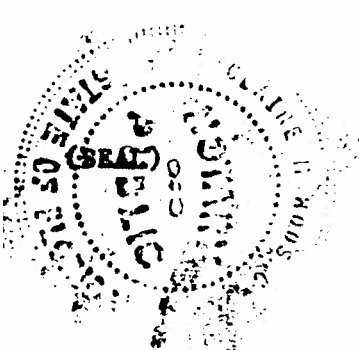
By Stephen M. Platt
Stephen M. Platt as Vice President of
Goldlist Construction Incorporated, a
Florida Corporation

STATE OF FLORIDA

COUNTY OF PALM BEACH

Before me, the undersigned authority, personally appeared Stephen M. Platt to me known to be the individual described in and who executed the foregoing instrument as Vice President of Goldlist Construction Corporation Incorporated, a Florida corporation, acknowledged to and before me that he executed such instrument as Vice President of said Corporation and that the seal affixed to the foregoing instrument is the corporate seal of the corporation and that it was affixed to the foregoing instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and seal this 31st day of August, 1987.



Claire M. X. Hossac
Notary Public, State of Florida
at Large

My Commission Expires:
Notary Public, State Of Florida At Large
My Commission Expires May 24, 1991
Insured by S&H LTD Insurance Company of America

SECOND AMENDMENT TO
FOUNTAINS SOUTH ATRIUM HOMES
DECLARATION OF COVENANTS AND RESTRICTIONS
(Underlining indicates additions; ----- indicates deletions)

11. GENERAL PROVISIONS.

- 11.1 Enforcement. The Homeowners Association, or any Unit Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provision of this Declaration. Failure by the Homeowners Association or by any Unit Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 11.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- 11.3 Duration; Amendment. The covenants and restrictions of this Declaration shall run with and bind the property subject hereto for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years. This Declaration may be amended by an instrument executed by the holders of two-thirds (2/3) of the voting interests of membership of the Homeowners Association. Notwithstanding the above, (a) any amendment affecting the maintenance provision hereof or the lien for such maintenance must be approved, if appropriate, by the County Attorney of Palm Beach County, Florida, and (b) the Developer, his successors, and/or assigns, shall have the right, until June 30, 1992, to amend this Declaration to clarify any ambiguities or conflicts, subject, however, to the requirements, if appropriate, of approval by the County Attorney. Any amendment must be recorded, and the portion of any plat containing open space may not be vacated in whole or in part unless the entire plat is vacated.
- 11.4 Limitation. No amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of members without approval in writing by all members and the joinder of all First Mortgagees of Record. No amendment shall be made that is in conflict with the Declaration nor shall any amendment make any changes which would in any way affect any of the rights, privileges, powers, or options herein provided in favor of or reserved to the Developer, any First Mortgagee of Record, or an affiliate of the Developer, unless the Developer and all First Mortgagees of Record shall join in the execution of the amendment.
- 11.5 Duty to Repair Units. ~~In the event a Unit is damaged, through an act of God or other casualty, the Homeowners Association shall promptly cause the Unit to be repaired or rebuilt substantially in accordance with the original architectural plans and specifications. It shall be the duty of the Homeowners Association to perform or have performed such repair and rebuilding of the Unit to comply with the responsibilities~~
- 11.5 Duty to Repair Units. Notwithstanding any provision contained elsewhere in this Declaration, the Declaration of Party Facilities for Fountains South Atrium Homes Area, or in the Articles of Incorporation or By-Laws of the Homeowners Association. In the event a unit or any portion thereof is damaged, through an act of God or other casualty, it shall be

the responsibility and obligation of the Unit Owner(s) owning such Unit to promptly cause his or her Unit to be repaired or rebuilt substantially in accordance with the original architectural plans and specifications for same. Such repair or reconstruction shall be at the sole expense of the Unit Owner(s) of such Unit, supplemented by the proceeds of insurance required to be carried by the Unit Owner(s) as provided for herein.

- 11.6 Title to Units. Each Unit Owner will own fee simple title to his Unit. Ownership of these Units shall be subject to the DECLARATION OF PARTY FACILITIES FOR FOUNTAINS SOUTH ATRIUM HOMES AREA to be filed in the Public Records of Palm Beach County, Florida.
- 11.7 Easement for Enforcement. The Homeowners Association is granted an easement over the FOUNTAINS SOUTH ATRIUM HOMES AREA, subject to this Declaration, by each Unit Owner for the purpose of enforcing the provisions of this Declaration, and may go upon the property and Unit of each Unit Owner to remove or repair any existing cause of a violation hereof. If the Unit Owner, after written notice by the Homeowners Association to the Unit Owner to cure the violation, fails to do so, the Homeowners Association shall have the right to cure such violation, and all costs incident thereto, including court costs and reasonable attorneys' fees, shall become the personal obligation of the Unit Owner and be a lien against his Unit in the same fashion as if said sums represented monies due for unpaid assessments. Should the Homeowners Association fail to do so, the Property Owners Association may do so in its behalf.

12. INSURANCE.

- 12.1 The insurance, other than title insurance, that shall be carried upon the FOUNTAINS SOUTH ATRIUM HOMES AREA property (both real and personal) of the Homeowners Association, and the property of the Unit Owners shall be governed by the following provisions:
- 12.2 GENERAL. All insurance policies upon the FOUNTAINS SOUTH ATRIUM HOMES AREA PROPERTY, the-Units and the property of the Homeowners Association shall be purchased by the Board of Directors. The named insured shall be the Board of Directors as agent for the Unit Owners, as their interests may appear, (without naming them) and as agent for their mortgagees, as their interests may appear. Policies and their endorsements shall be deposited with the Board of Directors. ~~Unit-Owners may-obtain-coverage-at-their-own-expense-upon-their-personal property-and-for-their-personal-property-liability-and-living expenses~~
- 12.2.1 UNIS. It shall be the responsibility of each Unit Owner to purchase, at their individual expense insurance upon his or her Unit(s). The named insured shall be the Unit Owner(s). Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit Owners. Such policies shall provide that payment by the insurer for losses shall be made to the Unit Owner(s) and to their mortgagees (if any), as their interests may appear. Copies of all policies and their endorsements shall be supplied to the Board of Directors.

12.3 COVERAGE.

12.3.1 Liability. The Board of Directors shall obtain public liability and property damage insurance (including but not limited to, hired automobile and non-owned automobile coverages) covering all of the FOUNTAINS SOUTH ATRIUM HOMES AREA PROPERTY and all property of the Homeowners Association, excluding the Units and insuring the Homeowners Association and the Unit Owners and their mortgagees of record as its and their interests may appear, in such amounts and providing such coverage as the Board of Directors may determine from time to time, provided that the minimum amount of coverage shall be not less than One Million Dollars (\$1,000,000.00) for each accident or occurrence, Three Hundred Thousand Dollars (\$300,000.00) per person and Fifty Thousand Dollars (\$50,000.00) property damage. Where possible, cross liability endorsements will be obtained to cover liabilities of the Unit Owners as a group to a Unit Owner. The bailee liability, if any, of the Homeowners Association to the Unit Owners shall be insured. Each Unit Owner shall obtain public liability and property damage insurance, at their individual expense, upon his or her Unit(s). The Board of Directors shall determine the minimum amount of such coverage to be obtained. All Unit Owners shall supply the Board of Directors with copies of all such policies.

12.3.2 Casualty Insurance. A. The Board of Directors shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Atrium Homes Property, together-with excluding the Units, including property owned by the Homeowners Association, in and for interests of the Homeowners Association, all Unit Owners and their mortgagees, as their interests may appear, with a company acceptable to the standards set by the Board of Directors and in an amount equal to the insurance replacement value of the property as determined no less frequently than annually by the Board of Directors. All such insurance shall be in such amounts that the insured will not be a coinsurer except under deductible clauses required to obtain coverage at a reasonable cost. The coverage shall exclude land value, foundation and excavation costs, that-part-of-the value-of-each-Unit-occasioned-by-special-improvement not-common-to-Units-otherwise-comparable-in construction-and-finish,-and-all-increases-in-values of-Units-occasioned-by-alterations,-betterments-and further-improvements-made-by-Unit-Owners--All-hazard policies-issued-to-protect-the-Units-shall-provide that-the-word-"building"-wherever-used-in-the-policy shall-not-include,-fixtures,-installations-or additions-comprising-that-part-of-the-Units-within the-unfinished-interior-surfaces-of-the-perimeter walls,-floors-and-ceilings-of-the-individual-Units initially-installed-or-replacements-thereof,-in accordance-with-the-original-plans-and specifications--With-respect-to-the-coverage provided-for-by-this-paragraph,-the-Unit-Owners-shall be-considered-additional-insureds

12.3.2 B. Each Unit Owner shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring his or her Unit(s), with a company acceptable to the standards set by the Board of Directors and in an amount equal to the

insurance replacement value of the Unit(s) as determined no less frequently than annually. All such insurance shall be in such amount that the Unit Owner(s) will not be a coinsurer except under deductible clauses required to obtain coverage at a reasonable cost. The coverage may, at the Unit Owner's option, exclude land value, foundation and excavation costs. The Board of Directors shall be provided with copies of all such policies by the Unit Owner(s).

12.3.3 Workmen's Compensation. The Board of Directors shall obtain workmen's compensation insurance in order to meet the requirements of law.

12.3.4 Flood Insurance. The Board of Directors shall obtain flood insurance to meet the requirements of federal, state or local law, or any regulation enacted pursuant to federal, state or local law or as may be required by the First Mortgagee of Record holding the largest dollar volume of mortgages on Units.

12.3.5 Other Insurance. The Board of Directors shall obtain such other insurance as it shall determine from time to time to be desirable, which may include officers and directors liability insurance.

12.4 INSURER'S WAIVERS. When appropriate and possible, the policies carried by the Homeowners Association shall waive the insurer's right to:

12.4.1 Subrogation against the Homeowners Association and against the Unit Owners individually and as a group;

12.4.2 The pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

12.5 PREMIUMS. Premiums upon insurance policies purchased by the Homeowners Association shall be paid by the Homeowners Association as a regular expense. Premiums upon insurance on the Units shall be paid by the Unit Owner(s).

12.6 BOARD OF DIRECTORS AS NAMED INSURED; SHARES OF PROCEEDS. All insurance policies purchased by the Homeowners Association shall be for the benefit of the Homeowners Association and the Unit Owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to the Board of Directors. The Board of Directors shall not be liable for payment of premiums nor for the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Board of Directors shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this Declaration and, in the case of proceeds from insurance for casualty, property damage, theft or other peril, for the benefit of the Homeowners Association, the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Board of Directors.

12.6.1 Personal Property Owned by Homeowners Association. Proceeds on account of damage to personal property owned by the Homeowners Association shall be held for the Homeowners Association.

12.6.2 Fountains South Atrium Homes Property. Proceeds on account of damage to Atrium Homes Property shall be held by the Homeowners Association for the benefit for all of the members hereof.

~~12.6.3---Units---Proceeds-on-account-of-damage-to-Units shall-be-held-for-the-benefit-of-the-owners-of-the damaged-Units-in-proportion-to-the-cost-of-repairing the-damage-suffered-by-each-such-Unit-Owner-as compared-to-the-total-proceeds,which-cost-shall-be determined-by-the-Board-of-Directors-of-the Homeowners-Association~~

~~12.6.4---Mortgagee---In-the-event-a-mortgagee-endorsement has-been-issued-as-to-a-Unit, the-share-of-the-Unit Owner-shall-be-held-in-trust-for-the-mortgagee-and the-Unit-Owner-as-their-interests-may-appear; provided, however, that no-mortgagee-shall-have-any right-to-determine-or-participate-in-the determination-as-to-whether-or-not-any-damaged property-shall-be-reconstructed-or-repaired, and-no mortgagee-shall-have-a-right-to-apply-or-have-applied to-the-reduction-of-a-mortgage-debt-any-insurance proceeds-except-distributions-of-such-proceeds-made to-the-Unit-Owner-and-mortgagee-pursuant-to-the provisions-of-this-Declaration~~

12.7 DISTRIBUTION OF PROCEEDS. Proceeds of insurance policies received by the Board of Directors, if any, shall be distributed to or for the benefit of the beneficial owners in the following manner:

12.7.1 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost of such repair or reconstruction. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittance to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

12.7.2 Failure to Reconstruct or Repair. If it is determined by the affirmative vote of eighty (80%) percent of all Unit Owners that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and the mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

12.7.3 Repairs to Party Walls. The provisions concerning the terms and conditions controlling repairs to Party Walls are specified in supplemented by those provisions contained within the DECLARATION OF PARTY FACILITIES FOR FOUNTAINS SOUTH ARIUM HOMES AREA.