

# 4272468

## THIS DOCUMENT WAS PREPARED BY AND SHOULD BE RETURNED TO:

Marc 1. Spencer, Esq. CHERRY & SPENCER, P.A. 1665 Palm Beach Lakes Boulevard Suite 600 West Palm Beach, Florida 33401 (407) 471-7767

### DECLARATION OF NEIGHBORHOOD COVENANTS FOR CYPRESS LINKS

THIS DECLARATION OF NEIGHBORHOOD COVENANTS FOR CYPRESS LINKS is made this <u>'c</u> day of <u>Nevenbar</u>, 1997, by Bay Colony - Gateway, Inc., a Delaware corporation (hereinafter referred to as "Declarant").

## WITNESSETH:

WHEREAS, Declarant, is the record owner of the real property hereinafter described and referred to as the Neighborhood, has imposed on the Neighborhood and other properties in Gateway Green, the Declaration and General Protective Covenants for Gateway Greens Community, which are recorded in Official Records Book 1977 at Pages 1367 through 1439, inclusive, of the Public Records of Lee County, Florida, as amended from time to time (the "General Covenants"); and

WHEREAS, the General Covenants provide that Declarant may supplement the General Covenants for any neighborhood (as Neighborhood is defined therein); and

WHEREAS, Declarant has determined that in order to cause a quality development with the Neighborhood, supplemental restrictions and covenants should be imposed on the Neighborhood for the preservation of property values of the Owners therein.

NOW, THEREFORE, Declarant declares that the Neighborhood as described in Article 1 of this Declaration shall be held, transferred, sold, conveyed and occupied subject to the General Covenants and the supplemental restrictions, covenants, servitudes, impositions, easements, charges and liens hereinafter set forth.

#### ARTICLE 1 DEFINITIONS

<u>Section 1.1</u> "Declarant" shall mean and refer to Bay Colony - Gateway, Inc. or its successors; or a successor-in-title to any portion of the property described on Exhibit "A" hereof pursuant to an instrument which is duly recorded in the Public Records of Lee County, Florida and which conveys and assigns to the grantee thereof all or any portion of the rights of Bay Colony - Gateway, Inc. hereunder. Such conveyance and assignment may

be partial in which event Bay Colony - Gateway, Inc.'s rights so conveyed shall be limited as provided in the instrument, or the same may be a complete conveyance and assignment, in which latter event shall vest such successor with all of the rights of Bay Colony - Gateway, Inc. hereunder at which time Bay Colony - Gateway, Inc. will be released of all liability hereunder.

<u>Section 1.2</u> "Declaration" shall mean and refer to this Declaration of Neighborhood Covenants for Cypress Links as the same may be amended from time to time.

<u>Section 1.3</u> "General Covenants" shall mean and refer to the Declaration and General Protective Covenants for Gateway Greens Community, recorded in Official Record Book 1977, Page 1367 et seq. of the Public Records of Lee County, Florida, as amended or supplemented from time to time.

Section 1.4 "Neighborhood" shall mean and refer to any portion of the property legally described on Exhibit "A".

<u>Section 1.5</u> "Owner" shall mean and refer to the record title holder, whether one (1) or more persons or entities, of the fee simple title to any Home situated within or upon any Lot in the Neighborhood.

Section 1.6 All other words defined in the General Covenants shall have the same meaning herein.

## ARTICLE 2 SUPPLEMENTAL RESTRICTIONS

#### CONSTRUCTION STANDARDS

<u>Section 2.1 Construction Standards</u>. All property which is now or may hereafter be subjected to this Declaration is subject to review and architectural and site plan pursuant to the General Covenants. In addition to the requirements established in accordance with the General Covenants, the following standards shall govern structures and improvements to Homes. These standards shall be for the benefit of and may be enforced pursuant to the General Covenants.

<u>Section 2.1.1</u> <u>Building Height</u>. No structure shall exceed two (2) stories in height or be erected over a height of 25 feet measured from the finished grade of the Home. The height of the building shall be measured as the vertical distance from grade to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. No structure shall have more than two (2) floor levels (stories).

<u>Section 2.1.2</u> <u>Building Size</u>. Each single family dwelling erected or constructed on any Home in the Neighborhood shall contain a minimum of one thousand eight hundred (1,800) square feet of air conditioned floor area and shall have minimum setbacks as described in Section 2.1.3 The method of determining square foot area of proposed buildings and structures or additions and enlargements thereto shall be to multiply the outside horizontal dimensions of the building or enlargements thereto shall be to multiply the outside horizontal dimensions of the building or structure at each floor level. Garages, porches, patios, terraces and other similar structures shall not be taken into account in calculating the minimum squire foot area required.

<u>Section 2.1.3</u> <u>Setbacks</u>. All buildings shall comply with minimum setbacks as follows. All measurements shall be to the nearest point of a structure which shall be defined as the exterior wall.

- (a) Minimum front setback from any street 20 feet
- (b) Minimum side setback from any side Home line 7 feet

(c)	Minimum rear setback -	Principal Structure	20 feet
		Accessory Structure	10 feet

- (d) All corner Homes shall have a minimum street side setback of 20 feet.
- (e) Where two or more Homes, or parts thereof, are acquired and used as a single building site under a single owner, or where a single Home is split or subdivided with the necessary approvals, the side Home lines shall refer only to the lines bordering on the adjoining property, or which are the lines on the sides of the resulting building site.
- (f) No structure shall be erected within 25 feet of a body of water, measured from the water control elevation, except that swimming pools, tennis courts, patios, decks and openmeshed screen enclosures shall be set back from water bodies by not less than 20 feet, unless a lesser setback is approved by Declarant.

Section 2.1.4 Roofs. Pitched roofs shall be required over all portion of structures except as may be otherwise permitted herein, and shall have a minimum pitch of 5:12, except that deviation from the minimum pitch may be approved by Declarant for gambrel and similar type roofs. All roofs shall be constructed of flat, barrel, S-shaped or villa cement tile, hand-sawn or split cedar shakes, slate or copper all as defined by common usage in Lee County. In the event some new and attractive material for roofing surfaces is discovered or invented Declarant may, in its sole discretion, approve the use of such new materials. A mansard, lesser pitched or flat roof may be permitted over porches, Florida rooms, storage rooms and utility rooms only if approved in writing by Declarant. Such mansard, lesser pitched or flat roofs are to be located to the rear of the building unless approved in writing by Declarant. The total of mansard, lesser pitched and flat roof areas approved, if any, shall not comprise over 40% of the total roof area.

#### Section 2.1.5 Garages, Carports, Enclosures and Mailboxes.

(g) Each dwelling unit shall have a garage which shall accommodate not less than two (2) automobiles unless Declarant approves in writing a garage which shall accommodate more than two (2) automobiles. All garage doors must be equipped with automatic door openers and closers. When ingress and egress to the garage is not desired, the garage doors must remain closed. Repair of vehicles shall be permitted only inside the garage. No garage or enclosed storage area shall be allowed which is detached from the dwelling unit. No carport or unenclosed storage area shall be allowed.

(h) All enclosures (screen or unscreened), including spa, hot tub and swimming pool enclosures shall be located, constructed and maintained only as approved by Declarant and shall be of compatible design, color and materials to the dwelling unit. Screened enclosures on lots 11 through 30 & 75 of the Neighborhood, as described on the Site Plan, shall be constructed of dark bronze aluminum with dark screening unless otherwise approved in writing by Declarant.

(i) The location, style, type and appearance of Owner's mailbox must be approved by Declarant prior to installation. All mailboxes must be maintained in good condition as determined by Declarant.

<u>Section 2.2</u> <u>Use Restrictions</u>. The lands herein described may be used only for single family dwellings and related purposes. No business buildings may be erected on said land. No business may be conducted on any part hereof, nor shall any building or any portion thereof be used or maintained as a professional or business office, excepted as may be approved by Declarant in writing. Notwithstanding the provisions of this section, Declarant may utilize one or more Homes for sales office or models or model home parking for so long as Declarant, its successors or assigns, shall own any Home in the Property and Declarant shall have the right to designate other persons or entities to likewise so utilize Homes for a sales office or models or model home parking so long as said person or entities own any Home in the Property.

## ARTICLE 3 GENERAL PROVISIONS

<u>Section 3.1</u> <u>Assessments</u>. Each Lot in the Neighborhood is a Single Family Lot as defined in the General Covenants and shall be assessed as such in accordance with the provisions of the General Covenants.

<u>Section 3.2</u> <u>Enforcement</u>. The Declarant shall have the same rights and powers of enforcement, including lien rights and attorney's fees, with regard to this Declaration, as Declarant has under the General Covenants, including, without limitation, all the rights and powers set forth in Article II, Section 2.7 of the General Covenants.

<u>Section 3.3</u> <u>Conflicts.</u> In the event of any conflict among the provisions of the General Covenants and the provisions of this Declaration, the Declarant reserves the right and the power to resolve any such conflict, and its decision shall be final.

<u>Section 3.4</u> <u>Amendment</u>. Declarant may, in its sole discretion, modify, amend, waive or add to the Declaration or any part thereof. The power of amendment, however, shall be limited to minor modification or enlargement of existing covenants and shall in no way impair the general and uniform plan of development originally set forth herein.

<u>Section 3.5</u> <u>Declaration runs with the Land</u>. The covenants, conditions, restrictions and other provisions under this Declaration shall run with the land and bind the property within the Neighborhood and shall inure to the benefit of and be enforceable by the Declarant for a term of thirty (30) years from the date this Declaration is recorded, after which time this Declaration shall automatically b extended rio successive periods of Ten (10) years. Any time after the initial Thirty (30) year period provided for in this Section, this Declaration may be terminated or modified in whole or in part by the recordation of a written instrument executed by the then Owners of two-thirds (2/3rds) of the lots agreeing to the termination or modification.

IN WITNESS WHEREOF, Declaration has been executed as of the date first above written.

Signed, Sealed and Delivered in the presence of:

BAY COLONY - GATEWAY, INC. a Delaware corporation

By: Sugar Last;

lts: Senior Vice President

Print Name and Address:

Vivien N. Hastings

24301	Walden Ce	enter	Drive
Bonita	Springs	FL	34134

#### **EXHIBIT A**

(Legal Description)

## EXHIBIT "A"

Gateway Phase 21, according to the plat thereof recorded in Plat Book 58, Pages 60 through 62, inclusive, of the Public Records of Lee County, Florida,

LESS AND EXCEPT THE FOLLOWING:

•

Lots 1, 3, 4, 7, 12, 15, 16, 41, 47, 48, 51, 52, 55, 67 and 71, Gateway Phase 21, according to the Plat thereof recorded in Plat Book 58, Pages 60 through 62, inclusive, of the Public Records of Lee County, Florida

CHARLIE GREEN LEE CTY. FL 97 NOV 10 PH 2: 11