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**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
MAGNOLIA FOREST PHASE II AT BLUEWATER BAY**

THIS DECLARATION of Covenants, Conditions and Restrictions is made as of the 7<sup>th</sup> day of April, 1997, by KJT INVESTMENTS, INC., a Florida Corporation, whose mailing address is: 7343 Royal Oak Drive, Springhill, Florida 34607, hereinafter referred to as "Declarant".

**WITNESSETH**

WHEREAS, Declarant is the owner of the following described property lying and located at Bluewater Bay, Okaloosa County, Florida, to-wit:

**MAGNOLIA FOREST PHASE II AT BLUEWATER BAY**, according to the plat thereof as recorded in Plat Book 17, Pages 8 and 9, Public Records of Okaloosa County, Florida.

WHEREAS, the Declarant intends to develop the property and to convey the property by individual parcels, by reference to a plat, and:

NOW THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and/or assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

**Section 1. Area of Common Responsibility** shall mean and refer to those areas, if any, which are designated as such by this Declaration, by Declarant or by the Association, or designated as Common Area herein. Unless the documents creating any parcel within Magnolia Forest Phase II at Bluewater Bay specifically provide that the property included in that parcel shall not be subject to this paragraph, all property outside the legal limits of a Residential Unit and not otherwise a part of the common area of an association within Magnolia Forest Phase II at Bluewater Bay (other than this Association) shall also be an Area of Common Responsibility. Expense for security, maintenance and replacement within Areas of Common Responsibility shall be designated by the Board of Directors as General Expense.

**Section 2. Association** shall mean and refer to Magnolia Forest Phase II Property Owners Association at Bluewater Bay, Inc., a Florida nonprofit corporation, its successors and assigns.

**Section 3. Board of Directors or Board** shall refer to the Board of Directors of the Association.

**Section 4. Common Area** shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. Common roads owned by the Association shall include all areas within the designated right of way.

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**Section 5. Common Expense** shall mean and include the actual and estimated expenses of operating the Association including all expenses incurred to secure, maintain and preserve its Common Area and its Areas of Common Responsibility, and including reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

**Section 6. Declarant** is KJT INVESTMENTS, INC., a Florida Corporation and its designated successors and/or assigns.

**Section 7. General Assessment** is an assessment of the Common Expenses that shall be charged to every Residential Unit in the Property on an equal basis.

**Section 8. Limited Access Area** is that certain area within the described boundary lines of a Residential Unit where the owner or owners thereof shall have the exclusive use and access over those areas defined by such boundary lines, subject to this Declaration, and to any applicable subdivision documents and subject to other rights of use by utility easements or access agreements. In addition, maintenance and other personnel authorized by the Board shall have the right, as specifically authorized by the Board, to enter a Limited Access area to fulfill a duty given the Association by this Declaration or by various other documents creating the owners' estate in the subject property. Fences around property (if any are permitted) shall make provision to accommodate the need of maintenance or emergency personnel to enter these areas in such locations as may be approved by Declarant in connection with any such fence approved.

**Section 9. Member** shall mean and refer to a person or entity entitled to membership in the Association as provided herein.

**Section 10. Mortgage** shall include a deed of trust as well as a mortgage.

**Section 11. Mortgagee** shall include a beneficiary or holder of a deed of trust as well as a mortgagee. The term shall also refer to the successor in interest to any mortgage, unless the context requires otherwise.

**Section 12. Mortgagor** shall include the trustor of a deed of trust as well as a mortgagor.

**Section 13. Owner** shall mean and refer to the record owner, whether one or more persons or entities, of any Residential Unit which is part of the Property but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

**Section 14. Parcel** shall mean and refer to any separately designated portion of the Property intended to be developed as a residential area.

**Section 15. Person** means a natural person, corporation, a partnership, trustee, or other legal entity

**Section 16. Property** shall mean and refer to the real property described as Magnolia Forest Phase II at Bluewater Bay, as recorded in Plat Book 17, Pages 8 and 9, Public Records of Okaloosa County, Florida.

**Section 17. Residential Association** shall mean any association other than this Association created with respect to any portion of the Property subject to this Declaration.

**Section 18.** Residential Unit shall mean any portion of the Property intended for any type of independent ownership. For the purpose of this Declaration, a Residential Unit shall come into existence for purposes hereof upon the recording in the public records of Okaloosa County of a subdivision or plat describing said units.

**ARTICLE II**  
**PROPERTY RIGHTS**

**Section 1. Rights of Residential Unit Owner.** Every Owner shall have a right and easement of ingress, egress and access over, upon and across the Common Area of Magnolia Forest Phase II at Bluewater Bay and such other property rights as may be specifically granted to an Owner hereafter, subject to the right of the Association acting through its Board to regulate and control said use in the best interest of the Association. All rights and easements shall also be subject to any restrictions or limitations contained in any Deed or amendment to this Declaration conveying the Common Area to the Association or subjecting it to this Declaration. Any Owner may delegate his or her right of ingress, egress, access or enjoyment to the members of his or her family, tenants, and social and business invitees subject to such rules and regulations as may be adopted by the Board.

**Section 2. Rights of Declarant.** The Declarant shall have a right of ingress, egress, access and enjoyment in and to the Common Area and may delegate its rights and easements to its successors, assigns, tenants and social and business invitees. Should a Sales Center be designated and built by Declarant then this is not a Common Area whether or not it is situated within a Common Area such as a road right of way, and will remain private property of the Declarant.

**DECLARANT AND ITS DESIGNATED SUCCESSORS AND ASSIGNS WILL HAVE THE RIGHT TO USE THE SALES CENTER AND ANY RESIDENTIAL UNIT AS A SALES OR BUSINESS OFFICE UNTIL ALL RESIDENTIAL UNITS HAVE BEEN SOLD AND THEREAFTER MAY MAINTAIN A SALES CENTER WITHIN A RESIDENTIAL UNIT TO ASSIST IN REALES WITHIN THE PROPERTY.**

**ARTICLE III**  
**MEMBERSHIP IN COUNCIL OF PROPERTY OWNERS**  
**AT BLUEWATER BAY**

**Section 1.** The Association has agreed to be a member of the Council of Property Owners at Bluewater Bay, Inc. ("Council"), a defacto master association of other associations and property owners at Bluewater Bay. By accepting title subject to this Declaration, each owner of a Residential Unit is deemed to have appointed and given his or their proxy and power to vote regarding all issues to come before the Council to the representative designated by the Board of Directors of the Magnolia Forest Phase II Association. The Board will appoint one or more of its members to serve as its representative to the Council and may remove that person without cause or notice. The Association shall not be obligated to continue membership in the Council unless (50%) percent or more of the property owner associations in Bluewater Bay also continue as members of the Council. The expense of being a member of the Council shall be paid by the Association as a General Expense and the areas of concern addressed by the Council shall be considered part of the Association's area of common responsibility. The fee paid by member to the Council for calendar year 1997 is \$60.00 per year per Residential Unit with a completed home and \$36.00 per year per Residential Unit without a completed home. The Association shall not be obligated to pay any increased fee unless the increased fee is charged to all members of the Council.

**ARTICLE IV**  
**MEMBERSHIP, DECLARANT'S VOTES & ASSESSMENT**  
**ELECTION OF DIRECTORS**

**Section 1. Membership.** Every person or entity which is the record owner of a fee or undivided fee interest in any Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Residential Unit owned. In the event of multiple owners of a Residential Unit, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or the members's spouse, but in no event shall more than one vote be cast for each Residential Unit.

**Section 2. Voting.** The Association shall have one (1) class of membership. Each Residential Unit shall be entitled to one vote, except that the Declarant will have three (3) votes for each Residential Unit or proposed Residential Unit it owns as provided herein; said proposed Residential Units shall be converted to Residential Units as a plat is filed for record for each of said subdivisions. When more than one person holds an interest in any Residential Unit, the vote for such Residential Unit shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advise, the Residential Unit's vote shall be suspended in the event more than one person seeks to exercise it.

**Section 3. Declarant's Assessment.** UNLESS DECLARANT ELECTS OTHERWISE AS SET FORTH HEREAFTER, AS LONG AS DECLARANT OWNS MORE THAN ONE-THIRD OF THE RESIDENTIAL UNITS PROPOSED AND ACTUAL, THEN IN LIEU OF DUES OR GENERAL ASSESSMENTS OR PARCEL ASSESSMENTS, DECLARANT SHALL BE RESPONSIBLE FOR PAYING TO THE ASSOCIATION AN AMOUNT EQUAL TO THE DEFICIT INCURRED BY THE ASSOCIATION IN CONNECTION WITH ITS NORMAL OPERATIONS, SAID DEFICIT TO BE FUNDED ON A MONTHLY BASIS. IN THE EVENT DECLARANT CONTINUES TO BE OBLIGATED TO FUND THE ASSOCIATION DEFICIT AS SET FORTH HEREIN, THEN NEITHER DECLARANT NOR ANY OWNER WHO TAKES TITLE FROM ANY MORTGAGEE OF DECLARANT OR ITS SUCCESSOR IN INTEREST, WHETHER TITLE IS TAKEN BY FORECLOSURE OR BY DEED IN LIEU OF FORECLOSURE, SHALL BE OBLIGATED TO PAY ANY ASSESSMENT, NOR SHALL ANY LIEN ATTACH TO THE PROPERTY OWNED BY DECLARANT OR A SUCCESSOR TO DECLARANT, ARTICLE VII NOTWITHSTANDING. DECLARANT MAY AT ANY TIME AFTER JANUARY 1, 1998 ELECT TO TERMINATE ITS DEFICIT FUNDING OBLIGATION HEREUNDER IN WHICH EVENT DECLARANT SHALL PAY THE GENERAL ASSESSMENTS AND APPROPRIATE PARCEL ASSESSMENTS APPLICABLE TO ITS RESIDENTIAL UNITS.

**Section 4. Termination of Declarant's Special Status.** At such time as Declarant no longer owns one-third (1/3) of the Residential units (including Proposed Residential Units), or, if earlier, at such time as Declarant elects to terminate its deficit funding obligation under Article IV, Section 3, but in any event not later than December 31, 2003, Declarant shall thereafter have only one vote per Residential Unit, shall no longer be obligated to fund the Association's deficit, and shall be subject to paying its share of Common Expenses based on the same assessments as is levied on any other Residential Unit.

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**Section 5. Board of Directors.** The initial Board of Directors will consist of three (3) persons appointed by Declarant. Thereafter, the board shall consist of at least three (3) but not more than seven (7) persons elected at the annual Meeting of Members. Declarant shall always have the right to appoint one person to the Board notwithstanding whether Declarant owns any Residential Units.

**ARTICLE V**  
**THE ASSOCIATION**

**Section 1. Powers.** The Association shall have the powers enumerated in the By-Laws of the Association and such other powers as necessary and incidental to operate the Association and carry out the duties and responsibilities of the Association.

**Section 2. Duties.** It shall be the duty and obligation of the Association to (1) keep the Common Area in a first class condition; (2) maintain and operate the Property and the Association pursuant to this Declaration and the By-Laws of the Association; and (3) perform such other duties and obligations imposed upon it by this Declaration and the By-Laws of the Association.

**ARTICLE VI**  
**COVENANTS AND RESTRICTIONS**

**Section 1. Magnolia Forest Phase II Association and Fees.** Each lot in the Subdivision is automatically a member of the Magnolia Forest Phase II Property Owners Association at Bluewater Bay, Inc., as constituted from time to time. The powers and obligations of the Association and its members include the ownership, administration, and maintenance of the Common Area, including (but not limited to) right of way and entrance landscaping, the cost of which will be assessed to the Association members. The Association and its members will also have other powers and obligations as are more particularly described in the Association Documents. The Association Documents may be modified or amended from time to time as provided for in said Association Documents.

**Section 2. Single Family Residence Only.** Except as provided in this Section and in Section 5, no structure shall be erected, altered or permitted to remain on any lot in the Subdivision other than for use as a single family residence. The main residence on each lot shall not be more than thirty-five (35) feet in height above the normal surface of the ground. No building situated on any lot shall be rented or leased separately from the rental or lease of the entire property, nor shall any property be used or leased for other than a single family residence. A garage apartment no larger than 30x30 feet may be erected on said land. Furthermore, no lot owner other than the Declarant may use any lot for road purposes or as an easement to any lands not contained within the Subdivision.

**Section 3. Plan Approval.** No lot clearing or construction of any kind, including but not limited to construction of main structure, garages, fences or ancillary structures, shall be permitted to commence or allowed to remain on any lot until the site plan, building plan, design, colors, and location of said improvements on the lot have been approved by Declarant acting either directly or acting through Magnolia Forest Phase II Architectural Review Committee or acting through such other representative as Declarant may designate from time to time. Included in the power and discretion to approve such design is the right to approve the architectural design, appearance, color, finish and materials of all exterior building surfaces. Approved exterior materials include brick and stucco; vinyl may be permitted with specific approval by Architectural Review Committee. Roof pitch must be minimum 6/12. Soffits must be vinyl or aluminum material. Wood may not be used as an exterior building material. Roof shingles must be architectural

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grade or higher quality. A lot owner shall be required to submit such information as Declarant may request in order to facilitate Declarant's approval process. One set of the plans required to be submitted for approval will be retained by Declarant. If the finished building or other structure does not comply with the approved plans, Declarant retains the right to cause the necessary changes to be made at owner's expense, the cost of which shall be a lien upon the property involved. Any changes in plans must be re-approved by the Declarant in accordance with the procedures specified from time to time by Declarant.

**Section 4. Motorist's Vision to Remain Unobstructed.** No structure or planting (including but not limited to fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial) shall be placed or located on any lot if the location of same will, in the sole judgment and opinion of the Declarant, obstruct the vision of motorists traveling on any of the streets.

**Section 5. Minimum Square Footage For Any Principal Residence.** (A) No one-story residence shall be erected or allowed to remain on any lot unless the enclosed heated and cooled area thereof, exclusive of screened porches, garages and storage rooms shall equal or exceed 1,600 square feet. (B) No one and one-half story residence, no split-level residence and no two-story residence shall be erected or allowed to remain on any lot unless the heated and cooled area thereof, exclusive of screened porches, garages and storage rooms, shall equal or exceed 2,000 square feet and further provided that the first floor thereof contain a minimum of 1,200 square feet.

**Section 6. Other Structures.** Construction of structures other than the main residence and a garage shall be permitted on any lot of the Subdivision only with the prior approval by Declarant of location, architectural design and exterior finishes. Ancillary structures which may be permitted subject to such approval include pet house, hothouse or greenhouse, poolhouse, outdoor fireplace or barbecue pit, swimming pools and mechanical installation in connection therewith and playground equipment. Any such ancillary structures permitted hereunder shall be attractively landscaped, constructed in a harmonious design with the main structure and located only in the lot area to the rear of the main residence (subject to rear and side setback requirements) and not visible from the street. No ancillary structure shall be built or placed on a lot until the location, quality, style, color and design have been approved by the Declarant in the manner provided for herein.

**Section 7. Setback For All Structures.** No building or any type or kind of permanent structure (except driveways, walks and roof overhangs of up to 20 inches; if overhang exceeds 20 inches it is counted as part of structure) or any part of same shall be erected, placed or allowed within the building setbacks as follows:

- 20' Front Lot Line
- 5' Side Lot Line
- 10' Rear Lot Line
- 10' between buildings

The Declarant may, in its sole discretion, modify the setbacks required hereby in order to permit the construction of improvements in cases where the Declarant believes that setback modifications are appropriate.

**Section 8. Resubdividing or Replatting of Lots.** Declarant reserves the right unto itself to resubdivide or replat a lot or lots in the Subdivision. Except as provided herein no lot may be further subdivided.

**Section 9. Fences.** No fence or wall shall be erected until the location, quality, style, color and design shall have been first approved by the Declarant or its duly appointed representative in the manner provided for herein. Fences or walls may be built or maintained only on those portions of any lot and in such locations as Declarant shall approve at its sole discretion. Without Declarant's prior consent, no fence or wall shall be erected higher than six (6) feet from the normal surface of the ground. Fences must be of an approved design and the sides facing away from the lot must be finished. Any fence constructed without said approval shall at the request of Declarant be immediately removed at the cost of the owner of the lot. If said owner does not cause the removal of the fence within ten (10) days after receipt of written notice from Declarant, then Declarant may enter on the lot and remove the fence. The cost of Declarant doing so shall be paid by owner. On corner lots, fences can be no closer to the side street than the building setback line. Fences are permitted in back yards only.

**Section 10. Landscape Plan and Tree Removal To Be Approved By Declarant.** For the purpose of further insuring the development to be a residential area of highest quality and standards, and in order that all improvements on each lot shall present an attractive and pleasing appearance from all sides of view, the Declarant reserves the exclusive power and discretion to control and approve the landscaping plan for each lot. Declarant shall have the right to approve clearing of a lot for the purposes of construction of improvements and landscaping as well as any plans for removal of trees from any lot. The plans showing such details as Declarant may reasonably require, shall be submitted by owner to Declarant for review and approval. Landscaping and drainage plans must meet Department of Environmental Protection swale and be consistent with the drainage plan for the subdivision. The timing for submitting plans for review and the time period for the Declarant to respond shall be established from time to time by Declarant.

**Section 11. Garage and Porte Cochere.** The improvements on a lot must include a garage which shall have the capacity of at least two (2) automobiles. For houses with recessed garages, a porte cochere may be built on the lot.

**Section 12. Future Purchasers.** The original purchaser of the lots in the Property, as well as subsequent purchasers, are bound by these covenants and restrictions which run with the land (see Section 38). Therefore, structural modifications to existing structures, new structures (such as ancillary structures and fences) and exterior color changes of any structures must be approved in advance by the Declarant or his authorized representative.

**Section 13. No Parking of Vehicles, Boats, Etc.** No wheeled vehicles of any kind (mobile homes, motor homes, self-contained or otherwise, travel trailers, trucks and campers), boats or any offensive objects may be kept on road right of way of the Property or in the driveways, front, side or rear yard area of any lot except that passenger vehicles may be parked on a temporary basis in the paved driveway serving a lot. Boats or wheeled vehicles may be kept completely inside a garage located on the lot. No trailers or habitable motor vehicles of any nature shall be kept for use of any lot except within a fully enclosed garage. Disabled vehicles or vehicles under repair may be kept only within the garage located on said lot and no open mechanical repairs may be performed in any of the above referenced areas of any lot.

**Section 14. Window Air Conditioners.** Unless the prior approval of the Declarant has been obtained, no window air-conditioning units shall be installed in any side of a building wall visible from the street, side yard of golf course.

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**Section 15. No Overhead Wires.** All telephone, electric and other utility lines and connections between the main utility lines and the residence and other buildings located on each lot shall be located underground so as not to be visible.

**Section 16. Construction Period Conditions.** When the construction of any improvements is once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. All permanent structures shown on the plans and specifications approved by Declarant must be completed within seven (70) months after the start unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies or natural calamities. All landscaping must also be completed seven (7) months after construction has commenced. Prior to completion of construction, the owner of the lot in the subdivision shall install at his expense a suitable concrete or brick paver driveway. The width of the driveway must be at least sixteen (16) feet unless otherwise approved by Declarant, and the driveway must extend from the paved portion of the abutting street to the garage entrance. Driveway location and elevation shall be submitted to the Declarant for its prior approval and the driveway shall not interfere with or impede the drainage flow across any lot. All vehicles involved in such construction, including those delivering materials and supplies (except those trucks large or heavy enough to damage said driveways) shall enter upon such lot from the street only at the location for the proposed driveway. Such vehicles shall not be parked so as to obstruct the street nor shall they be parked on any property other than the lot on which the construction is proceeding. During construction all trash and waste material generated shall be removed and disposed of by the lot owner or the contractor at regular intervals so that the lot does not become unsightly in the opinion of the Declarant. No construction activity will be allowed on Sundays and National Holidays.

**Section 17. No Sheds, Shacks or Trailers.** No shed, trailer, tent or other temporary moveable building or structure of any kind except as specified in Article II, Section 2, shall be erected or permitted to remain on any lot. However, this paragraph shall not prevent the location on the lot of adequate sanitary toilet facilities for use by workmen during the course of such construction.

**Section 18. Residing Only in Residence.** No trailer, basement, garage or any outbuilding of any kind, even if otherwise permitted hereunder to be or remain on a lot, shall be at any time used as a residence either temporarily or permanently except as specified in Section 2 hereinabove.

**Section 19. Size of Signs.** No sign of any character shall be displayed or placed upon any lot except as approved by the Declarant. The Declarant hereby approves a "FOR SALE" sign not to exceed six (6) square feet to be placed upon said lot by an owner-resident or his agent to facilitate the sale of the home. Only one "FOR SALE" sign shall be permitted per lot. The Declarant may enter upon any lot and summarily remove any signs which do not meet the provisions of this paragraph. Furthermore, Declarant hereby approves a single identification sign board which may be located on a lot during the construction period on which the builder may identify his company and, at the option of builder, permit sub-contractors to identify themselves. This sign board shall be not more than four (4) feet high and two (2) feet wide. Signs should be placed in the center of each lot. In no event shall any signs be affixed to any trees on the lot or on the right of way of the street.

**Section 20. Commercial Signs.** Nothing contained in these covenants and restrictions shall prevent the Declarant or any person designated by the Declarant from erecting or maintaining such commercial and display signs and such temporary dwellings, model houses and other structures as the Declarant may deem advisable for development, marketing or sales purposes.

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**Section 21. Aerials and Antennas.** Unless otherwise approved by Declarant, no television or radio aerial, antenna, or satellite dish nor any other exterior electronic or electric equipment or devices of any kind shall be located on any lot or installed or maintained on the exterior of any structure located on a lot.

**Section 22. Mail Boxes.** Only the mail box design or newspaper receiving box of the type designated and approved by the Declarant may be erected or located on any lot. No other receptacle of any kind for use in the delivery of mail or newspapers or similar material may be erected or located on any lot. Mail box selection should be submitted as part of house plans for Declarant's approval.

**Section 23. Pets.** Except for not more than two (2) dogs or two (2) cats, no pets or other animals may be kept on a lot or in any structure located on the lot, unless confined exclusively to the interior of the main residence located on the lot. No animals of any kind may be kept for any commercial or breeding purposes. If in the sole opinion of the Declarant, the animal or animals become dangerous or an annoyance or nuisance in the neighborhood or to nearby property or destructive of wildlife, they may not thereafter be kept on the lot or inside the main residence. All pets must be kept under control at all times and must not become a nuisance by barking or other acts. All pets must be on a leash when outside the boundary of the owner's lot; owner is responsible for cleaning up after all animals on the common areas of the Subdivision.

**Section 24. No Offensive Activities.** No illegal, noxious, commercial, or offensive activities shall be permitted or carried out on said lot nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any part of said lot nor upon any land or lands continuous thereto. No fires or burning of trash, leaves, clippings or other debris or refuse shall be permitted to be on any part of said land or road right of ways. Except on the day of collection, trash containers shall be kept either inside the garage or within a screened area to the side of the house.

**Section 25. Well Limitations: Water Supply.** Unless prior approval is obtained from Declarant and such governmental agencies as may have jurisdiction, no artesian wells may be drilled or maintained on any lot. A central water supply system owned and operated by Okaloosa County or their successors or assigns will be provided for the service of the Subdivision and shall be used as the sole source of water for all water spigots and outlets located within all buildings and improvements located on each lot, and each property owner at his expense shall connect his water lines to the water distribution main provided to serve the lot in the Subdivision and shall pay all tap fees charged by the county or other provider. After such connection, each lot owner shall pay when due the periodic charges or rates for the furnishing of water made by the supplier thereof. A lot owner may provide an individual water supply system from a shallow well on his lot provided that said system is used solely to supply water for an air-conditioning or heating installation, irrigation purposes, swimming pools or other exterior uses. The pump system for this well must be hidden from the street by landscaping or a privacy fence.

**Section 26. Sewage Disposal.** Each owner of a lot, at his expense, shall connect his sewage disposal line to the sewage collection line provided to serve the lot in the subdivision and shall pay all tap fees charged by the county or other provider. The connection shall be made in such a manner so as to comply with the requirements of the sewage collection and disposal service. After such connection and payment of sewer connection charges, each lot owner shall pay when due the periodic charges or rates for the furnishings or such sewage collection and disposal service. No septic or other private sewage disposal unit shall be installed or maintained on any land in the Subdivision and no sewage shall be discharged into the open grounds, other lot or into any river, marsh, pond, park, ravine, drainage ditch or canal access way.

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**Section 27. Easements.** The Declarant, for itself, and its successors and assigns, hereby reserves and is given a seven and one-half foot (7 1/2') easement around the perimeter of each lot, over and under the ground in order to erect, maintain and use electric and telephone wires, cables, conduits, water mains, drainage lines or drainage ditches, sewers and other suitable equipment for drainage and sewage disposal purposes or for the installation, maintenance, transmission and use of electricity, gas, telephone, lighting, heating, cable TV, water, drainage, sewage disposal and other conveniences or utilities, on, in, over and under all of the easements shown on said plat (whether such easements are shown on said plat to be for drainage, utilities or other purposes) and on, in over and under a further easement retained hereby in favor of Declarant described as a seven and one-half foot (7 1/2') strip at the front, back and sides of each lot and on, in, over and under designated easements and on, in, over and under all private roads and Environmental Preservation Areas, if any. The Declarant shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to in this paragraph. The owner of the lot subject to the privileges, rights and easements referred to in this paragraph shall acquire no right, title or interest in or to any wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the Property which is subject to said privileges, rights and easements. The Declarant for itself and its successors and assigns reserves the right to designate the users of all such easements by parties other than the real property owner.

**Section 28. Lot Appearance.** The owner of each lot, whether such lot be improved or unimproved, shall keep such lot and the area between the property line of the lot and the paved surface of any abutting street ("Street frontage") free of trash and rubbish, and shall keep such lot and street frontage at all times in a neat and attractive condition. Within thirty (30) days after completion of the construction of improvements, or, if sooner, within seven (7) months from the date construction commenced, all designated grass areas of front yards and street frontage must be sodded up to the paved surface of any abutting street; all side and rear yards must also be fully landscaped. The landscaping installed on the street frontage of a lot shall not impede the designed flow of storm water along the drainage swale located on the lot or in the road right of way. In the event the owner of any lot fails to comply with the provisions hereof, the Declarant, after giving written notice to the lot owner, shall have the right, but not the obligation, to go upon such lot and install the sodding or other landscaping required hereby or remove rubbish and any unsightly or undesirable things and objects from the lot or street frontage and to do any other things and perform and furnish any labor necessary or desirable in its judgment to complete the landscaping in the manner and the time set forth herein and to maintain the lot and street frontage in a neat and attractive condition, all at the expense of the owner of such lot. The expense shall be payable by such owner to the Declarant. In the event of a failure of such owner to pay the Declarant as provided, the Declarant shall have the right to file a notice of lien in the office of the Clerk of Circuit Court of Okaloosa County, Florida, and from and after the filing of such notice of lien, the Declarant shall have a lien on such lot for the payment of such sum, with interest at the rate of eighteen (18%) percent per annum or the highest permitted by law, whichever is lower, all in like manner as if the Declarant had performed such work at the instance and request of such owner. Any such lien, however, shall be subordinate and inferior to any mortgage encumbering such lot.

**Section 29. Clothes Lines.** The hanging of clothes in a front or side yard shall not be permitted. The hanging of clothes in the rear of the house shall be permitted only if all clothes and clothes lines are hidden from view from adjoining property and hereby streets through fencing or similar mechanisms.

**Section 30. Street Lighting.** Declarant has contracted with the Choctawhatchee Electric Cooperative, or its successors or assigns, to install a street lighting system for the Subdivision.

**Section 31. Area of Common Expense.** The cost of operating and maintaining the street lighting, road system, entry feature and common area landscaping shall be paid by the Association.

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**Section 32. Declarant May Correct Violations.** Whenever there shall have been built or there shall exist on any lot, any structure, building, thing or condition which is in violation of these covenants and restrictions, the Declarant, shall, after giving written notice to the lot owner, have the right, but not the obligation, to enter upon the lot or street frontage where such violation exists and summarily abate, correct or remove the same, all at the expense of the lot owner, payable to the Declarant on demand. Such entry and abatement, correction or removal shall not be deemed a trespass nor make the Declarant liable in any way for any damages on account thereof. In the event of a failure of such owner to pay the Declarant any sums required to be paid Declarant under these covenants and restrictions, the Declarant shall have the right to file a notice of lien as provided in Section 43 hereof.

**Section 33. Approval of Declarant.** Whenever in these covenants and restrictions the consent or approval of the Declarant is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until a request for approval is submitted in writing to the Declarant and approved by the Declarant. Such request shall be hand delivered or sent to the Declarant by Certified Mail, Return Receipt Requested. After the Declarant acts upon the application, it must be picked up and signed for by the applicant. No action shall be taken by or on behalf of the person or persons submitting such application which action violates any of the covenants and restrictions herein contained.

**Section 34. Declarant May Designate a Substitute.** The Declarant shall have the sole and exclusive right at any time and from time to time to transfer and assign to, and to withdraw from such person, firm or corporation as it shall elect, any or all rights, powers, privileges, authorities and reservations given to or reserved to Declarant, hereunder or under the provisions herein contained. If at any time hereafter there shall be no person, firm or corporation entitled to exercise the right, powers, privileges, authorities and reservations given to or reserved by the Declarant under the provisions hereof, the same shall be vested in and be exercised by a committee to be elected or appointed by the owners of a majority of the lots in the Subdivision. Nothing herein contained, however, shall be construed as conferring any rights, powers, privileges, authorities or reservations in said committee except in the event aforesaid. In addition to the Declarant, Bluewater Bay Resort, LTD shall have a non-exclusive right to enforce the provisions of this Declaration with respect to any lot adjacent to the Bluewater Bay golf course.

**Section 35. Amendments or Additional Restrictions.** The Declarant reserves and shall have the right (2) to amend these covenants and restrictions for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein; (b) to include in any contract or deed or other instrument hereafter made, any additional covenants and restrictions applicable to said land which do not lower the standards of the covenants and restrictions herein contained; and (c) to release any lot from any part of the covenants and restrictions which have been violated if the Developer in its sole judgment determines such violation to be a minor or insubstantial violation or if such variance is appropriate in the particular situation presented.

**Section 36. Amendment of Restriction with Consent of Owner.** In addition to the rights of the Declarant provided for in Section 34 hereof, the Declarant reserves for itself and for any owner of a lot the right, with the consent of the Declarant and of the persons then owning two-thirds (2/3) or more of the platted lots shown on the plat of the Subdivision, to amend or alter these covenants and restrictions and any part thereof in any other respect.

**Section 37. Additional Restrictions by Individual Owners.** No lot owner, without the prior written consent and approval of the Declarant and the Association may imposed any additional covenants and restrictions and/or any part thereof in any other respects.

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**Section 38. Restrictions Effective Period.** The covenants and restrictions as amended and added to from time to time as provided for herein, shall be subject to the provisions hereof and unless released as herein provided, be deemed to be covenants and restrictions running with the title to said land in the Subdivision and shall remain in full force and effect until the first day of June, AD 2016. Thereafter the restrictions shall remain in effect for periods of ten (10) years unless a majority of the lot owners agree in writing to extinguish these restrictions.

**Section 39. Initial Capital Contribution.** At the closing of each home, an initial one time capital contribution to the Magnolia Forest Phase II Property Owners's Association at Bluewater Bay, Inc. of \$100.00 shall be paid by each lot owner.

**Section 40. Rules of Construction.** All parties who take title subject to these covenants and Restrictions understand the general rule of law to be that such covenants are to be construed strictly against the Declarant and in favor of unrestricted use. All parties agree that these Covenants and Restrictions shall instead be construed to accomplish their purpose consistent with continued support of the value of the lots. These covenants are to be construed as reasonable to accomplish their purpose.

**Section 41. Legal Action on Violations.** If any person, firm or corporation, or other entity shall violate or attempt to violate any of these covenants and restrictions it shall be lawful for the Declarant or any person or persons owning any lot of the Subdivision (2) to prosecute via proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenants and restrictions and (b) to maintain a proceeding in equity against those so violating or attempting to violate any such covenants and restrictions, for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of the Declarant, its successors or assigns, to enforce any covenant or restriction herein contained, shall in no event be deemed as a waiver of the right to enforce the same thereafter as to the same breach or violation thereof occurring prior to or subsequent thereto. Lot owners found in violation of any provision of these covenants and restrictions shall be obligated to pay attorney's fees to the successful plaintiff in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon. All restrictions and covenants herein contained shall be deemed several and independent; the invalidity of one or more or any part of one shall in no way impair the invalidity of the remaining restrictions and covenants or parts thereof.

**Section 42. Use of Golf Course and Lakes.** The fairways, tees, greens, and roughs of the golf course area are reserved for the exclusive use of golfers who have officially registered through the clubhouse of the Country Club at Bluewater Bay. No resident, regardless of club membership status, shall start play without registering at the clubhouse. Pets shall not be allowed access to any portion of the golf course or allowed in any lake or pond contained in the Subdivision. The Declarant is authorized to promulgate such rules and regulations governing access to any use of any lake or pond within the Subdivision or abutting any lots as Declarant may, in its sole discretion, deem appropriate.

**Section 43. Liens.** Each lot owner hereby grants a lien upon his lot for any sums which may become due the Declarant hereunder. In the event of a failure of such owner to pay the Declarant any sums provided for herein, the Declarant shall have the right to file a notice of lien in the office of the Clerk of the Circuit Court of Okaloosa County, Florida, and from and after the filing of such notice of lien, the Declarant shall have a lien on such lot for the payment of such sum, with interest at the rate of eighteen (18%) percent per annum or the highest permitted by law, whichever is lower, all in the manner as if the Declarant had performed such work at the instance and request of such owner. Any such lien, however, shall be subordinate and inferior to any mortgage then or thereafter encumbering such lot.

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**ARTICLE VII**  
**RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 1. Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interest within Magnolia Forest Phase II at Bluewater Bay conveyed to it by the Declarant.

**ARTICLE VIII**  
**ADDITIONAL RIGHTS OF THE ASSOCIATION**  
**AND OWNERSHIP RESTRICTIONS**

**Section 1. Rules and Regulations.** This Association shall have the right to make rules and regulations governing the use of Common Area and conduct within Property. Reasonable notice must be given to each member prior to the enforcement of such rules and regulations.

**Section 2. Enforcement Indemnification.** This Association shall have the authority to impose monetary fines for violation of the Declaration of Covenants and Restrictions applicable to any parcel or for violation of the Association's rules and regulations governing the Common Area, which fines shall constitute a lien on an owner's Residential Unit or Units. The Association may also suspend an owner's right to vote or to make use of Common Areas because of violations of the Association's rules and regulations. If the Association, Declarant or any individual seeks to enforce these Covenants or the rules and regulations of the Board through legal action, they will be indemnified for costs and legal fees by any Owner judicially determined to be in violation of the Covenants or the rules and regulations of the Board. However, no such right of indemnification against fees and costs for enforcement of Covenants or rules and regulations shall exist in favor of any person other than the Association or Declarant unless the Association or Declarant unless the Association has first been requested in writing to take enforcement action and has refused to do so. In addition, the Association may provide in its By-Laws a mechanism for arbitrating disputes between members. If so, arbitration of the dispute is a condition precedent to any litigation to enforce the Covenants or any rule or regulation of the Board.

**Section 3. Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration of Covenants and Restrictions or by the By-Laws applicable to any parcel and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**ARTICLE IX**  
**ASSESSMENTS**

**Section 1. Creation of General Assessment.** There are hereby created assessments for Common Expenses as may from time to time specifically be authorized by the Board of Directors. General Assessments shall be allocated equally among all Residential Units within the Association (not including Proposed Residential Units owned by Declarant) and shall be for expenses determined by the Board to be for the benefit of the members of the Association as a whole. Each Owner by acceptance of his or her deed is deemed to covenant and agree to pay these General Assessments. A late fee may be charged for each month in which any assessment is more than twenty (20) days late. The amount of the late fee shall be determined by the Board from time to time but shall be informed when established. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Residential Unit at the time the assessment arose.

and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except a first mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the mortgage shall not be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such a manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquent payments. Unless the Board otherwise provides, the assessment shall be paid in monthly installments, in advance.

**ARTICLE X**  
**GENERAL PROVISIONS**

**Section 1. Term.** The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant or by the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

**Section 2. Amendment.** This Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total voting power of the Association. Notwithstanding the above, Declarant reserves unto itself until June 1, 2001 the right to amend this Declaration in any way Declarant desires or to prevent any amendment by others except that no changes may be made in the method of assessment or the voting right of any Residential Unit except with the consent of a majority of those members. Any amendment must be recorded among the public land records of Okaloosa County, Florida. No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

**Section 3. Indemnification.** The Association shall indemnify every officer and director against any and all expenses, including counsel, in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall as a Common Expense maintain adequate general liability and officer's and director's liability insurance to fund this obligation.

**Section 4. Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws of the Association, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, social and business invitees.

**Section 5. Renting or Leasing of Residential Units.** Residential Units may be rented or leased subject to the following restrictions: (A) All tenants shall be subject to the terms and conditions of this Declaration, the By-Laws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner. (B) Each Owner agrees to cause his lessee, occupant, or persons living with such Owner or with his lessee to comply with the Declaration, By-Laws, and the rules and regulations promulgated thereunder, and said Owner is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the unit are fully liable for any violation of the documents and regulations; failure to comply shall be, at the Board's option, considered a default in the lease. (C) In the event that a lessee, occupant, or person living with

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the lessee violates a provision of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, the Board shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity, including, but not limited to, all remedies available to a landlord upon the breach or default of the lease agreement by the lessee. (D) The Board shall also have the power to impose reasonable fines upon the lessee or on the Owner for any violation by the lessee, occupant, or person living with the lessee of any duty imposed under the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, and to suspend the right of the lessee, occupant or person living with the lessee to use the Common Area. The Board shall have authority and standing to enforce any lease restrictions contained in or promulgated in accordance with any recorded instrument creating any residential association with Magnolia Forest Phase II at Bluewater Bay.

**ARTICLE XI**  
**INSURANCE**

**Section 1. Insurance Coverage.** The Association shall obtain such insurance as required by law and may obtain such other insurance on the Common Area as it deems in its discretion to be in the best interest of the Association or the Owners.

**Section 2. Insurance by Owner.** Each residence Owner must obtain property damage insurance equal to the full replacement value of his residence and contents and other such casualty and liability insurance as required.

**Section 3. Cost of Association Insurance.** Common Area insurance shall be an expense against all Owners. In the event the cost to the Association of insurance coverage is increased because of the action or inaction of an Owner, his family, guest, or tenants, then such increase shall be an additional assessment against the Owner.

**Section 4. Named Insured.** The name insured on all policies of insurance obtained by the Associate shall be the Association for the property owned by the Association and shall be the Association as agent for all the Owners and their mortgagees, as their interests may appear, for property owned by the Owners.

**Section 5. Insurance Proceeds.** All insurance proceeds received by the Association shall be held by the Association in trust for the purposes for which they are intended.

**ARTICLE XII**  
**DAMAGE AND REPAIR**

**Section 1. Rebuilding.** The rebuilding and repairing of all damaged property shall be subject to all provisions in this Declaration. In the event of damage to a residence, the Owner thereof shall promptly, within ten (10) days of the damage, remove all debris and clear the residence or Lot of all unsightly materials. Rebuilding or repair shall commence within thirty (30) days of the damage, shall be carried on continuously and with no interruptions, and shall be completed within one hundred twenty (120) days of commencement.

**Section 2. Damage to Common Area.** In the event any of the Common Area is damaged, the Association shall cause such Common Area to be repaired or rebuilt unless eighty percent (80%) of the votes entitled to be cast in the Association vote within sixty (60) days of said casualty not to repair or rebuild such Common Area.

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**ARTICLE XIII**  
**RIGHTS OF SUCCESSOR TO DECLARANT**

**Section 1.** Any Successor to Declarant by foreclosure or by deed in lieu of foreclosure may amend this Declaration to provide that all remaining property not then built upon may be removed from the plat of development. Such property may thereafter be used for development or sale by such successor free from any restraint or control of these Covenants.

**Section 2.** Any property acquired after foreclosure or after deed in lieu of foreclosure even if removed by the Successor to Declarant from this subdivision, will have access to and use of all common areas upon payment of a pro-rata portion of the cost of operating the Common Areas.

**ARTICLE XIV**  
**MISCELLANEOUS**

**Section 1. Severability.** All provisions contained in this Declaration shall be deemed several and independent. The invalidity of one or more or any part of one provision shall in no way impair the validity of the remaining provisions or part thereof.

**Section 2. Rules and Regulations.** The Association may adopt and amend from time to time such rules and regulations as it deems in the best interest of Magnolia Forest Phase II provided such rules and regulations do not conflict with this Declaration.

**Section 3. Headings.** Headings herein are for reference only. They are intended as guide to the contents within the section and are not a complete statement of its contents. To the extent headings are inconsistent with content of any section, or are incomplete, the text of the content of the section will control.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this the \_\_\_\_\_ day of April, 1997.

Witnesses:

*Ralph Redbell*  
*Ralph Redbell*  
*JENNIFER REDBELL*

KJT INVESTMENTS, INC.

BY: *Roy L. Sutton*  
ROY L. SUTTON-VICE PRESIDENT



STATE OF FLORIDA  
COUNTY OF OKALOOSA

FILE # 1543763 RCD: Apr 08 1997 @ 01:35PM  
Neuman C. Brackin, Clerk, Okaloosa Cnty Fl

The foregoing instrument was acknowledged before me this the \_\_\_\_\_ day of April, 1997, by Roy L. Sutton, as Vice President of KJT Investments, Inc., a Florida corporation on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification and who did not take an oath.

*Jennifer Redbell*  
NOTARY PUBLIC  
My Commission Expires:  
SEAL



Jennifer Redbell  
MY COMMISSION # 0038008 EXPIRES:  
October 2, 2000  
OKALOOSA COUNTY FLORIDA