

**DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS FOR  
EAGLE'S POINT OWNERS ASSOCIATION, INC.**

THIS DECLARATION, made this 12 day of April, 2005, by Joseph Barney Wainwright, Jr., hereinafter referred to as "DECLARANT", whose mailing address is 10061 County Road 49, Live Oak, Florida 32060,,

**WITNESSETH**

**WHEREAS**, Declarant is the owner of the real property situate, lying and being in Suwannee County, Florida and described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property" or "Eagle's Point");

**WHEREAS**, it is contemplated that the Property, will be developed as a single-family residential subdivision with private streets, open spaces, stormwater drainage and retention areas, and other common areas and improvements for the benefit of the owners of lands made subject to the terms of this Declaration;

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of the Property values and quality of environment in the Property, the personal and general health, safety and welfare of the owners of the affected lands, and for the maintenance of streets, stormwater drainage and retention areas and improvements, open spaces, landscaping and other common areas and improvements located on the Property, and, to this end, desires to subject the Property, to the covenants, conditions, restrictions, easements, and liens hereinafter set forth, each of which shall be binding upon and run with the title to the Property; and

**WHEREAS**, to provide a means for meeting the purposes and intents herein set forth, Declarant deems it desirable to create a non-profit corporation to which may be conveyed title to the common properties and to which will be delegated and assigned the powers of maintaining and administering the common properties, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created. Said non-profit corporation shall be known as "Eagle's Point Owners Association, Inc."

**NOW, THEREFORE**, Declarant, for itself and its successors and assigns, declares that the Property together with any properly annexed additional property, is, and shall be, held, transferred, sold, conveyed, mortgaged, and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth, all of which shall run with the land, i.e. shall run with the title to the Property.

FILED AND RECORDED  
DATE 11/23/2005 TM 03:48  
FL# 511159825 B1251 P 291  
REC NO. 01532718719

KENNETH DASHER CLERK  
CO: SUWANNEE ST: FL

ARTICLE I

RECITALS

The recitals set forth above are incorporated herein by reference.

ARTICLE II

DEFINITIONS

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

a. **"Association"** shall mean and refer to the Eagle's Point Owners Association, Inc., a Florida not for profit corporation, or its successors and assigns.

b. **"Common Expenses"** shall mean and refer to the actual and estimated expenses of operating the Association and meeting the costs incurred to be incurred relative to the performance of the duties of the Association, including without limitation, the costs incurred for operation, maintenance and improvement of and Common Property, including any reserves established by the Association, all as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

c. **"Common Property"** shall mean and refer to all real property and any improvements located thereon, and all personal property, from time to time intended to be devoted to the use and enjoyment of all Members of the Association and maintained by the Association at Common Expense. "Common Property" includes, without limitation, the property described in Exhibit "A" LESS AND EXCEPT those portions thereof conveyed or to be conveyed to the various owners of such portions.

d. **"Declarant"** shall mean and refer to Joseph Barney Wainwright, Jr., his successors and assigns. No successor or assignee of Declarant shall have any rights or obligations of Declarant hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment, or unless such rights pass by operation of law.

e. **"Development Plan"** shall mean and refer to the development plan approved for the Eagle's Point Owners Association, Inc. and, as may be amended from time to time, such future property and phases as may be added from time to time.

f. **"Member"** shall mean and refer to each Owner who is a Member of the Association as provided in Article IV, Section 2 thereof.

g. **"Lot"** shall mean and refer to each separately described parcel of real property contained within the Property on which improvements are intended to be constructed and which is intended to be occupied by a single-family home whether said site has constructed on it a building or not.

h. **"Restricted Common Areas"** shall mean and refer to those areas to be designated by Declarant at such time or times as improvements are placed on any portions of the Property. Declarant reserves the right to make such designations. Said Restricted Common Areas shall be primarily for the benefit of the Lot to which Restricted Common areas have been designated. Nothing contained herein shall prohibit the association or Declarant, their successors or assigns from exercising any rights as owners of the Restricted Common Areas in the fulfillment of any duties or obligations contained in the Declaration, Supplemental Declaration, the Articles of Incorporation or the Association By-laws. There may be additional or specified assessments associated with the use of Restricted Common Areas charged to the Lot using a Restricted Common Area.

i. **"Owner"** shall mean and refer to the fee simple title holder of a Lot.

j. **"The Property"** shall mean and refer to the Property, together with such additional properties as may be annexed thereto, and submitted hereunder from time to time under the provisions of Article II hereof, if and when annexed.

k. **"Surface Water or Stormwater Management system"** means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporation methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to chapters 40B-4 or 40B-400, F.A.C.



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### ARTICLE III

#### PROPERTY SUBJECT TO THIS

#### DECLARATION AND ADDITIONAL PROPERTY

**Section 1. Property Subject to Declaration.** The Property is and shall be held, transferred and occupied subject to this Declaration.

**Section 2. Additional Property.** Declarant (joined by the owner of the lands if other than Declarant) shall have the sole right but not the obligation to bring within the scheme of this Declaration as Additional Property, additional properties within the Development Plan at any time within twenty (20) years from the date this Declaration has been recorded, which annexation may be accomplished without the consent of the

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Association, its Members, the Owners or occupants of the Property, any mortgage or lienholder, or anyone else.

**Section 3. Method of Annexation.** The additions authorized under this Article shall be made by filing of record a Supplemental Declaration with respect to the Additional Property which shall extend the scheme of the covenants and restrictions of this Declaration to such Additional Property. The Supplemental Declaration shall describe the real property to be annexed and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing property to the scheme of this Declaration and extending the jurisdiction of the Association to the Additional Property. The Supplemental Declaration may contain such terms and provisions not inconsistent with this Declaration as may be desirable to reflect the different character, if any, of the real property being annexed, all of which may be significantly at variance with that of the Property.

Owners, upon recordation of any Supplemental Declaration, shall also have a right and non-exclusive easement of use and enjoyment in and to the Common Property within the real property so annexed and an obligation to contribute to the operation and maintenance of such Common Property within the annexed lands.

Any Supplemental Declaration recorded in accordance with the terms hereof shall be conclusive in favor of all persons who rely thereon in good faith. From and after recordation of any Supplemental Declaration, the Additional Property described therein shall be subject to the provisions of this Declaration and to the jurisdiction of the Association.

As to any Additional Property brought within the scheme of this Declaration, the Owner or Declarant may also subject such property to other covenants and restrictions not inconsistent with this Declaration, and may create a separate association for the purpose of owning, operation, governing, maintaining or improving Common Property within the Additional Property and performing the functions and fulfilling the obligations of an association. In the event an association is created with respect to any Additional Property, the Owners in the Additional Property affected by the Supplemental Declaration shall be Members of both the Association and the new association formed.

**Section 4. Adjustment for Additional Property.** If additional property is added, the voting rights, assessment obligations and the like shall be adjusted accordingly.

#### **ARTICLE IV**

#### **STRUCTURE, POWERS AND DUTIES OF, AND MEMBERSHIP**

#### **AND VOTING RIGHTS IN THE ASSOCIATION**

**Section 1. Association.** The Association shall be a nonprofit corporation charged

with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, the By-laws and this Declaration. Copies of the Association Articles of Incorporation and Bylaws are attached hereto as Exhibits "B" and "C", respectively. Neither the Articles of Incorporation nor the By-laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The officers and directors of the Association shall be required to be either (1) Members of the Association, or (2) officers, directors, representatives or employees of Declarant. A Board of Directors of the Association, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with this Declaration, the Articles of Incorporation and the By-laws.

**Section 2. Membership.** Declarant and each Owner shall be Members of the Association.

The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership, and shall not be transferred or terminated except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

**Section 3. Voting Rights.** Declarant intends to provide for a total of nineteen (19) single family lots in a single development phase. The Association shall have two (2) classes of voting membership:

a. **Class "A".** Class "A" Members shall be all Owners of Lots, with the exception of Declarant. The vote allocated to the Class "A" members shall be the percentage of the lots owned by Class "A" Members bears to the total number of Lots.

b. **Class "B".** The Class "B" Members shall be Declarant and any successor of Declarant who takes title to and to whom Declarant assigns in writing one or more of the Class "B" votes. Upon the execution of this Declaration, the Class "B" Members shall be entitled to five (5) times the percentage Lots owned by Declarant bears to the total number of Lots. The Class "B" membership shall terminate and become converted to class "A" membership upon the happening of the following:

- (i) When the total outstanding Class "A" votes in the Association equal the total outstanding class "B" votes; or
- (ii) Twenty (20) years from the date of recording this Declaration.
- (iii) When, in its discretion, Declarant so determines.

From and after the happening of any one of these events, Declarant shall call a meeting of the Association as provided in the By-laws for special meetings to advise the

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Association membership of the termination of Class "B" status.

The Class "B" Members shall cast on all issues their votes as they among themselves determine. It shall be permitted for Declarant to retain and to cast all Class "B" votes.

**Section 4. Multiple Owners.** Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed, unless a Class "B" vote. In the event that joint or multiple Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. Upon the purchase of a Lot where there are multiple Owners or there is a non-individual Owner the same shall, at the time of purchase, deliver to the Secretary of the Association a written statement designating who will act for the Owner. This will prevail until a change in writing has been delivered to the Secretary signed by all owners. If a Lot is owned by more than one person or entity, the person entitled to cast votes for the Lot shall be designated by certificate signed by all of the record Owners of the Lot and filed with the Secretary of the Association. If a Lot is owned by a general or limited partnership, the person entitled to cast the votes for the Lot shall be designated by a certificate of appointment signed by one of the general partners and filed with the Secretary of the Association. If a Lot is owned by a corporation, the person entitled to cast the votes for the Lot shall be designated by a certificate of appointment signed by the President or Vice President of the corporation and filed with the Secretary of the Association. If a Lot is owned in trust, the person entitled to cast votes for the Lot shall be designated by a certificate of appointment signed by the trustee of record for the trust and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast votes for a Lot may be revoked in writing by an Owner thereof. Provided, however, that no Lot shall vote in excess of the voting rights allocated to that Lot pursuant to this Declaration.

**Section 5. Duties, Powers and Authority of the Association.** The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles of Incorporation, the By-laws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, assigned, required, or permitted to be done by this Declaration, any Supplemental Declaration, the Articles of Incorporation and the By-laws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the maintenance, administration, and improvement of the Common Property.

**Section 6. Surface Water of Stormwater Management System.** The Association and the Owners of the Common Property shall be responsible for the maintenance, operation and repair of the surface water and/or storm water management system(s) as

required by the permit issued by the Suwannee River Water Management District (hereinafter the "SRWMD") and other applicable SRWMD rules. Maintenance of the surface water or storm water management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted and/or required by the SRWMD. Any repair or reconstruction of the surface water or storm water management system shall be as permitted or, if modified, as approved by the SRWMD.

## ARTICLE V

### PROPERTY RIGHTS IN THE COMMON PROPERTY

**Section 1. Member's Easements of Enjoyment.** Subject to the provisions of this Declaration, the Association, Declarant (until Declarant transfers ownership of the last Lot owned by Declarant) and every Member of the Association shall have a nonexclusive right, license, privilege and easement for use and enjoyment in and to the Common Property and such rights shall be appurtenant to and shall pass with the title to every Lot in the Property. Said rights shall include, but not be limited to, the following:

- a. Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under and across the streets, roads and walks in the Common Property for all lawful purposes; and
- b. Rights and easements of drainage across stormwater drainage and retention structures and area, and to connect with, maintain and make use of utility lines, wires, pipes, conduits, and cable television lines which may from time to time be in or along the streets and roads or other areas of the Common Property and the right to install needed improvements in order to utilize the same; and
- c. Rights to use and enjoy the Common Property for any purpose not inconsistent with this Declaration, any applicable Supplemental Declaration, the Articles of Incorporation, the Bylaws and the rules and regulations of the Association, or governmental regulations.

**Section 2. Title to Common Property.** Declarant may retain the legal title to all or any portion or portions of the Common Property until such time as it has completed improvements within the Property and until such time as, in the opinion of Declarant, the Association is able to maintain the same. Declarant may convey or turn over certain portions of the Common Property and retain others. Declarant hereby covenants for itself, its successors and assigns, that it shall convey to the Association all then-existing and completed Common Property located within the Property no later than at such time as Declarant has conveyed to Owners fee simple title to ninety percent (90%) of the individual Lots. Said conveyances shall be free and clear of any mortgage lien. The conveyance of

the Common Property to the Association shall be deemed to contain the following covenant which shall run with the land, whether or not specifically set forth in said conveyance, and shall be binding upon the Association, its successors and assigns, for so long as such property shall remain subject to this Declaration:

In order to preserve and enhance the property values and amenities of the Lots, the Common Property, including the wetlands and all landscaping and drainage and other improvements now or hereafter built or installed thereon, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards.

**Section 3. Extent of Members' Easements.** The rights and non-exclusive easements of use and enjoyment created hereby shall be subject to the following:

a. The Association, subject to the rights of Declarant and the Owners set forth in this Declaration shall be responsible for the exclusive management and control of the Common Property and all improvements thereon.

b. The right of Declarant without Owner or Association approval to grant or dedicate to any Owner, to any governmental agencies and/or to any utility companies, and to reserve, easements and rights-of-way, in, through, under, over and across the Common Property for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, telephone, electricity, and other utilities, and for the completion of the development and for such other purposes as Declarant shall determine. No improvement or material may be placed upon any such easement as may damage or interfere with the installation, maintenance and operation of utilities or that may change the direction, or affect the flow of drainage.

c. The easements and rights of Declarant reserved by this Declaration.

d. The right of a Lot Owner to the Restricted Common Area which encompasses use and enjoyment of that Owner's Lot.

**Section 4. Easement Reserved to Declarant Over Common Property.** Declarant hereby reserves to itself and its successors and assigns, such licenses, rights, privileges and easements in, through, over, upon and under all Common Property, including, but not limited to:

(1.) the right to use the said properties for rights-of-way and easements to erect, install, maintain, inspect and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, telephone, and electrical equipment, gas, cable television, drainage facilities, ditches or lines, or other utilities or services and for any other materials or services necessary or convenient for the completion, marketing, and use and enjoyment of the Property;



(2.) the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance;

(3.) the right and easement of ingress and egress for purposes of development, construction and marketing; and

(5.) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of the Property; provided, however, that said reservation and right shall not be considered an obligation of Declarant to provide or maintain any such utility, development, or service. Declarant also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage and other utility lines which may from time to time be in or along the streets and roads, or within the Common Property, easements or green belts, or to grant such rights to others. Finally, Declarant reserves the right to use the Common Property in its efforts to market the Property. The easements and rights-of-way herein reserved shall continue in existence in favor of Declarant after conveyance of Common Property to the Association until such time as Declarant has sold all Lots or twenty (20) years whichever last occurs. This Section may not be amended without the written consent of Declarant.

**Section 5. Beneficiaries of Easements, Rights and Privileges.** The easements licences, rights and privileges established, created and granted by this Declaration shall be for the benefit of the Association, Declarant, and the Owners, all as more specifically set forth elsewhere in this Declaration, and any Owner or Declarant may also grant the benefit of such easement, license right or privilege to tenants and guests for the duration of their tenancies or visits, but the benefit to the general public.

**Section 6. Easement for Encroachments.** In the event that any portion of any roadway, walkway, parking area, driveway, water lines, sewer lines, utility lines, sprinkler system, building or any other structure or improvement as originally constructed encroaches on any Common Property, the Owner of such Lot or the Association, as the case may be, for the continuing maintenance and use of such encroaching improvement or structure. The foregoing shall also apply to any replacements of any such improvements or structures if the same are constructed in substantial conformity with the original structure or improvement. It is the intent and purpose of this provision that if such encroachment is minor in nature, non intentional and does not materially and adversely affect the party to be charged with the easement in the full use of that party's property that such an easement be granted.

**Section 7. Right of Declarant or Association to Alter Common Property.** The Development Plan may be amended by the appropriate governmental authority from time to time to reflect actual buildings to be constructed. Declarant may and is hereby authorized to amend the legal description of a Lot still owned by Declarant and/or the

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Common Property to reflect the actual construction of an improvement on a Lot.

## ARTICLE V

### INSURANCE AND CASUALTY LOSSES

The Association's Board of Directors shall have the obligation to obtain insurance for insurable improvements on the Common Property owned by it, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, and to obtain public liability policies covering the Association, Declarant and/or its designee, and its Members for damage or injury caused by the negligence of the Association, Declarant and/or its designee, or any of its Members or agents, and, if reasonably obtainable, directors' and officers' liability insurance, and to obtain any and all other types of insurance coverage with respect to such risks or persons as shall be deemed necessary or appropriate by the Board of Directors. Any insurance obtained shall include such coverage, contain such deductible provisions and be in such limits as shall be determined by the Board of Directors. Premiums for insurance shall be a Common Expense if for the benefit of the Association, its officers or directors, the entire membership as a group, or relate to the Common Property.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Generally.** Each Owner of a Lot, by acceptance of a deed or other instrument of conveyance, whether or not it is expressed in the deed or other instrument of conveyance, agrees and is obligated to pay assessments as follows:

**Section 2. Annual Assessments.** The Board of Directors of the Association shall levy an annual assessment on the first day of November each year for the upcoming calendar year. Annual assessments shall be due and payable within thirty (30) days of assessment. The annual assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety, land welfare of the Property and Owners in the development, for the performance by the Association of its duties and the exercise of the powers conferred upon it, for the improvement and maintenance of properties, services and facilities which have been or will be constructed, installed or furnished upon, and which are devoted to the purpose and related to the use and enjoyment of, the Common Property, and for such other purpose as may be deemed desirable to appropriate from time to time by the Board of Directors, including, but not limited to, defraying the cost of the maintenance, operation and repair of the surface water and/or storm water management system and any and all other costs incurred to comply with the terms and provisions of the Permit issued by the SRWMD as well as the following:

- a. Payment of operating expenses of the Association, and;
- b. Lighting, improvement and beautification of access ways and easement areas (whether dedicated to the public or private), and the acquisition, maintenance, repair and replacement of project identification signs, directional markers and traffic control devices, parking, entry features, and the costs of controlling and regulating traffic on the access ways if not maintained by a public body; and
- c. To pay all real and personal property taxes and assessments (if any) separately levied upon or assessed against the Association or the Common Property or federal income taxes assessed against the Association. Such taxes and assessments may be contested or compromised by the Association; and
- d. Management, maintenance, improvement and beautification of landscaping and storm water drainage and retention features on Common Property; and
- e. Repayment of deficits previously incurred by the Association, if any, in making capital improvements to or upon the Common Property, and in furnishing services to or for the Members of the Association; and
- f. Repair and maintenance of all streets, docking facilities, pool, cabana situated upon the Common Property; and
- g. Funding of appropriate reserves for future repair and replacement; and
- h. Doing any other thing necessary or desirable in the judgment of said Association to keep the Common Property neat and attractive or to preserve or enhance the value thereof, or to eliminate fire, health or safety hazards, or which, in the judgment of the Association, may be of benefit to the Owners or occupants of the Property.

**Section 2. Special Assessments.** The Association shall levy a special assessment for the purpose of defraying in whole or in part the cost of the maintenance, operation and repair of the Surface Water or Storm Water Management System and any and all other costs incurred to comply with the terms and provisions of the permit issued by the District. Such special assessments shall be levied by the Board of Directors of the Association with or without approval of the membership of the Association. Special assessments shall be due and payable within thirty (30) days of the assessment being levied.

**Section 3. Delinquent Assessments.** Any assessment, annual or special, not paid within thirty (30) days of the due date shall be delinquent, and shall bear interest from the due date at ten percent (10%) per annum until paid in full, and the Association shall have the right to file a lien in the public records of Suwannee County, Florida, to secure payment of all amounts due. The total amount due shall be a continuing lien on the real property described in the lien until paid in full, and the Association may bring civil action to

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foreclose the lien. The lien of any assessment is subordinate to the lien of any first mortgage. A sale or transfer of any lot or real property encumbered by such a lien shall not affect the validity or enforcement of the lien. The Association shall recover the reasonable attorneys fees and costs incurred to collect delinquent assessments and to perfect and enforce any lien(s) as provided for herein.

**Section 4. Enforcement.** The SRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or storm water management system(s) as well as any and all other provisions contained in these Restrictions that in any way relate to the Permit issued by the SRWMD. The SRWMD's right to enforce the terms and provisions of these Restrictions by proceedings at law or in equity shall survive dissolution of the Association and may be enforced by the SRWMD against the Association and/or the Owner(s).

Should the SRWMD bring an action at law or in equity to enforce any provision of these Restrictions which relate to the maintenance, operation and repair of the surface water or storm water management system(s), including any and all other provisions contained in these Restrictions that in any way relate to the Permit issued by the SRWMD, and should it be determined in any such proceedings that the Association or any owner(s) breached any of the provisions of these Restrictions or failed to completely and timely comply with any of the provisions of these Restrictions or the provisions of the Permit issued by the SRWMD, the SRWMD shall be entitled to an award of attorneys' fees and costs incurred by the SRWMD in such proceedings which shall include attorneys' fees and costs incurred in any administrative and appellate proceedings. The SRWMD shall have the right to file and record a lien in the public records of Suwannee County, Florida for any such attorneys' fees and costs awarded to the SRWMD by any court or administrative body.

The Association shall have the right to enforce, by a proceeding at law or in equity, the provisions set forth in this Declaration. Should the Association bring an action at law or in equity to enforce any provision of these Restrictions, and should it be determined in any such proceedings that an Owner or Member breached any of the provisions of these Restrictions or failed to completely and timely comply with any of the provisions of these Restrictions or the provisions of the Permit issued by the SRWMD, the Association shall be entitled to an award of attorneys' fees and costs incurred by the Association in such proceedings which shall include attorneys' fees and costs incurred in any administrative and appellate proceedings. The Association shall have the right to file and record a lien in the public records of Suwannee County, Florida for any such attorneys' fees and costs awarded to the SRWMD by any court or administrative body.

**Section 5. Exempt Property.** The Common Property subject to this Declaration shall be exempt from the assessments, charges and lien created herein.

Except as set forth in this subsection, no land or improvements in the Property shall

be exempt from assessments, charges or liens. No Owner may avoid the obligation for the payment of assessments by virtue of non-use or abandonment of the Common Property. All Lots shall be subject to assessment.

## ARTICLE VII

### ARCHITECTURAL CONTROL

**Section 1. Architectural Control.** The Property (Eagle's Point) is subject to architectural and environmental review by the Architectural Review Board ("ARB"). This review shall be in accordance with this Article and the Eagle's Point Neighborhood Planning Construction and Development Criteria (hereinafter the "Planning Criteria"). No site work, construction, painting, landscaping, remodeling, repainting, re-roofing, utility extensions, drainage improvements, paving, building, fence, wall, guesthouse and/or any other physical or structural improvement, or change or alteration to the exterior of any existing structures or improvements, or to any existing landscaping, shall be commenced, erected or maintained until the plans and specifications showing the nature, size, workmanship, design, signs, shape, finished grade elevation, height, materials and color of the same, together with a detailed landscape plan and a plot plan showing the location relative to boundaries and adjacent improvements of such proposed improvements or changes, unless and until plans and specifications detailing the same are submitted to and approved in writing by the "ARB" as to the consistency and harmony of exterior design and materials, location in relation to surrounding structures, and drainage features and topography. Plans and specifications submitted to the ARB and shall consist of not less than the following: foundation plans, floor plans of all floors, section details, elevation drawings of all exterior walls, roof plan, location of water wells, location of septic tanks, a plot plan showing location and orientation of all buildings and improvements proposed to be constructed on the lot, a description of materials and such samples of building materials proposed to be used.

The ARB shall promulgate and revise from time to time the Planning Criteria for the Property. The Planning Criteria shall be set forth in writing and made available to all builders doing business in the Property, and to all Members and prospective Members of the Association. Each applicant for approval shall have the burden to know and comply with the Planning Criteria. The Planning Criteria may include any and all matters considered appropriate by the ARB not inconsistent with the provisions of this Declaration, including without limitation, landscaping, fence design, and recreational improvements.

So long as Declarant owns any lands subject to this Declaration, Declarant shall be the ARB. Thereafter, the membership of the ARB shall be determined by the Board of Directors. The ARB shall consist of no fewer than three (3) members, none of whom shall be required to be owners or occupants of the Property or any part thereof. Declarant may at any time assign in writing its powers of removal or appointment to any entity or person,

subject to such terms and conditions as Declarant may choose to impose. Nothing herein contained shall be deemed to limit the right of an Owner to finish or alter the interior of that Owner's improvements as that Owner deems appropriate or desirable, subject to provisions of other Articles of this Declaration. The concurrence of a majority of the members of the ARB shall be required for any decision of the ARB.

The conclusion and opinion of the ARB shall be binding. If in its opinion, for any reason, including purely aesthetic reasons, the ARB should determine that any proposed improvement, alteration, etc. is not consistent with the Planning Criteria of the Development Plan, such alteration or improvement shall not be made.

**Section 2. Approval or Disapproval.** Approval of the plans and specifications may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration, but also by virtue of the reasonable dissatisfaction of the ARB with the location of the structure on the lot, the elevation, the color scheme, the finish, design, proportions, architecture, drainage plan, shape height, style and appropriateness of the proposed structures or altered structures, the materials used therein, the planting, landscaping, size, height or location of vegetation on the fences, enclosures, mail boxes, or because of its reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the ARB, will render the proposed item of improvement inharmonious or out of keeping with the general Development Plan or the Planning Criteria. Two (2) sets of plans, specifications and plot plans (collectively the "plans") shall be submitted to the ARB by the Owner prior to applying for a building permit. The Owner shall obtain a written receipt for the plans from an authorized agent of the ARB. Plans and re-submittals thereof shall be approved or disapproved within thirty (30) days after receipt by the ARB. Failure of the ARB to respond in writing to a submittal or resubmittal of plans within such period shall be deemed to be an approval of the plans as submitted or resubmitted. The ARB approval or disapproval, as required by this Declaration, shall be in writing and shall accompany one (1) copy of the plans to be returned to the Owner. Whenever the ARB disapproves plans and specifications, the disapproval shall be accompanied by a written outline of the reason or reasons for such disapproval. The remaining copy shall become the property of the ARB.

**Section 3. Violations: Waiver.** The work approved must be performed strictly in accordance with the plans as submitted and approved. If after such plans have been approved, the improvements are altered, erected, or maintained upon the property otherwise than as approved by the ARB, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the ARB having been obtained as required by this Declaration. After the expiration of one (1) year from the date of completion of any improvement, addition or alteration, said improvement shall, in favor of purchasers and encumbrances in good faith and for value be deemed to comply with all of the provisions hereof, unless a notice of such noncompliance executed by any member of the ARB shall appear of record in the office of the Clerk of the Circuit Court of Suwannee County, Florida, or legal proceedings shall have been instituted to enforce compliance with these provisions. Upon approval of the ARB, it shall be conclusively

presumed that the location and exterior configuration of any building, structure or other improvement placed or constructed in accordance with the approved plans does not violate the provisions of this Declaration. The approval of the ARB of any plans submitted for approval, as herein specified, shall not be deemed to be a waiver by the ARB of its rights to object to any of the features or elements embodied in such plans if or when the same features or elements are embodied in any subsequent plans submitted, nor shall its approval be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes.

**Section 4. Variances.** The ARB may authorize variances from compliance from any of the architectural provisions of this Declaration or the Planning Criteria, including, without limitation, restrictions upon height, size or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, or environmental considerations may require. Such variances must be evidenced in writing and must be signed by at least two (2) members of the ARB and shall be effective upon delivery to the Owner. If such variances are granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Owner's Lot, including, but not limited to, zoning ordinances and setback requirements imposed by the appropriate governmental authority.

**Section 5. Waiver of Liability.** Neither Declarant, the ARB, any member of the ARB, or the Association, or any of their representatives shall be liable in damages to anyone submitting plans for approval or to any Owner or occupant of the Property by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of any plans, or the failure to approve any plans. Every person who submits plans for approval agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit to recover any such damage. Approval of any building plans, specifications, site or landscape plans or elevations, or any other approvals or consents pursuant hereto or otherwise, is given solely to protect the aesthetics of the Property; and shall not be deemed a warranty, representation or covenant that such buildings, improvements, landscaping or other action taken pursuant thereto or in reliance thereof comply with, or are not in violation of any applicable laws, codes, rules or regulations.

Declarant, the ARB, the Association or any agent thereof, shall not be responsible in any way for any defects in any plan or specifications submitted, revised or approved in accordance with the requirements of the ARB, or for any structural or other defect in any work done according to such plans and specifications.

This Article may not be amended without Declarant's written approval so long as Declarant owns any Lot.

**Section 6. Enforcement of Planning Criteria.** Declarant or the Board shall have the standing and authority on behalf of the Association to enforce in any court of competent jurisdiction the Planning Criteria and the decisions of the ARB. Should Declarant or the Association be required to enforce the provisions hereof by legal or equitable action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal from judicial proceedings, shall be collectible from the violating Owner. Should any Owner fail to comply with the requirements hereof after thirty (30) days written notice, Declarant and the Association shall have the right to enter upon the Owner's property, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the Planning Criteria, and charge the cost thereof to the Owner for which the Association shall have a lien against the Lot and personally against the Owner. Declarant and the Association, or their agents or employees, shall not be liable to the Owner or to any occupant or invitee of any Lot for any trespass or damages or injury to the Lot or person unless caused by gross negligence or intentional wrongdoing.

**Section 7. Term of Approval.** Approval by the ARB shall be effective for a period of one (1) year from the date the approval is given, or one (1) year from the expiration of the thirty (30) day period specified in Section 2 hereof where approval is not expressly granted or denied. If construction has not commenced within the said one (1) year period, the approval shall have expired and no construction shall thereafter commence without written renewal of such prior approval.

## **ARTICLE VIII**

### **EXTERIOR MAINTENANCE**

**Section 1. Owner's Responsibility; Default.** It shall be the affirmative duty of each Owner at all times to keep and maintain the improvements, landscaping and stormwater drainage and retention improvements located on and serving to drain only his, her or its Lot in good and presentable condition and repair consistent with the approved plans and specifications therefore. The Association shall have the right to provide exterior maintenance upon any Lot and improvements thereon in the event of default by any Owner in that Owner's duties hereby imposed; subject, however, to the following provisions: prior to performing any maintenance on an Owner's Lot, the Board, or a committee appointed by the Board, shall determine that the Lot is in need of repair or maintenance and is detracting from the overall appearance of EAGLE'S POINT. Except in the event of an emergency, prior to commencement of any maintenance work, the Board must furnish fifteen (15) days prior written notice to the Owner at the last address listed in the Association's records for said Owner notifying the Owner that unless certain specified repairs or maintenance are commenced within said fifteen (15) day period and thereafter diligently pursued to completion, the Association may procure said repairs and charge same to the Owner. Upon the failure of the Owner to act within said period of time and to



thereafter diligently pursue repairs or maintenance, the Association shall have the right to make such necessary repairs, or maintenance as is specified in the written notice. In this connection, the Association shall have the right to do such things as, but not to limited to, paint, repair, replace and care for roofs, gutters, down spouts and exterior building surfaces, clean or resurface paved access ways and parking areas, trim and care for trees, shrubs, grass, walks, swales, berms and other landscaping and drainage improvements, as well as to provide general cleanup, and removal of debris which in the opinion of the Association detracts from the overall beauty and setting of EAGLE'S POINT. Declarant and the Association, or their agents or employees, shall not be liable to the Owner for any trespass or damages or injury to the Lot or person of the Owner or the occupant or invitees of the affected Lot or improvements thereon unless caused by gross negligence or intentional wrongdoing.

**Section 2. Assessment of Cost.** The cost of the repair or maintenance referred to in Section 1 shall be assessed as an individual assessment against the Owner of the Lot or improvements upon which such maintenance is done. Said individual assessment shall be secured by lien upon the affected Lot and improvements and shall also constitute a personal obligation of the Owner. The individual assessment shall be collectible along with interest at the highest rate allowed by law from date of expenditure to date of payment by the Owner, and costs of collection and attorneys' fees, in the same manner as delinquent annual assessments.

**Section 3. Association Maintenance Responsibility.** The Association shall maintain and keep in good repair the Common Property, and all improvements thereon. Said maintenance obligation shall be deemed to include but not be limited to maintenance, repair and replacement, subject to the insurance and casualty loss provisions contained herein, of all utility lines, pipes, wires, glass, conduits, structures, systems, trees, fences, shrubs, grass, streets, parking spaces, walks, and other improvements situated upon the said Common Property.

## **ARTICLE IX**

### **RESTRICTIVE COVENANTS**

The Property (Eagle's Point) shall be subject to the following restrictions, reservations and conditions which shall be binding upon each and every Owner and the Owner's heirs, personal representatives, tenants, successors, grantees, transferees and assigns, as follows:

**Section 1. Water and Sewage Facilities.** Individual water supply systems and individual sewage disposal systems shall be permitted in accordance with applicable state, local and administrative regulations.

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**Section 2. Landscaping.** All developed lots must have a minimum of six (6) trees, the front yard must be sodded, and the front and sides of the home must be landscaped with shrubs and/or flowers. Landscaping of Common Property shall initially be provided by the Declarant and thereafter maintained by the Association.

**Section 3. Obnoxious or Offensive Activity.** No obnoxious or offensive activity shall be allowed on or about any Lot, nor shall any use or practice be allowed which is a source of annoyance, embarrassment or discomfort to the Owners or their tenants or invitees, or which interferes with the peaceful possession and proper use and enjoyment of any Lot, nor shall any improper, unsightly, offensive or unlawful use be made of any Lot or of the Common Property. All laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed.

The use, enjoyment and occupancy of any Lot shall be in such a manner so as not to cause or produce any of the following effects discernible to any adjoining or other Lot or any portion or portions thereof: noise or sound that is objectionable because of its volume, duration, intermittent beat, frequency or shrillness; smoke, dust, dirt or fly ash; unusual fire or explosive hazards; or vibration or light.

**Section 4. Garbage and Trash.** No trash, garbage or other waste material or refuse shall be placed or stored on any part of the Property or Lot except in areas designated by the Board in accordance with specifications so established. All such sanitary containers must be stored within an enclosure or concealed by means of a screening wall of material approved by the ARB.

**Section 5. Storage Receptacles.** No fuel tanks or similar storage receptacles may be exposed to view, and the same may be installed only within an approved accessory building, within a screened area, or buried underground, and shall otherwise comply with standards established from time to time by the Board, the ARB and governmental regulations.

**Section 6. Vehicles and Repair.** No inoperative boats, cars, motorcycles, trucks or other types of vehicles shall be allowed to remain either on or adjacent to any Lot for a continuous period in excess of forty-eight (48) HOURS. All trucks in excess of 3/4 ton, campers, mobile homes, motorhomes, house trailers may not be parked or stored on the Property or on any Lot in EAGLE'S POINT. The only exception shall be during periods of approved construction. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as pickup, delivery, and other commercial services. Additional rules and regulations regarding use, repair and storage of vehicles in EAGLE'S POINT may be promulgated from time to time by the Board of Directors.

**Section 7. Temporary Structures.** No building or structure of a temporary character, including trailers, tents and shacks shall be permitted on the Property or any Lot in EAGLE'S POINT; provided, however, temporary improvements used solely in connection

with the construction of approved permanent improvements shall be permitted so long as located as inconspicuously as possible and removed immediately upon completion of such construction.

**Section 8. Signs.** No signs, advertisements, billboards, solicitation or advertising structures of any kind shall be erected, modified or maintained on a Lot or on Common Property in EAGLE'S POINT, unless prior written approval of the ARB is obtained. The restrictions of this section shall not apply to Declarant or, with Declarant's approval, Declarant's agents or assigns.

**Section 9. Air-Conditioning Equipment.** No air conditioning equipment which is visible on the exterior of any improvement shall be permitted in EAGLE'S POINT unless approved by the ARB. Approval shall be based upon adequacy of screening and/or landscaping of such equipment. The ARB may prohibit window air conditioning units altogether or impose stricter standards.

**Section 10. Antennae.** No outside antenna, including without limitation any television, radio, microwave or dish antenna, shall be erected, used or maintained in EAGLE'S POINT without the prior written approval of the ARB.

**Section 11. Subdivision.** No part of EAGLE'S POINT shall be further subdivided without the prior written consent of Declarant for so long as Declarant owns any lands in EAGLE'S POINT, and thereafter by the Board. Further subdivision of the Lots or any portion of the Property shall also be subject to applicable zoning regulations.

**Section 12. Utility Service.** No "service lines" shall be constructed, placed or maintained anywhere in or upon EAGLE'S POINT unless the same shall be contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other approved improvements; provided electrical transformers may be permitted if properly screened and approved by the ARB. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone service poles incident to the construction of approved improvements. The foregoing shall not apply to "transmission lines" now or hereafter existing in EAGLE'S POINT. As used herein, the term "service line" shall include lines, wires, or other devices for the communication or transmission of electric current or power on any site or part thereof, including, without limitation, telephone and television signals. As used herein, the term "transmission line" shall include such master lines, wires, etc. as transmit the current or power to the Lots or parts thereof, and from which the "service lines" run.

**Section 15. Mailboxes.** No mailboxes or newspaper boxes shall be permitted in EAGLE'S POINT unless and until approved by the ARB, and subject to such requirements as may be imposed by the ARB.

**Section 16. Trees.** Living trees shall not be cut down or removed from EAGLE'S

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POINT without the prior written consent of the ARB.

**Section 17. Garages.** All garages must be enclosed, attached to the main residence and shall not face the main entrance of the residence or the road leading to the main entrance of the residence.

**Section 18. Fences.** All fences erected upon any lot at or near the road way shall consist of a four-board wood fence consistent in size, shape and color with the existing fences in and around the development. No chain link, wire or metal fences shall be placed on any lot unless installed inside an approved wood or other decorative fencing. No fence of any type shall exceed six (6) feet in height. No fences shall be erected without prior ARB approval.

**Section 19. Rights of Declarant.** Declarant and/or its designee has the right to maintain upon a portion of the Property a sales, administrative, construction or other offices, signs or other promotional equipment and apparatus which shall not be subject to assessment.

**Section 20. Square Footage / Garage.** Each residence constructed within EAGLE'S POINT or on any other real property covered by these restrictions shall have a minimum of two thousand (2,000) square feet (heated and cooled). Each such residence shall be constructed with an attached enclosed garage which shall not face the main entrance of the residence or the road leading to the main entrance of the residence.

**Section 21. Guesthouses.** Guesthouses are permitted if attached to the main residence or in close proximity thereto. Unless constructed simultaneously with the main residence, construction of a guesthouse shall not commence until and unless approved by the ARB as contemplated herein above. Guesthouses shall be constructed with the same or similar materials as the main residence and shall aesthetically conform to the main residence. Guesthouses may only be occupied by members of the owner's family or for periods not exceeding thirty (30) days in any one quarter (consecutive three (3) month period) by guests or friends of the owner. Under no circumstances may a guesthouse be rented or leased.

**Section 22. Driveways.** All homes must have a driveway from the street pavement to the garage area of the main residence. The driveway must be constructed of either concrete or asphalt and must be completed prior to occupancy of the residence.

**Section 23. Animals.** Each lot owner may keep a maximum of three (3) dogs and three (3) cats as household pets. No livestock of any kind or type is permitted.

**Section 24. Hunting.** There shall be no hunting of any type on any lot or within the development. The discharge of firearms of any type is likewise strictly prohibited.

**Section 25. Miscellaneous.** The owner of any real property covered by these Restrictions shall refrain from obstructing the natural drainage of the real property herein and shall keep any natural drainage ways as may exist on said real property clear so as not to interfere with drainage plans approved by the SRWMD. No activity of any type shall be conducted within any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT. Furthermore, the owner of any real property covered by these restrictions shall refrain from any activity inconsistent with the permit and/or easement issued by the SRWMD, including but not limited to (1) constructing or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT; (2) dumping or placing soil or other substances or material as land fill or dumping or placing or trash, waste, or unsightly or offensive materials on or above any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT; (3) removing or destroying any trees, shrubs or other vegetation on or above and area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT; (4) excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to effect any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT; (5) activities detrimental to drainage, flood control, water conservation, or fish and wildlife habitat preservation of any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT; and (6) acts or uses detrimental to the retention of any area described as a wetland (as defined in 373.019(22), Fla. Stat. (2003) and other related definitions set forth in 40B-400.021, F.A.C. (2003)) on the Subdivision Plat for EAGLE'S POINT.

## **ARTICLE X**

### **AMENDMENT BY DECLARANT**

Declarant, as long as Declarant owns lands within the Property and for a period of twenty (20) years thereafter, reserves and shall have the sole right to:

- (a) amend this Declaration for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;
- (b) amend this Declaration for the purpose of adding additional real property as part of the Property;

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(c) include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to any Lot which do not lower the standards of the covenants and restrictions herein contained;

(d) release any Lot from any part of the covenants and restrictions contained herein which have been violated if Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation;

(e) amend this Declaration without vote or consent of the Owners in any manner which does not adversely affect the substantive rights of an existing Owner or mortgagee. The foregoing amendments may be made without the joinder or approval of any Owner, mortgagee, or the Association; and

(f) any amendment to these Restrictions which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common area, must have prior written approval of the Suwannee River Management District.

**ARTICLE XI**

**AMENDMENT**

Declarant for so long as it owns any portion of the Property or any property annexed hereto for a period of twenty (20) years thereafter may unilaterally amend this Declaration.

Except as to provisions relating to amendments set forth herein regarding certain specific items and the method of amending or altering same, any other provisions, covenants, or restrictions set forth herein may be amended in accordance with this provision. The holders of at least two-thirds (2/3) of the votes in the Association, without regard to class, may change or amend any provision hereof (1) by executing a written instrument in recordable form setting forth such amendment, or (2) by causing a certified copy of a duly adopted resolution of the Owners to be prepared, and having the same duly recorded in the Public Records of Suwannee County, Florida. A proposed amendment may be initiated by the Association, or by petition signed by fifteen percent (15%) of the Owners. If a proposed amendment is to be adopted by vote, a written copy of the proposed amendment shall be furnished to each Owner at least thirty (30) days but not more than ninety (90) days prior to the meeting to discuss the proposed amendment. If adopted by vote, the affirmative vote required for adoption shall be two thirds (2/3) of the votes of the Owners, without regard to class. Owners not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, providing such approval or disapproval is delivered to a member of the Board at or prior to the meeting. The recorded certificate shall contain a recitation that notice was given as above set forth and said recitation shall be conclusive to all parties, and all parties

of any nature whatsoever shall have full right to rely upon said recitation in such recorded certificate. The amendment shall be effective upon recordation of the executed amendment or the certified copy of the duly adopted resolution among the Public Records of Suwannee County, Florida. Any amendment to these Restrictions which alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common area, must have prior written approval of the Suwannee River Management District.

So long as Declarant shall own any lands which are subject to potential annexation, no Declarant related amendment shall be made to this Declaration, or the Articles or Bylaws of the Association unless such amendment is first approved in writing by Declarant. Any amendment shall be deemed to be Declarant related if it does any of the following:

- a. Directly or indirectly by its provisions or in practical application relates to Declarant in a manner different from the manner in which it relates to other Owners;
- b. Modifies the definitions provided for by Article II of this declaration in a manner which alters Declarant's rights or status;
- c. Alters the character and rights of membership as provided for by Article IV of this Declaration or affects or modifies in any manner whatsoever the rights of declarant as a Member of the Association;
- d. Alters any previously recorded or written agreement with any public or quasi-public agencies, utility company, political subdivisions, public authorities or other similar agencies or bodies, respecting zoning, streets, roads, drives, easements or facilities;
- e. Denies the right of Declarant to convey to the Association Common Property;
- f. Modifies the basis or manner of assessment as applicable to Declarant or any lands owned by Declarant;
- g. Alters or repeals any of Declarant's rights or any provision applicable to Declarant's rights as provided for by any provision of this Declaration or any Supplemental Declaration; and
- h. Any amendment to the Covenants and Restrictions which alters the surface water or storm water management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have prior approval of the Suwannee River Management District.

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## ARTICLE XII

### DURATION AND TERMINATION

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Declarant, the Association and any Owner of any land subject to this or any Supplemental Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. This Declarations may be terminated at any time by recordation of an instrument signed by Declarant and the then holders of eighty percent (80%) of the votes in the Association and all mortgagees agreeing to terminate said covenants and restrictions.

## ARTICLE XIII

### ENFORCEMENT

**Section 1. Remedies.** If any person or entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for Declarant, any Owner or the Association (a) to prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenant or restriction, or (b) to maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenant or restriction, for the purpose of preventing, or enjoining all or any such violations or attempted violations. The remedies contained in this provisions shall be construed as cumulative of all other remedies now or hereafter provided by law or this Declaration. The failure of Declarant, its successors or assigns or the Association or an Owner, to enforce any covenant or restriction or any obligation, right, power, or privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

**Section 2. Severability.** The invalidation of any provision or provisions of the covenants and restrictions set forth herein by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

**Section 3. Notices.** Any notice required to be sent to any Owner or Member shall be deemed to have been properly sent when mailed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.



**Section 4. Lessees to Comply with Declaration, Articles and By-laws - Effect on Non-Compliance.** All tenants shall be subject to the terms and conditions of this Declaration, the Bylaws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner.

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, Articles and the rules and regulation promulgated thereunder, and is responsible and liable for all violations and losses caused by such tenants or occupants notwithstanding the fact that such occupants of the Lot are also fully liable for any violation of the documents and regulations. Each Owner is required to obtain from its tenant written acknowledgment of this Section and shall provide a copy of the same to the Association.

In the event that a lessee, occupant, or person living with the lessee violates a provision of the Declaration, By-laws, Articles 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.

**Section 5. Enforcement by the Suwannee river Water Management District.** In addition to any available administrative remedies, the SRWMD shall have the right to enforce, by instituting a civil action at law or in equity in a court of competent jurisdiction, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or storm water management system and full compliance with the Permit issued by the SRWMD. The prevailing party in any such administrative or other civil action shall be entitled to an award of reasonable attorneys' fees and costs.

## **ARTICLE XIV**

### **MISCELLANEOUS**

**Section 1. Number and Gender.** Reference to the singular shall include reference to the plural and to the plural shall include the singular, as indicated by the context of use. Reference to any gender shall include reference to all genders.

**Section 2. Severability.** The invalidation of any provision of provisions of this Declaration shall not affect or modify any one of the other provisions which shall remain in full force and effect unless otherwise provided herein.

**Section 3. Notices.** Any notice provided for herein shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person as shown on the records of the Association at the time of such mailing, unless otherwise provided herein.

**Section 4. Headings.** The paragraph headings are for reference purposes only and shall not in any way effect the meaning, content or interpretation of this Declaration.

**IN WITNESS WHEREOF,** Declarant has caused these presents to be executed in its name and its seal to be affixed hereto as of the day and year first above written.

**- Signatures on Following Page -**

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Signed, sealed and delivered  
in the presence of:

*Teresa Baker*  
(Printed Name of Witness)

*Teresa Baker*  
(Signature of Witness)

*Lynne O. Hunter*  
(Printed Name of Witness)

*Lynne O. Hunter*  
(Signature of Witness)

By: *JBW*  
Joseph Barney Wainwright, Jr.  
Declarant

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STATE OF FLORIDA  
COUNTY OF SUWANNEE

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of August, 2005, by Joseph Barney Wainwright, Jr., who is personally known to me or who produced as identification.

*Lynne O. Hunter*

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UNOFFICIAL COPY